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Senate Hearings

Before the Committee on Appropriations

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96*th* CONGRESS, SECOND SESSION

PART 3—(Pages 1–879)

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DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

PART 3 (Pages 1–879)

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DEPARTMENT OF LABOR
RELATED AGENCIES

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DEPARTMENTS OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

THURSDAY, FEBRUARY 21, 1980

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

The subcommittee met at 2 p.m. in room 1223, Everett McKinley Dirksen Senate Office Building, Hon. Daniel K. Inouye presiding.

ACTION

STATEMENT OF SAMUEL W. BROWN, JR., DIRECTOR

ACCOMPANIED BY:
KAREN PAGET, DEPUTY ASSOCIATE DIRECTOR FOR DOMESTIC AND ANTIPOVERTY OPERATIONS
HELEN KELLEY, DEPUTY ASSOCIATE DIRECTOR FOR OLDER AMERICANS VOLUNTEER PROGRAMS
MARGE TABANKIN, DEPUTY ASSOCIATE DIRECTOR FOR VISTA AND ACTION EDUCATION PROGRAMS
MERCEDES MILLER, ASSISTANT DIRECTOR, OFFICE OF VOLUNTARY CITIZEN PARTICIPATION
EMERSON MARKHAM, DIRECTOR, BUDGET DIVISION

BUDGET REQUEST

Senator INOUYE. This afternoon we begin hearings on the budget requests for the related agencies, and we'll cover 4 of the 11 related agencies.

Witnesses from the ACTION agency, National Labor Relations Board, the Federal Mediation Conciliation Service, and the National Mediation Board are here to defend the administration's recommendation for any fiscal 1980 supplemental and fiscal 1981 regular requests.

First of all, we'll hear the man from ACTION, Mr. Samuel W. Brown, Jr., who is the Director.

And, as always, we're pleased to have you.

The ACTION domestic request includes a $1,700,000 pay supplemental and a $27,607,000 program supplemental for fiscal 1980. And for fiscal year 1981, the agency is requesting a $177,826,000.

And before you proceed, I presume you'd like to introduce your colleagues.

INTRODUCTION OF ASSOCIATES

Mr. BROWN. On my far left is Mercedes Miller, who is the Assistant Director, Office of Voluntary Citizen Participation.

Next to her is Marge Tabankin, Deputy Associate Director for VISTA and ACTION Education Programs.

Next to her, and to my immediate left, is Emerson Markham, who is the Director of the Budget Division.

To my immediate right is Helen Kelley, the Deputy Associate Director for Older Americans Volunteer Programs.

And to her right is Karen Paget, who is the Deputy Associate Director for Domestic and Anti-Poverty Operations.

What I'd like to do, Senator, is submit the prepared testimony which we have given to the committee.

Senator INOUYE. Without objection, the full statement will be made part of the record.

[The statement follows:]

STATEMENT OF SAMUEL W. BROWN, JR.

Mr. Chairman, I appear before you to testify on the progress of ACTION's programs and to submit to you our budget request for FY 1981 and our amended budget request for FY 1980. ACTION is a very small agency in a very big government. The total federal budget request for FY 1981 is over $600 billion dollars. Our budget request for our domestic programs in FY 1981 is $178 million dollars. This budget request represents .03% of the total federal budget requested by the President.

Put in that context we are indeed very small, and the work of our volunteers might be viewed as insignificant in terms of what the Federal government is doing to address the larger issues of our society. But that is not the case. The work of our volunteers is always demanding and needed. It is often innovative and groundbreaking. It is always rooted in the reality that those who have been left out and left behind can become self-reliant if they are given the opportunity to do so. Much has been accomplished in this last year, and indeed, the last three years have been years of progressive development for our programs despite the restraints imposed by the lack of a full appropriation:

* The first community wide self-help low-cost energy program in the nation was developed and successfully tested by our volunteers in Fitchburg, Massachusetts. 3,500 homes were winterized during a six week period last Fall. In cooperation with the Department of Energy we are now developing community self-help energy demonstration efforts in 18 other cities.

* 5,000 of ACTION's volunteers are working in 200 energy conservation and alternative energy self-help projects. 100 of these projects are sponsored by our Older Americans programs which are placing heavy emphasis on energy conservation.

* The 20,000 volunteers in our Foster Grandparent Program (FGP) and our Senior Companion Program (SCP) received their first stipend increase since 1968 and 1974; this was a move strongly supported by Congress.

* VISTA, reauthorized last year and in this its 15th Anniversary year, continues to be rebuilt and brought back to strength to meet the goal set by the President of placing 5,000 volunteers in the field in FY 1981.

* Our National Center for Service Learning is providing support to high school and college service learning programs that now reach 750,000 students. The University Year for ACTION program (UYA) now supports 980 full-time student volunteers.

* 130,000 of ACTION's volunteers working in 884 projects are now involved in helping the rural poor. VISTA has become one of a small number of Federal programs with the expertise to help small farmers.

These facts reflect the substance but not the spirit of what our volunteers are accomplishing in the field. These five stories might convey that spirit:

* In Orland, Maine a 91 year old women desperately wanted to leave a nursing home. She found it degrading to be there. She said "there was nothing to look forward to; you go to a nursing home to die". She worried that her house would be taken away from her. No one would help her. Then one of our Senior Companions convinced the doctors that this woman could be helped to live independently through our program. The woman has since left the nursing home, her health has not been affected, and her sense of life has dramatically changed for the better.

* In Reading, Massachusetts, the Cedar Glen, a 114 unit housing project for the elderly, was unable to be completed because of red tape. Joe Reimer, a 75 year old VISTA volunteer was described by the local paper as a " bundle of senior-citizen energy" after he successfully put the project back together.

* In Kansas City, Kansas,the people in the Whitmar neighborhood can not afford to pay the rapid increases in their utility bills. Terry Rouse, a VISTA volunteer with a degree in mechanical engineering, who had previously served with the Peace Corps in Chile, has developed a neighborhood wide conservation program for weatherizing homes and is now installing solar heating in a local food co-op.

* In Dayton, Ohio, juvenile deliquents, even those who were first offenders, were being sent to a detention center. Under an arrangement with the juvenile court system, two of our Foster Grandparents began working with the kids. They are credited in the last year with helping eight of these kids to clear their record and avoid being sent to a detention center. Last year one of the volunteers, Bob Miller, was designated the Volunteer of the Year in Dayton.

* In Denver, Colorado, a 14 year old juvenile offender who is participating in The National Center for Service Learning's juvenile offender programs was able to raise his own reading level from first grade to third grade in just four months while serving as a volunteer helping retarded children.

We are proud that at a time when government seems so big and so complex to so many people our volunteers do not allow people who need help to "fall between the cracks." But, it is diffcult to help these good people if each year this agency remains funded under a continuing resolution rather than through the regular appropriation process.

We are now in our third year of being funded under a continuing resolution. This has imposed severe limitations on what we can do to support the volunteers. We can not tell project directors whether they will be able to keep their volunteers from fiscal year to fiscal year. The field staff is unable to visit projects to evaluate what they are doing, to assure accountablity, to provide on the spot help, or even to let our volunteers know that we appreciate their work.

I am also concerned that in the eyes of these citizen volunteers the Federal government comes across as if it doesn't know how to keep its house in order. They don't understand the budget process and find it difficult to comprehend why programs that have been reauthorized should receive such inconsistent funding. They are giving freely of their time and commitment yet our "scotch tape" funding approach makes them feel that somehow their help really isn't wanted. So my first request is to urge the Committee to pass favorably on our amended budget request for FY 1980.

With this in mind we are submitting an amended budget for FY 1980 of $84,782,000 which is a $1,500,000 reduction from the budget orginally requested. ACTION's Older American programs received an appropriation of $83,317,000 last year when they were reauthorized though they lack funding for program support. The program support monies for our Older American programs are included in the request before you today. Without these funds our capacity to administer these three programs is severly limited and our older volunteers consequently suffer. Rapid action on the request before you is critical to these programs which support the work of over 275,000 older volunteers.

Of the $84,782,000 that we are now requesting be appropriated, almost half of this sum, $40,200,000, will be to support VISTA and ACTION's two service learning programs. It will provide for an increase of 887 VISTA volunteers over the current number of volunters in the field. Without it we will soon be forced to cut already existing programs which is contrary to our desires and that of the Congress. Another $15,712,000 is for program support and $13,020,000 is to be allocated for agency support services. Also included is $12,000,000 to support a broad range of community and voluntary organizations.

Let me turn to the specifics of the FY 1981 budget. The Administration is requesting an appropriation of $177,826,000. Of that sum, $129,682,100 is for ACTION's stipended volunteer programs and of this amount approximately $104 million is for direct volunteer payments in VISTA, the Foster Grandparent Program (FGP), the Senior Companion Program (SCP) and the University Year for ACTION program (UYA).

VOLUNTEERS IN SERVICE TO AMERICA (VISTA)

VISTA is now in the third year of its rebuilding program and this year we celebrate it's 15th Anniversary. Over 50,000 Americans have joined VISTA since President Johnson met with the first thirteen volunteers in December of 1964. We are pleased that President Carter met with 24 current VISTA volunteers last December to commemorate the beginning of VISTA and reaffirmed his support for our continued rebuilding of this program. In FY 1981 we are requesting $39,748,000. VISTA now has 3,948 volunteers. If VISTA's amended budget for FY 1980 is approved 4,835 volunteers will be in the field in FY 1980. The Administration goal is to have 5,000 volunteers in the field by the end of FY 1981 and this budget request will allow us to reach that goal.

VISTA volunteers are needed. Almost all of our current projects are understrength. Where we should have fifteen volunteers we have five. Where we should have ten VISTA's we have only three or four. In addition, when a volunteer's term is finished we often can not replace them which is injurious to any organization that has been planning its work on the assumption of receiving continuing support from VISTA. Currently, we are filling less than 60% of the requests for volunteers that are approved by our nation's Governors. Countless Americans who want to volunteer for VISTA are turned away because we do not have the funds to pay their meager support costs.

VISTA continues to broaden the diversity of its volunteer corps: 30% of the volunteers are now non-white; 15% are over 65; at least 50% of VISTA 's volunteers are recruited from their local communities. Over 14,000 of our older American volunteers are now involved in some form of joint programming with VISTA.

In FY 1981 VISTA intends to build on its current efforts to help small farmers, rural communities, and to expand VISTA's energy initiatives. In FY 1981 about 650 of VISTA's 5,000 volunteers would be active in the energy field. By the end of FY 1981, 500 of our volunteers would have gone through a 22 day specialized training course in community development if this budget and our amended budget request are approved. The majority of these volunteers will be assigned to rural communities. VISTA will continue its close association with the Community Services Administration (CSA) and the Department of Agriculture (USDA) in developing this Administration's "small farms" initiatives; 16 projects have now been developed.

An increase of $1,665,000 is requested to cover an 8.3% cost of living increase in the allowance we now pay VISTA volunteers. In 1967 VISTA volunteers received $185 per month. If this subsistence allowance had kept up with the cost of living,VISTA's should

have been receiving $425 in December of 1979. At that time they were only receiving $317. In FY 1981 this "survival" allowance will increase to $385.

For ACTION's two service learning programs we are requesting an appropriation of $4,034,000 in FY 1981. Of that sum $914,000 is for the National Center for Service Learning and $3,120,000 is requested for the University Year for ACTION program (UYA). In FY 1981 UYA would have 27 projects including 8 demonstration grants. Without an appropriation we will not be able to refund some of the demonstrations now underway.

ACTION'S OLDER AMERICAN PROGRAMS

ACTION's Older American programs have always received strong support from Congress. This Administration has been cognizant of that support and has attempted to be responsive to it. The stipend for our FGP and SCP volunteers was increased from $1.60 to $2.00. RSVP received a $6.1 million dollar increase under the FY 1980 Continuing Budget Resolution. Part of this increase is being used to create 22 new RSVP projects and to expand the work of over 170 RSVP existing projects. FGP has also used FY 1980 funding to create 10 new projects.

In each of these programs new opportunities for service are being tested. Under our "special emphasis" programming, 116 RSVP projects, 14 FGP projects, and 7 SCP projects have received additional funding for new initiatives in such areas as: crime prevention, helping abused children, energy conservation, and long term health care. One example of "special emphasis" programming is what is now being done in our RSVP project in Detroit, Michigan where over 100 of the volunteers have been trained to do energy audits.

In FY 1981 the Administration is requesting an appropriation of $85,900,000 for ACTION's three Older American programs. This is an increase of $2,853,000 over FY 1980. With FY 1981 funding we will be able to support the work of 293,000 Older American volunteers. We are requesting $26,217,000 for RSVP and $46,900,000 for FGP in FY 1981. We are requesting $12,783,000 for SCP which embodies the increase of $2,853,000 as part of our effort to place major emphasis on this program in FY 1981.

For sometime, the Administration has had a comprehensive review under way of how best to meet the long term health care needs of older Americans. The continued expansion and testing of the SCP program that is included in this FY 1981 budget is part of this larger effort; our focus is to ascertain how trained volunteers can play a part in an intergrated health care delivery system designed to serve the frail elderly. ACTION has begun a five-year evaluation of long term care in the SCP program.

SPECIAL VOLUNTEER AND DEMONSTRATION PROGRAMS

Based on the authorization legislation passed last year, a principal focus of ACTION's demonstration efforts will be to expand the capacity of our volunteers to support the work of community "self-help" groups in our cities and towns. A major portion of the funds, $12,000,000, is requested for volunteer projects to help the elderly on fixed incomes, to provide managment and financial assistance to developing

"self-help" organizations, and to help those groups that are working with the thousands of patients that are being released from long term care facilities each year.

Initially the President requested $42,000,000 for this effort. In light of fiscal restraints this request has been reduced to $12,000,000 and programs have been changed or dropped to reflect Congressional priorities. In designing the administrative frame -work for these programs we will fully meet the expectations of the Congress as expressed at the time our authorizing legislation was passed: that local governments be active participants; that CSA and other agencies be consulted; and that there be no duplication or overlap of existing programs. Let me briefly describe in two ways how these funds could be used.

The last ten years has seen an extraordinary rise in the number of neighborhood and self-help organizations. People want to be involved. But many of these organizations fail because the volunteers lack the professional expertise that any organization must have if it is to survive. Currently, one out of every four voluntary groups fails in the first two years of their existence because of poor managment. These organizations simply can not afford to go out and hire a management consultant at $30 to $50 an hour to tell them how to put their books in order. With this in mind, and based on ten years of demonstration efforts, ACTION would develop projects which would match corporate experts able to give pro bono advice with voluntary organizations which need it. It is our belief that if these groups can survive, people in need can turn to them first rather than immediately to the Federal Government's social service programs.

Almost half of our request for new resources under this authorization, $5,650,000 would be to help the elderly on fixed incomes keep up with the cost of living and meet sudden emergencies. Demonstration projects that have been testing the concept of fixed income consumer counseling for the past five years indicate that this is a low-cost and effective way to help people on fixed incomes. Recently, for example, a 71 year old woman whose husband had died came to our Atlanta demonstration project. She had never managed her own financial affairs. Two of our volunteers over a period of time were able to give her enough guidance to manage her own finances. Potentially with 113 projects, such as the one in Atlanta, we would be able to reach at least one million of the 8.7 million older Americans living in poverty.

For our Office of Citizen Participation (OVCP) and other demonstration programs we are requesting an appropriation of $5,945,000 in FY 1981. OVCP's current efforts to help IndoChinese refugees, its national model energy project in Fitchburg, and the groundbreaking work done in our domestic violence demonstration project, are good examples of what can be done by volunteers without a great deal of Federal assistance. We are proud that the work of our volunteers is of such quality that our demonstration programs are spun off, copied and supported by others agencies. I will be happy to answer any questions. Thank you.

GENERAL COMMENTS

Mr. BROWN. I'd like to speak personally for a few minutes about the proposal which is before you. The testimony, which outlines in detail the request, doesn't fully explain what we see when visiting projects around the country to see what volunteers are doing.

I'd like to share some observations of my own. I've spent a good deal of time visiting volunteers, both because it's important to understand what we're doing right and what we're doing wrong, and also because it's revitalizing both to me and, apparently the volunteers, to have me visit and see what is being done.

I began with the standard assumption of people from Washington who say, "Very well, it's a nice thing to do." But I came back with a very different sense. The volunteers are, in fact, engaged in important work which calls on the best spirit of the American people. It asks people not simply to wait for the Government, but gives them an opportunity to begin efforts to help themselves.

VISTA

Mashulaville, Miss. is a little town that's really not even a wide spot in the road in the black belt of Mississippi. There is a project in that community that has VISTA volunteers: A project sponsored by the Federation of Southern Cooperatives, which is the recipient of a VISTA national grant. The VISTA's are in a community that is almost exclusively black, exceptionally poor, and composed primarily of tenant farmers. They have built a series of projects which include a cooperative day care center, which has allowed some of the local women to get jobs in the nearby towns. That cooperative is a way to take care of the children.

The VISTA's have also begun to build solar greenhouses. The local people live in homes that are really shacks. Solar is thought of as sort of an esoteric technology for upper income people. But the fact is, that those greenhouses cost but about $600 or $700 apiece, including all materials and labor. The people do most of the work themselves. It allows people to begin crops earlier in the year for transplanting to small tenant plots.

Doing that, they get better prices for their crops, because they get to harvest them before other people. They get supplementary heat for their homes during the wintertime and the savings almost equal the cost of the solar greenhouse in a single year.

They've begun a process of building small, very low technology, wood-burning stoves, made out of 55-gallon drums, which you can find almost any place in rural America. With very simple welding techniques, they turn the drums into highly efficient wood-burning furnaces.

They've begun a process of reducing wind infiltration and air infiltration to be able to better heat the houses in the wintertime. The result has been not only better heat, better crops, and better protected houses, but, perhaps most importantly, a community in which people are taking pride in achieving something for themselves.

In Kentucky, I visited with people at the Black Lung Association. They have expanded from the first effort of the black lung organizations, which was the attainment of benefits, and become a community organization of low-income people, principally miners who retired for health reasons. They conduct a wide variety of social service delivery programs for themselves. Both of these groups of people are historically proud and independent and want to do things for themselves. They have been able to build an organization with some help from VISTA volunteers.

OLDER AMERICANS VOLUNTEER PROGRAMS

Only last Thursday and Friday, I was in Chicago, where I met with about 300 volunteers from all of the older Americans volunteer programs: Retired senior volunteers, foster grandparents, and senior companions. They are people who are grateful for the support which the Congress has given to them in the form of an increase in the stipend for foster grandparents and senior companions from the sum of $1.60 to $2 an hour. You would think that Christmas had come in July from the way people reacted to that increase to $2 an hour for the time they spend doing work, which, in many cases, is of such an emotional content that it would be very hard for me, and I think for most younger people, to do. A foster grandparent will work for 3 or 4 months and the only reward is a child recognizing them when they come into the room.

That's the only feedback they get. And yet, people do it for months at a time, and they frequently say to me, "Mr. Brown, when I started this 12 years ago, my doctor told me I didn't have long to live. And I wasn't sick; I just didn't feel very good. But I don't really have time to be sick now, because I need to be down there, because Jimmy or Jane needs me every morning."

This is testimony from people who have been largely shunted aside by society; older people who, with a little bit of sustaining help from our agency, are able to do miracles in the community. It is a wonderfully rewarding program.

VISTA PROJECTS IN HAWAII

In the State of Hawaii, there is a protection and advocacy agency, with 10 VISTA volunteers who have been working for a long period of time on the absence of school bus aides. Kids on their way to school, children with physical handicaps, were frequently beaten up, bitten, and harassed on the buses. That apparently had gone on for nearly 10 years. Then, a few VISTA volunteers began to work with the parents of the children to encourage the Government to deal with that problem. Now there are aides on many of those buses, and, I understand that there is consideration for a substantial addition to the number of bus aides.

The Community Design Center, with which you may be familiar, in Hawaii, with VISTA volunteers and a small demonstration grant from the ACTION now has a substantial program of solar hot water heaters. They have done a classic job of community organizing. They've scrounged everything including some things they got from buildings that were being torn down. They're using the windows from those

buildings to make the solar directors. They're able to trade some of the scrap for copper tubing. They now have people building demonstration solar hot water heating, doing outreach in the community, and providing technical assistance and backup to help people who are doing it for themselves.

EFFECTS OF CONTINUING RESOLUTION

There are all kinds of projects that can be done with a little bit of money. Our problem is a very serious one. We're now in our third year on a continuing resolution. We essentially have a budget for the agency, except for the older Americans programs, which was the last budget of the previous administration.

So far, we have received no appropriations reflecting this administration's commitment to these programs. You have before you an amended 1980 request. It is basically ACTION's original 1980 request of January 1979, but reduced by the amount that we cannot spend now, because we are well into the fiscal year.

The results of 3 years on a continuing resolution are devastating. We've had a 30-percent drop in VISTA projects nearly everywhere in the country. I know specifically there has been a 30-percent drop in projects in Hawaii. We are currently unable to fill 40 percent of the already gubernatorially approved VISTA slots simply because we have been for 3 years on a continuing resolution.

The adjusted 1980 budget you have before you we need desperately. It is, as I said, really our original 1980 budget submission, amended downward to reflect the fact that it's now February instead of October. If we got the funds now, it would take us until next year to recruit the volunteers and place them in the field. The only program where there is a substantial increase for 1981 is in the senior companion program, which we believe, offers hope in the future for alternatives to long-term institutional care.

There is a request for a substantial increase for senior companions—not in dollars but in magnitude, for $2½ million. But in comparing the size of increase with the program now, it's substantial, designed to look at the long-term care impacts of the senior companion program.

We need these requests, and we need the 1980 budget deperately.

Senator INOUYE. May I interrupt at this point?

Mr. BROWN. Certainly.

ENACTMENT OF AUTHORIZATION

Senator INOUYE. What is the cause of your problem?

Mr. BROWN. I'd have to say, candidly, that I think there were probably two factors involved in the delay of our reauthorization. One was some controversy about changes in direction in the VISTA program, which some Members of Congress questioned and which delayed action for an extended period of time.

A second factor was the proposal for new programs which were considered controversial and which were debated back and forth, and further delayed the entire authorization process.

The budget you have before you and our testimony reflect our understanding that the administration's original intent differed somewhat from what the Congress wanted to do. As a consequence, we have heard what the Congress said and we have amended the budget to reflect congressional interest as stated in the authorization.

Senator INOUYE. What is the outlook?

Mr. BROWN. I believe all the delays and problems are now behind us at long last. Our authorization was approved by very substantial margins. We had extensive hearings—over 30 hours of hearings on the House side alone for a program of approximately $40 million. I figured out once that if the Defense Department's authorization hearings were at the same level as ours, it would take 84 years to complete the hearings on their budget.

We have, I think, been scrutinized up and down and have come out with a renewed sense of purpose on our part and a renewed sense of what the Congress wants, and a commitment to go forward.

VISTA ON A CONTINUING RESOLUTION

Senator INOUYE. You indicate, as a result of this continuing resolution procedure, you've lost about 30 percent of your volunteers.

Mr. BROWN. Due to the continuing resolution, we have 40 percent fewer VISTA volunteers than the number approved by the Nation's Governors. Close to 90 percent of our projects are trying to function with fewer volunteers than are needed.

VISTA'S CAREER DEVELOPMENT PROGRAM

Senator INOUYE. Last year, you spoke of improving your career development and training program. Have you been successful?

Mr. BROWN. No; it has been impossible to conduct the career training program on the current level of appropriations, and it will not be possible until we have a new appropriation.

OLDER AMERICANS PROGRAMS ON CONTINUING RESOLUTION

Senator INOUYE. How did the older Americans programs fare in this 3-year disaster?

Mr. BROWN. The older Americans programs, frankly, fared quite well since they have not been tied to the same continuing resolution level. They've been popular and have received tremendous support. They have had increases in funding through congressional interest and support from the administration.

The problem that we have is that the older Americans programs are administered by a system which is funded out of the appropriation which is tied to the continuing resolution. Consequently, our ability to oversee those projects, to audit them adequately, to provide technical assistance to the volunteers and to the directors, which they strongly desire, to provide additional technical assistance materials—in short, to carry out the administrative support of these programs as well as train our staff to do all of those things, have suffered substantially during this period of time, although the programs themselves, and I think in

substantial part because of Dr. Kelley's leadership, have fared quite well.

The administration gets some credit, and the Congress gets a good deal of credit. There's been a lot of congressional interest and support for the programs.

VISTA VOLUNTEERS

Senator INOUYE. What type of people are now serving as volunteers?

Mr. BROWN. Marge, do you want to respond?

Ms. TABANKIN. Currently, VISTA volunteers are about 30-percent low-income people. The volunteer characteristics are 70-percent women and 30-percent men. About 15 percent are over 55; 21 percent are black—a total of 30 percent are nonwhite. About 70 percent of VISTA's come from the communities in which they live, and about 30 percent are recruited by the ACTION recruiting office from around the country.

Senator INOUYE. Are they just as dedicated as those in the past?

Ms. TABANKIN. It's interesting. I think in a way I would say that they are far more dedicated. They come from those communities. They're going to be there when those projects are over. They care about what happens. The senior citizens that join are using skills that they developed over an entire lifetime to apply to their projects. When we have retirees organizing health screenings in the Carolinas for other retired textile workers who can't breathe because of pulmonary problems they got in the mills, their commitment is as strong as that of any white middle-class person coming from the University of Massachusetts, if not more.

SELF-HELP VISTA PROJECTS

Senator INOUYE. Service versus self-help—how are we doing? Are we successful in assisting people to help themselves?

Mr. BROWN. I believe so. I saw a project not too long ago, in Arkansas—again, in a rural area, largely of tenant farmers, where there had been a cannery. The factory moved out. The farmers who had always sold their okra, beans, or peas to the factory suddenly lost their market. Their crops all came on the market at the same time. The local market was not able to absorb the products which pushed the price way down. The farmers formed a co-op. What VISTA's did were to drive the back roads, knocking on back doors, saying, "Join a co-op." That co-op now has the capacity to bring the crops together, to truck them to markets where the prices will stay up, or to hold them until the prices are up, if necessary, and to provide additional income to those people at virtually no additional Federal expense. At the same time, they get quality, fresh vegetables to people in towns who otherwise wouldn't have access to fresh vegetables.

It works. It's not just talk.

VISTA EVALUATION

Senator INOUYE. What do you do with these people? Do you follow up? Do you monitor them?

Mr. BROWN. Some of our projects think that we monitor them prac-

tically to death. We have been very careful about their activities. There's always a narrow line that a program may run with a risk all the time of getting involved in a local controversy. We have tried to make sure that projects obtain the goals which they're set out to do, and to accomplish them in a way that supports the community. We believe they do that, and we stay on them pretty hard to make sure they do.

We've got a problem right now because we don't have the money. A lot of the staff is restricted in terms of travel. We can audit once every 5 or 6 years. We'd like to audit every 4 years. We just don't have the resources now, but they are built into the budget you have before you. We can't do it adequately under the continuing resolution.

NATIONAL CENTER FOR SERVICE LEARNING

Senator INOUYE. I'd like to now turn to the National Center for Service Learning.

For fiscal 1980, the amount will jump from $500,000 to $873,000. And in 1981, to $914,000. Has this program been successful in providing assistance to secondary and postsecondary school programs?

Mr. BROWN. We believe it has. And I think Marge can answer in detail. She supervises that program.

Ms. TABANKIN. Certainly. We're doing technical assistance forms. We're publishing. That reaches 5,000 to 6,000 high schools and colleges throughout the United States. A recent survey showed that three-quarters of a million students are serving in local volunteer programs affiliated with schools. That is the equivalent of a yearly $300 million of nonfederally funded service that's been generated by service and learning.

We believe that the academic institutions benefit when young people can see the results of their work and relate it to their own experience in an academic situation, and clearly the community benefits.

Senator INOUYE. How many students are involved in this, then? Nationwide?

Ms. TABANKIN. Nationally, we think we're reaching about three-quarters of a million students.

Senator INOUYE. You're reaching that many, but how many are involved now providing service?

Ms. TABANKIN. I'm not sure, because we directly relate to colleges and high schools through the coordinators at those colleges and high schools. We don't have VISTA volunteers on call. We feel that because of those coordinators and our technical assistance, we have been able to generate the assistance of about three-quarters of a million people around the country.

JUVENILE OFFENDERS RESEARCH PROJECT

A good example would be the partners program, where we work with young people who have been juvenile offenders. Up until this past year, on a very small grant, those offenders had high truancy rates, very low reading and math scores, and had been wards of the court. They are now increasing their reading and math scores by about 2 years and

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have corrected their truancy rate. They're now spending about 80 percent instead of 0 percent of their time in classroom activity and have wide community support.

These are former juvenile delinquents who no one thought would have had a second chance.

Senator INOUYE. How many people are involved in your program?

Ms. TABANKIN. We currently have 20 volunteers in that project. We hope to have 40. Because of a lack of appropriation, we could not expand the grant. We were only allowed to extend it by 6 months. But the program will die in April if we don't have an appropriation.

Senator INOUYE. Senator Bayh has advised us that he will not permit us to let it die. So——

Ms. TABANKIN. Please tell Senator Bayh that the agency, the administration, and the National Center for Service Learning all think it's a wonderful program.

Mr. BROWN. We are committed to continuing it. We will continue it if there's any money available.

Senator INOUYE. Is this juvenile offender research study any different from other juvenile justice studies and programs? We seem to have a lot of that, HEW and LEAA. Is there something unique about this?

Ms. TABANKIN. Yes; we are calling it a demonstration program for just that reason. We are trying to take juvenile offenders and relate their experience to educational institutions. Partners is the classic example of that. If it continues to work, we will propose to the administration that it be spun off to a major agency as a major social program where you link the actual problems of a young person who is a ward of the court, who's done property damage or whatever, with what they are doing in their volunteer activity.

I'll give you an example. We have a young volunteer who barely could read, who was judged at a 1-year first grade reading level. He went into the senior citizens center with his long hair, put on a hair net and, after being asked for about 3 months to read letters to the senior citizens, has now raised his reading scores by about two grades.

He understands now the reason to learn to read. He is interested again in school and has not been truant.

We're trying to show how that kind of self-esteem can be generated in young people through service, not just through academic experience. We're the only agency that is doing that.

Senator INOUYE. You don't think that HEW, LEAA, can do the same thing?

Ms. TABANKIN. We hope the administration will decide that some Federal agency should take this demonstration project—should all the other programs prove as successful as partners—and make it into a national program.

Right now, we are clearly in the demonstration phase. We've funded partners and the alternative clearinghouse in Chicago. The full-scale demonstration calls for 3 years of funding for five demonstration sites, which would carry us through the next 2 years, before the administration would propose what agency that would handle the actual full-scale program.

Senator INOUYE. Do you have a scheme to coordinate your program with other juvenile programs?

Ms. TABANKIN. Yes; we have had assistance from LEAA and HEW in the design of this program and they are watching the research of it.

UNIVERSITY YEAR FOR ACTION

Senator INOUYE. We now touch on the University Year for ACTION and the fiscal 1980 budget justification. You recommended that this program be terminated. Under the new authorizing bill, this program is extended, and you've requested $3.1 million for fiscal 1981. Is there any good reason for this?

Mr. BROWN. Yes, sir; we don't like to think of ourselves as slow learners, but it took us about 18 months of discussions with the Congress before we came to understand the depth of congressional commitment and that any UYA projects which were underway should have the full 5-year funding which we intended to provide at the initiation of the project.

Two years ago there was an approach of, "Let's go in, and if it isn't working right now, end the program." There's come to be an understanding since then that what we need to do is continue those existing projects so they have funding for the full 5 years.

That will take us through fiscal 1981. In fiscal 1982, there will be discussion within the administration about the UYA policy. But it will be based on the experience of more years, and with ACTION living up to full commitment to the already funded projects.

Marge, do you want to say something?

Ms. TABANKIN. Yes; I'd like to add that in our new authorization that has recently passed, the authorizing committees did allow some of the changes in UYA that we had requested. For example, we had suffered a high attrition rate because we were forcing volunteers to serve for 12 months. Now, we can enroll volunteers in a 9-month academic period.

Those are some of the things we've worked out through the authorizing process.

Senator INOUYE. What is the rationale for linking this university program with VISTA?

Ms. TABANKIN. When VISTA was moved to ACTION from the Office of Economic Opportunity, and the Community Services Administration was created, we were placed as part of ACTION's domestic and antipoverty programs. Since the purpose of VISTA and the service learning programs is to service poor people's programs as the antipoverty wing of the agency, they were put together under joint coordination of one deputy associate director, which is myself.

STIPEND FOR OLDER AMERICAN VOLUNTEERS

Senator INOUYE. Now, we go back to the older American volunteer programs again. Last year we provided the funds and specified that a $2-an-hour stipend be paid for the recipients of that program. This policy, however, does not apply to State-funded projects which only received technical and training assistance from ACTION. As a result, many State-funded projects are not paying the $2-per-hour stipend.

Has ACTION considered providing financial assistance to States which want to increase their stipend to $2, which do not have the financial resources to do so?

Mr. BROWN. Senator, this is a problem that has come to our attention as you might imagine, early and frequently from the affected projects themselves. Dr. Kelley has been meeting on a regular basis with the people from these projects, and she can provide a full answer. First, I would like to summarize by saying we intended to try to reach a commonsense solution to this problem that she can outline for you.

Dr. KELLEY. Well, it's not an altogether happy solution that we've come to for the States which are involved. Actually, it is not a very large number which are fully funding their foster grandparent program or the senior companion program. It's a number that we hope will increase.

We have arrived at a decision, with the advice of ACTION's general counsel, that our obligation is to increase the stipend for fully funded ACTION programs and also to the partially funded ACTION programs. That just about uses up all the potential for growth that is in the budget, even though there was a considerable increase.

If we were to take on adding Federal money into these fully State-funded projects, we would by that act assume an obligation for them in the long run, which would make it impossible for us to control the budget. We would have no way of predicting what the long-run consequences would be.

Michigan presents the biggest problem because they, in the last couple of years, have put very close to $1 million, into the support of foster grandparents. We're trying to ease the burden for them by postponing the application of the requirement that in order to be called a foster grandparent you must have all the other benefits that go with that designation. We will postpone the requirement that they pay the full stipend for as long as possible so that the state can come up with the supplemental money.

Senator INOUYE. Do you have any money available in unspent fiscal year 1980 project funds?

Dr. KELLEY. Not a significant amount, not the amount that we would need to go to current programs in distress. There's always a certain amount of carryover. But again, that's an unpredictable number.

Senator INOUYE. Do your studies indicate that at a level lower than $2 people tend to stay away from this program?

Dr. KELLEY. I hate to say how easily people came to volunteer when it was $1.60, but they did. There were waiting lists for all the years that it was $1.60 because people liked the program, and even $1.60 is a great deal of assistance if you are in very straitened circumstances.

The idea of having people in the same projects or projects side by side, who earn a different stipend disturbs me. I hope that those States where that situation exists can work toward correcting it. However, in the past we have had the opposite situation, where the federally funded foster grandparents and senior companions were receiving $1.60 and some States were giving significantly more than that, up to the minimum wage.

As far as I can tell, while there may have been some bad feeling, apparently it did not interfere with the quality of their work or the pleasure in the work that they did.

Senator INOUYE. Do volunteers have to incur any direct costs themselves that otherwise should be or could be covered by the stipend?

Dr. KELLEY. The purpose of the stipend and other benefits that go with it is to assure that a volunteer is not out of money of his or her own. I daresay there are some who get carried away, thank God, by their generosity and get gifts for the children that they're working with and try to make special accommodations. But that's not part of the plan—that they have to dig into their scarce resources.

EFFECT OF INFLATION ON OLDER AMERICANS PROGRAMS

Senator INOUYE. I'm certain inflation has had an effect upon your program. But just for the record, what has it done to the older Americans volunteer programs?

Dr. KELLEY. Its chief impact from the standpoint of the volunteers, we would have to say, was in transportation. Those costs go up and up. Because the history of these programs has been that they hold onto a volunteer once they get him or her in one of the three programs, and as the volunteers grow older—and perhaps a little frailer—they need transportation. They are less able to rely on public transportation.

We began to make special arrangements but it gets more costly. From the standpoint of project directors, who are also part of the clan, it's had a very depressing effect on their salaries. This year is the first time in over 3 years that there's been any kind of correction for salary.

Senator INOUYE. How much does a project director receive?

Dr. KELLEY. It depends upon which program they're in. The senior companion and the foster grandparent's project directors are earning, I think, an average of $13,500 to $13,700. RSVP is almost a thousand less than that. In some cases, it goes so low that I won't mention it for the record.

Senator INOUYE. I think you should.

Dr. KELLEY. $4,000 a year.

Senator INOUYE. This is a full-time job?

Dr. KELLEY. That's a full-time job. Granted, it's done on a very volunteer basis. Nobody is being beaten into doing that. But it flies in the face, certainly, of conventional wisdom.

Mr. BROWN. Mr. Chairman, if I could simply add to that by saying that it needs to be recalled that the $1.60 stipend level was established 12 years ago when that was the minimum wage. The 40-cent increase to $2 was the first increase in 12 years. So the volunteers have absorbed essentially all the inflation. Since they work 20 hours a week, they were making $32 a week. They're now making $40 a week. We are not overpaying them.

It's a sad commentary in some ways that some people will stand in line to take a position at $1.60.

Senator INOUYE. Maybe you should get together with the OMB.

Mr. BROWN. As you might suspect, we get together with OMB on a regular basis. We have been concerned about this.

Senator INOUYE. What is your recommendation for OMB?

Mr. BROWN. It's a serious policy question that we've had to face, given an assumption that there is a level of funding with which we have to operate. We have a long waiting list of people, even at $1.60. Do you raise the stipend to $2 an hour and limit the number of people who can participate in the program because of a sense of equity about the need to pay people reasonably for their time? Or do you keep the stipend low and spread the participation as broadly as you can?

The $2 was really an accommodation between the two philosophical extremes. I think part of the concern we have is the danger of confusing the stipend as salary; at what point do we jeopardize the benefits for foster grandparents and senior companions for social security and SSI. It's part of the question which has led us to the $2 figure, and we have not recommended a higher figure up to this point.

Senator INOUYE. What did you recommend to OMB?

Mr. BROWN. Our last recommendation was $2. We have not made a recommendation beyond that up to this time.

Senator INOUYE. If I recall, last year OMB suggested $1.80.

Dr. KELLEY. That's right.

Senator INOUYE. I'll be submitting a lot of questions for the record, if I may.

Mr. BROWN. Fine. We'll be happy to answer them.

PROPOSED URBAN VOLUNTEER PROGRAMS

Senator INOUYE. But I'd like to touch upon most of the programs. May we now turn to the urban volunteer programs? You're requesting a $12 million 1980 fiscal supplemental for the new urban volunteer programs.

The original fiscal 1980 request for this effort, which this committee did not consider due to the lack of authorization, was $25 million. The regular fiscal 1979 startup request was $40 million.

Why have you so greatly reduced the funding requests for this program?

Mr. BROWN. Senator, as I mentioned at the start of the hearing, one of the concerns that the Congress had was about new programs and about urban programs specifically. You will notice that in the testimony that was submitted today, we focused on the kinds of programs which Congress had included in our authorization.

Our feeling about it is very straightforward. The initial request was at a level which it was clear was not going to be authorized and for programs which the Congress did not fully accept as in need of authorization. The $12 million level provides for demonstration and model programs, and it's designated that way in the testimony submitted today. We will try and show that these are the kinds of programs that can be run.

We do not anticipate, and the Congress did not clearly indicate, that it wanted a new set of designations or programs. These can all be run within our currently existing authorizing legislation without the specter of substantial new programs.

ADJUSTED BUDGET FOR FISCAL YEAR 1980

Senator INOUYE. Why go through the supplemental route instead of going through a regular 1981 budget?

Mr. BROWN. This is really our 1980 budget that you have before you. Supplemental is simply the way some have designated it because it's now past the time for regular appropriations. Our concern is that it has been 3 years since we've been discussing these programs.

In many cases, particularly in the case of some of the small grant programs such as helping hand, for people who have recently been deinstitutionalized, there is tremendous demand in the communities. This is reflected in our initial 1980 submission, and it continues to be reflected in the amended submission.

REFUGEE ACTIVITIES

Senator INOUYE. Let's talk about refugees now. I gather officials of your agency were in Thailand exploring ways that you could assist with the Indochinese refugee problem.

Did this visit have anything to do with ACTION's domestic programs?

Mr. BROWN. Yes, sir, it did.

Senator INOUYE. How so?

Mr. BROWN. In substantial part, it focused on the kinds of resources we need, as well as a concern about how we relate to problems in this country. The general approach the agency might make to refugees in conjunction with voluntary organizations in this country and others was central to that.

Mary King, who is the Deputy Director of the Agency, has taken the lead on behalf of the Agency in dealing with the whole set of refugee questions.

It was a focus of the administration and a concern of ours reflected in working with the State Department, HEW, and others. We've been pretty involved with the interagency efforts and refugee task forces from day one.

Senator INOUYE. I'm certain that these refugees efforts would become involved, eventually. But I want it for the record.

Do you have any plans with your involvement with refugees?

Mr. BROWN. We certainly do. We now have almost all of our programs involved.

Senator INOUYE. As a special group?

Mr. BROWN. We have programs underway now, both here and cooperatively with the Peace Corps. Mercedes Miller, do you want to speak to that?

Ms. MILLER. Yes; the Office of Voluntary Citizen Participation works with private voluntary organizations at the community level and at the State level through our State offices of voluntary citizen participation, of which there is one in Hawaii.

We have been providing considerable resource information, particularly to the West Coast and the Gulf States, where the majority of refugees are resettling.

There are special problems in working with the private organizations in those States in dealing with the refugee problems and resettlement as well as orientation in the community.

We have set aside half of our minigrant money for this fiscal year to be targeted in small grants to refugee assistance efforts, Indochinese mutual assistance organizations, and to the private voluntary organizations to use in refugee activities.

Almost all of ACTION's programs are involved in some way in refugee resettlement activities.

In terms of working with the Peace Corps, in our office, we have former volunteer services which we are tapping to identify people who are interested and qualified to work in the Peace Corps efforts in refugee camps overseas.

In addition, many VISTA volunteers have become involved in refugee programs. For example, in California, there's an interesting project in the tenderloin district of San Francisco where six VISTA volunteers are working with exconvicts and offenders to assist in urban renewal projects to provide housing for refugee families.

There are also a growing number of RSVP projects in the Gulf States where the refugees are coming in. About 22 RSVP projects are already in place. One in Beaumont, Tex., is working very carefully with refugees in day care centers.

One of the most exciting things we're trying to do is work with HEW to develop a joint effort in which we will be providing assistance through our State offices of voluntary citizen participation.

Eight of these offices will be involved. The Hawaii model project dealing with immigrants, that started 4 years ago through the Governor's office, is the basis for this program.

We will be providing coordinators in eight States to support the activities of voluntary organizations. We will be providing some grant money through our support services assistance grant programs to provide technical assistance and training to Indochinese mutual assistance associations in capacity building to improve resettlement capabilities.

INTERAGENCY COORDINATION OF REFUGEE ACTIVITIES

Senator INOUYE. As you may be aware, for fiscal 1980, we've appropriated about $1 billion, $481 million through the foreign aid bill, and the remainder in the HEW bill.

So, in addition to that, we still have a lot of other money going around.

Do you have any plans to coordinate your activities with HEW, the State Department, et cetera?

Ms. MILLER. Yes; we are already working closely with the State Department. We are, as I said, working on this joint project with HEW. We have talked to HEW about not only the two pieces that I have just described, but also how we might work jointly with some of our other ACTION programs in the future.

. We are also talking to the Department of Labor about how we can get—particularly in the youth employment area—the VISTA volunteers who are heavily involved in refugee activities as well as refugees serving as VISTA volunteers.

Senator INOUYE. Are you suggesting that the present program, as carried out by States and HEW, are insufficient to meet the needs of the refugees?

Ms. MILLER. We're trying to work together to develop joint programs to fill in the gaps that are occurring in those programs, and also to provide more direct assistance at the community level, which volunteers can often do on a one-to-one basis rather than through a grant program or the HEW structure.

The HEW structure decentralizes grant money to the regional level, while we can reach down to the State and community level in terms of providing direct services.

Senator INOUYE. Who decides the distribution of responsibility to refugees? Is there someone to coordinate all of this and say, from items 1 to 3, ACTION will come in and from 3 to 18, HEW and 18 to 20, State?

Mr. BROWN. There has been an interagency refugee task force which has represented all the situations which you mentioned and in which we have participated fully.

Everything has been coordinated with the task force.

The real and unique contribution we can make to this work is with the private voluntary sector. We don't want to take over anybody else's turf. We simply want to provide an additional resource for linking efforts already underway.

We have a small agency, but there are a tremendous number of volunteers who want to help in this area. One way we can help is to simply coordinate that mechanism.

Senator INOUYE. For example, you are involved in orientation and resettlement?

Mr. BROWN. That's correct.

Senator INOUYE. The law says that HEW will be responsible for orientation and resettlement of refugees.

Are you getting any reimbursement from HEW for your activities?

Ms. MILLER. Not at the present time. But the interagency agreement that we're negotiating with HEW would transfer funds to ACTION for technical assistance grants to groups at the local level in resettlement and orientation.

COORDINATION WITH PRIVATE REFUGEE ORGANIZATIONS

Senator INOUYE. How do you work with the multitude of refugee organizations that we have in the United States?

I think every community must have at least a dozen.

Ms. MILLER. We work with them through existing community organizations. VISTA volunteers are working in many of the organizations that are already providing assistance to these groups and we work through our State offices of voluntary citizen participation, and through the sponsoring organizations to which we award small assistance grants for volunteer activities.

Senator INOUYE. I believe you indicated that most of the refugees somehow end up in the Gulf States.

Ms. MILLER. They settle in coastal States including the Gulf States. They are moving inward at very rapid rates.

But some of the immediate problems are occurring in the coastal and Gulf States where there's a large influx right now.

Senator INOUYE. What type of refugees, just for the record, in the Gulf States?

Ms. MILLER. Indochinese are coming in to all the coastal areas, depending on which centers and which route they take.

Senator INOUYE. The Indochinese come through the Panama Canal?

Ms. MILLER. Many are settling along the Texas coast. They are flown from San Francisco to coastal and other States.

Mr. BROWN. Senator, if it would be useful, we would be happy to provide additional information on what we are doing for the record.

Senator INOUYE. I would appreciate that. I need to see how your program got caught in some kind of a crunch.

As I said already, $1 billion has been appropriated just for this past fiscal year. And someone's going to ask questions.

HEW is supposed to be in charge of resettlement and orientation. What are you doing?

Mr. BROWN. Our effort is to closely cooperate with them.

Senator INOUYE. If your work is that necessary, that means the testimony that HEW presents is not quite correct because they tell us what a great job they're doing.

Mr. BROWN. Part of the job they're doing. We help them carry out their program. An RSVP group, for instance, can help in a community by providing people who know the community, who can work with the community groups and who are older established residents, who can work as volunteers.

We are doing that cooperatively with HEW.

NATIONAL YOUTH SERVICE

Senator INOUYE. This last question for the record. The rest will be submitted to you.

Last year, you briefly discussed the concept of a national youth service. Now that President Carter's come out in favor of resumed draft registration, what have you done in ACTION studies and demonstration programs, such as the cooperative program with the Department of Labor regarding a national youth service?

Mr. BROWN. I'm happy to have an opportunity to speak briefly to that.

I understand that Senator Cranston intends to hold hearings on Senator Tsongas' bill which deals with national service in about 2½ weeks. We hope to be testifying at that time on an official administration position.

I can provide what we have found up to now and indicate where we think it points.

Senator INOUYE. Is this from the study, the $2.7 million study?

Mr. BROWN. No; because the money for that study was not appropriated last year.

Senator INOUYE. Oh.

Mr. BROWN. What we did have was a program cooperatively with the Department of Labor in Syracuse, N.Y. There was no means test for admission to it.

Youths were assigned to local sponsors: Some were businesses, some cooperatively with unions, some with the voluntary sector group, and some with the city and the public sector.

We tested the assumption that if you made opportunities available to young people for a year of service at a low level of renumeration—in this case a level about equal to VISTA volunteers' stipends, plus some additional educational stipends, which were equivalent to minimum wage in terms of what they received—we would have large numbers of youth available.

They would not simply be middle-income kids, but people from all income levels, prepared to give a year of service.

In about 18 months, we have had over 1,600 volunteers in a community of 250,000, which neatly extrapolates to 1,600,000 on a national level, because we're dealing with about one-tenth of 1 percent in the national population in Syracuse.

They were not middle-class kids between school semesters. They ranged from kids who had advantages in life financially to young people who never really had much chance at all in life.

About 60 percent of the volunteers were minority people in the community, who wanted to give a year of service and emerged with a sense of esteem, of participation in the community.

A lot of poor kids never get a chance to meet anybody who is really involved with offering a job. By working with the Red Cross, they got to know somebody on the Red Cross board who says, "Hey, wait a minute. My company may have something if that kid showed up every day, has been responsible, and learned from their year of YCS service."

We believe that YCS strongly suggests that an opportunity for national service extended to every young person in America would make it possible on a volunteer basis, both to meet a set of social needs which the society clearly has and, I speculate, although I can't prove it, would also help create an environment in which service becomes an expected norm and not aberrational.

So that at 16, instead of kids trying to figure out how to get out of the military, young people would begin to say, "How am I going to fulfill my obligation to society?"

Some people would do it in the military and some would do it in nonmilitary ways.

I suspect we might end up with a voluntary army. We might have a differential in compensation levels with a voluntary army, but at the same time, there would also be a service to the community which the Nation could certainly use and would allow everyone to feel like they belong, were a part of, and were respected by society.

And as people feel that way about the society, they tend in turn, it seems to me, to respect it and want to defend it and participate in it.

I think it's worth a try and we ought to do it. This is my personal view. The administration is still discussing that.

Senator INOUYE. Well, I thank you very much, Mr. Brown. You've been extremely helpful. I believe I speak for a goodly number of our members. We commend you on your work. We'll do our best to assist you.

Mr. BROWN. Thank you very much.

Senator INOUYE. Just get the authorization straightened out.

Mr. BROWN. I would like to submit not only the information that you requested, but to amplify a couple of answers, particularly where I know there were concerns that I didn't have a chance to fully expand.

Senator INOUYE. So, ladies and gentlemen, thank you much.

Mr. BROWN. Thank you very much, Senator.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question: For several years VISTA has been level-funded with no inflation adjustments because without an authorization we can't look at the proper appropriation level and have to put the program on a continuing resolution. We tell the authorizing committee over and over that they have to get the basic law in place on a more timely basis. What has been the effect of level funding on the number of VISTA projects and volunteers?

Answer: Level funding has proved devastating to the VISTA program, its volunteers and the Agency.

Inflation has made it impossible to operate the program at continuing resolution levels, hampering attempts to make qualitative improvements in volunteer training, technical assistance, supervision, and transportation intended in the Administration's budget requests over the last three years. For example, ACTION's legislation to support VISTA Volunteers at a subsistence level requires annual cost of living increases. Other direct costs, such as volunteer travel, have risen dramatically in the last three years, and also have had to be absorbed by the program.

Most critical has been VISTA's failure to meet its obligation to provide volunteers adequate supervision and transportation funds to its grassroots sponsors. There is hardly a sponsor that has not been hurt by our lack of appropriations: e.g., those projects needing 15 VISTAs now receive only 5, those needing 5 are lucky to get 2. To meet these obligations will not only jeopardize the existence of many of these small organizations, but could be detrimental to VISTA's and the Federal Government's credibility among anti-poverty groups.

QUESTION: How are we involving Older Americans in VISTA?

ANSWER: Presently 15% of all VISTA Volunteers are 55 or older, 12% are 60 years of age or over, and 167 volunteers are 70 or older. Approximately, 22% of VISTA projects are involved in programs designed to serve the elderly. Examples of these include:

Senior Federation Services of Minnesota, St. Paul, Minn.

The Senior Federation Services of Minnesota has been in existence since 1973 when a group of clergymen and citizens concerned about the problems of seniors got enough money to operate a full time program with over 180,000 members. VISTAs have been instrumental in this growth from their arrival in 1974. Presently, there are eight VISTAs on the site. One of them is developing a model for discount buying which will be implemented throughout the state. Within one year she has succeeded in getting over 100 stores in her region (the Federation divides the state into 12 regions) to offer discounts on food, medical treatment and drugs, and clothing to seniors. Her success has attracted the attention of local colleges who have invited her to speak and give workshops as well as that of the State Governor.

The Federation, as a whole, has set up medical programs for seniors; successfully worked on weatherization programs; and been instrumental in improving conditions in nursing homes. All of the VISTAs are involved in one or more of these areas.

Through the Federation's efforts, which have resulted in the many savings listed above, the seniors of Minnesota can now look forward to an economically more secure future.

New York State Office for the Aging, Albany, NY

A volunteer works in conjunction with an ACTION Retired Senior Volunteer Program in a small town in upstate New York. She works primarily with handicapped elderly people who still have much to offer to the community but who are isolated due their handicap. The volunteer works with various agencies and businesses to establish volunteer positions and then matches the elderly clients with a suitable position.

In addition, through her work, it was discovered that there were a great many architectural barriers within the town which inhibited the mobility of the handicapped population. The volunteer organized a committee of interested elderly people to study the problem and publish a list of agencies, businesses, restaurants and other services that were accessable to handicapped persons.

QUESTION: How many people apply for VISTA service each year?

ANSWER: In FY 1979, nearly 6,700 people applied to VISTA. Of these, we could accept just 2,800 or 42% of all applicants.

Question: In FY 80 and 81, you are requesting a large increase in funding for the National Center for Service Learning. In FY 80, you would have this program jump from $500,000 to $873,000, and then to $914,000 in FY 81. Has this program been demonstrably successful in providing assistance to secondary and post-secondary school programs?

Answer: The National Center for Service-Learning is a very successful and cost effective program. With an annual technical assistance budget of about $500,000, NCSL is able to provide training, information and consultation to facilitate the establishment and improvement of high school and college service-learning programs across the U.S. These programs are locally funded and turn to NCSL for technical rather than financial assistance. Each year NCSL responds to more than 3,600 individual requests for technical materials and direct consultation and trains some 250 directors of high school and college service-learning programs.

An ACTION evaluation of NCSL (then the National Student Volunteer Program) done in 1975 by American University says "The NSVP model as a service delivery system providing training and technical assistance to foster the development of student volunteer programs has been evaluated as successful by this study," and "Operating as a training and technical assistance delivery system responding to every request for assistance, NSVP has contributed to the development of new volunteer programs for 55% of those requesting that help and prompted improvements in the quality of 76% of the existing programs requesting assistance in that area."

QUESTION: I see that the National Center for Service Learning is conducting a Juvenile Offender Research Study costing approximately $300,000 in FY 80 and $350,000 in FY 81.

How is this program different from other traditional juvenile justive studies and programs?

ANSWER: To our knowledge, it is the only study that focuses on the link between classroom and community work and that is attempting to validate the effectiveness of service-learning as an alternative educational approach for troubled youngsters.

QUESTION: Have there been any results from this study so far that justify its continuation?

ANSWER: Yes, the pilot test year has generated some data that suggests that we are on the right track.

(1) The juvenile offenders have been rated highly by their agency project supervisors - both in terms of their attitudes toward their service work and in terms of their actual contributions.

(2) Youngsters who have been chronic truants are now showing up at their community projects and at school 80% of the time.

(3) Math and reading test scores have improved nearly two grade levels.

(4) The service-learning approach has proved so effective in remedying academic and behavioral problems of the participating youth, that the pilot school has expanded its program to involve all students enrolled in the school.

QUESTION: In the FY 1980 budget justification, you recommended that University Year for ACTION be terminated on the basis of specified problem areas. The new authorizing legislation, however, extends the program and now you have requested $3,120,000 for fiscal 1981. What are your plans for making this program more suitable for students who wish to volunteer on a part-time basis?

ANSWER: The legislation requires that college students enroll in UYA for a minimum of 9 months and that they work full-time. The authorizing legislation does not permit the enrollment of volunteers in other than a full-time program. However, the National Center for Service Learning does help colleges and high schools through service-learning seminars and other techniques to develop programs for students who wish to work on service-learning activities on a part-time basis.

QUESTION: What are your plans for making it more productive in the community?

ANSWER: We are planning additional training and technical assistance to help UYA projects improve their effectiveness in communities.

QUESTION: Please explain the new authorizing requirement that a minimum be spent on University Year for Action (UYA).

ANSWER: The minimum established for UYA of $2,300,000 for FY 80, and $1,600,000 for FY 81 are a clear indication that the Congress wants this program to continue, at least to the extent that existing schools are allowed to complete their full five-year period of operation. We include in our interpretation of this action that the Congress looks favorably on a plan to strengthen the program. We have set forth a plan in our budget requests for FY 80 and FY 81 to research and review alternative models to strengthen the UYA concept.

QUESTION: What is the rationale given for linking UYA to VISTA? Why should we have to fund UYA when we fund VISTA?

ANSWER: Approximately 30 million students are enrolled in 3,125 institutions of higher education and 29,158 secondary schools in the United States. This vast number of young people represents a tremendous resource for meeting the basic human needs of America's poor. The National Center for Service-Learning (NCSL) and UYA aims to tap the potential of America's youth by making service to others a legitimate part of the learning and growing up process in our society. VISTA's 15 - year history of full-time volunteer service to aid the poor provide tremendous resources and experiences to universities to develop projects to assist the poor. At the same time, universities, through their own resources and connections with their own communities, can assist VISTA's own anti-poverty activities.

The vast number of students in secondary and higher education represents a major untapped resource for assisting the poor through the National Center for Service-Learning and UYA. By linking classroom and volunteer work, service-learning offers students an opportunity to apply academic knowledge to real problems, to facilitate an invaluable two-way flow of resources between the school and the community. Service-Learning experiences sensitize students to the needs of the poor, and lead to the understanding that poverty and injustice for some affects the quality of life for all. Thus, ACTION's service-learning programs are a natural and vital complement to VISTA's mission.

Question: The Administration is basically asking for level funding for ACTION's Older Americans Volunteer Programs. Hasn't inflation raised the costs of these programs?

Answer: Inflation has raised the costs of operating the Older Americans Volunteer Programs, particularly the costs of administration, transportation, and meals. Until the FY '80 appropriation, there had not been increases in the past several years to help ease inflationary pressures.

Continuing inflation will result in project sponsor's attempts to maintain the same level of volunteer activities with an actual decreased level of available funds. Difficult administrative and programmatic decisions will have to be made as sponsors will be forced to secure additional funding from already overburdened sources. Older Americans Volunteer projects will not be able to recruit additional volunteers, a situation many projects are currently experiencing.

Question: To what extent does demand by the elderly to participate in an ACTION program exceed the availability of working positions?

Answer: The Older Americans Volunteer Programs presently involve only a very small percentage of potential older persons in need of meaningful volunteer opportunities. The Senior Companion Program involves approximately .01%, Foster Grandparent .04%, and Retired Senior Volunteer Program 3%. Most projects do have waiting lists of potential volunteers interested in enrolling. ACTION does not encourage maintaining lengthy waiting lists as persons expectations easily may not be fulfilled.

Question: We understand that you are trying to improve management training for sponsors of Retired Senior Volunteer Programs, Foster Grandparent Programs, and Senior Companion Projects. How are you accomplishing this goal?

Answer: ACTION is attempting to improve management training for project directors of the Older Americans Volunteer Programs. Management skill training is provided at most Regional and State training conferences for project directors, and often times, project supervisors and sponsor staff as well. Topics of skill building sessions include problem solving, time utilization, budgeting, planning, and supervision. Several Regional Training Offices have conducted week long intensive workshops on management. One region has even developed a three year management curriculum for project directors.

ACTION will continue to provide or arrange for management training, as project directors have identified this as an important topic.

Question: ACTION is requesting a $12 million fiscal 1980 supplemental for the new Urban Volunteer Programs. The original fiscal 1980 request for this effort, which this committee did not consider due to the lack of authorizing legislation, was $25 million. The regular fiscal 1979 startup request was $40 million. Why have you so greatly reduced the funding request for this program?

Answer: ACTION's Amended Budget Request for FY 1980 includes $12 million for Urban program activities as part of the Special Volunteer Programs authorized under Title I, Part C of the Domestic Volunteer Service act, as amended.

The requested funding level for these activities reflects the intent of Congress as expressed in the authorization for ACTION which was enacted last December 1979. The authorizing legislation placed Fixed Income Consumer Counseling, Helping Hand, and other activities originally proposed as a separate Urban Volunteer Program Title, as emphasis areas within the existing Special Volunteer Programs legislative authority.

The requested funding levels also reflect the Administration's disire to present a budget proposal which is modest and prudent, recognizing the need to limit major program initiatives. At the same time, it is the Administration's view, that these initiatives are cost-effective ways to mobilize citizen volunteers to assist their neighbors in the tasks of strengthening and revitalizing both urban and rural neighborhoods. The focus of the Fixed Income Consumer Counseling and Helping Hand concepts also reflects the priorities of the Congress as expressed in the authorizing legislation.

Question: Have you plans changed from last year now that you have an authorization?

Answer: Yes. First, these programs are now authorized under Title I, Part C; Special Volunteer Programs, rather than as a separate legislative title as was originally proposed. Second, our current requests for FY 1980 and 1981 reflect the special interest given the Fixed Income Consumer Counseling and Helping Hand programs by the Congress during the authorizing process. Third, the requested appropriations levels are reflective of what

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we perceived Congressional intent to be when authorizing ACTION's domestic volunteer programs.

Question: Are you planning on a $40 million or a $12 million program level in subsequent years?

Answer: The current $12 million request represents what is in many ways a demonstration of the concepts included in the Urban proposal. It would be premature to speculate on budget levels in the future until these programs have been in operation at the $12 million level long enough to assess their future potential.

Question: What is the argument for starting this program with a Fiscal 1980 supplemental? Why can't we wait until the regular 1981 bill?

Answer: We believe these are the type of low-cost, grassroots programs which are responsive to a time of fiscal constraints. They mobilize citizen volunteers who serve with little or no compensation to deal with exactly those issues of inflation which confront all Americans, and especially the poor and elderly. For example, the Fixed Income Consumer Counseling Program will provide assistance to the poor and elderly to give them the knowledge to better utilize available income to meet their basic living expenses in a time of rapidly rising costs.

Our request is, of course, not a new one. The Congress has been considering the Urban Program for two years and has, through the recent authorization, provided guidance as to program priorities which is reflected in our amended budget request. Further, it is a proposal which has been scaled down from the original $40 million request to $25 million and now to $12 million. This will permit further demonstrations, including concentration on the Fixed Income Consumer Counseling Program, and the Congressionally initiated Helping Hand concept.

QUESTION: The ACTION request for the Good Neighbor Fund is $2.9 million for both FY 80 and FY 81. You estimate that you would fund close to 600 small grants which would provide "seed money" to pay for such items as equipment, tools and supplies.

This means that most grants will be quite small, $5,000 or so. How effective can this small amount of money be?

ANSWER: ACTION strongly believes that small "seed money" grants can achieve results far beyond the modest level of initial Federal investment. We believe they can have a catalytic effect on the community, enabling grassroots organizations to mobilize local residents as volunteers working together to meet neighborhood needs.

- In San Francisco, the Earthwork neighborhood organization was provided a grant of $4,000 to organize certified farmers markets in low-income neighborhoods. 150 volunteers are involved in selling fresh produce, at cost, to residents of these neighborhoods.

- In the Champaign-Urbana, Illinois area, a $1,500 grant has resulted in the development of the only local recycling center which collects glass, paper, aluminum and bimetal materials for recycling. 150 volunteers are involved in

picking up these waste materials and packaging them. The recycled materials will generate about $7,000 in profits, which in turn will make the project self-sustaining after the first year.

These examples are illustrative of what can be achieved when very small Federal grants are matched by a community organization and community volunteers with good ideas and willingness to work to make them succeed.

Question: You estimate that you could have 53,700 volunteers working in FY 80 in the Urban Volunteer Programs. Is this a reasonable estimate since we are almost half-way through the fiscal year?

Answer: The grants which would be obligated in Fiscal Year 1980 - were our Amended Budget Request for the Urban Programs to be approved - would generate an estimated 53,700 volunteers. As you correctly suggest, it is highly unlikely this number of volunteers would be actually at work during Fiscal Year 1980; rather, they would be mobilized during the initial year of operation of those grants funded in FY '80.

Question: You estimate that you will have 6,000 volunteers in your Technical and Management Assistance Program in FY '80. These are people with special skills, in areas such as finance, transportation, nutrition, or consumer affairs. How do you expect to recruit skilled volunteers for participation in this program?

Answer: We anticipate no problem attracting necessary numbers of professional skilled volunteers for the Technical and Management Assistance Program. Experience with prototype projects operated by the United Way in Cincinnati and the Accountants In The Public Interest in New York, San Francisco, and other cities, confirms our belief that accountants, businessmen, financial managers and other professionals are willing and eager to volunteer their time to assist grassroots community groups.

The Technical and Management Assistance Program will be operated on a project grant basis. Community-based grantee organizations will be responsible for recruiting volunteers. This will be done through community awareness campaigns and by contacting local industries, civic and professional organizations and individuals. It worked in Cincinnati and we believe it will work equally well in other cities.

PROPOSED URBAN VOLUNTEER PROGRAMS

ACTION is requesting $12 million for Urban Volunteer Programs in both the Amended FY 1980 budget and the FY 1981 request. It seems useful to briefly review the history of these programs and then discuss the present future plans for Urban programs.

In March, 1978, President Carter issued an Urban Policy Statement, which included a number of legislative proposals. These included a request that ACTION be authorized to initiate a group of Urban Volunteer Programs. These initiatives were directed at providing voluntary assistance to grassroot neighborhood groups through an Urban Volunteer Corps.

Included in this Corps were a Technical and Management Assistance Program, in which professionals including financial management experts, accountants, management experts, and others would provide free-of-charge consulting to newly emerging neighborhood organizations. The premise was that many new grassroot groups flounder in their formative years for want of basic expertise in keeping records, raising and managing funds, and other necessary tasks. Also included in the Urban Volunteer Corps was the Fixed Income Consumer Counseling Program, through which professionals joined by community volunteers provided living on fixed incomes, including elderly pensioners, single heads of household and others. This service was seen as illustrative of the way the citizen volunteer resource could work with neighborhood groups to meet the needs of neighborhood residents in need. Complementing the Urban Volunteer Corps was the proposed Good Neighborhood Fund, through which modest seed-money grants averaging $5,000 would be provided to urban neighborhood groups to initiate volunteer-staffed projects for community betterment.

Our legislative proposal to the authorizing committees in 1978 included a new Title IV of the Domestic Volunteer Service Act to be titled Urban Volunteer Programs. This proposal was debated by the Congress throughout 1978 and through most of 1979. A number of Congressional concerns were raised concerning the ACTION component of the urban initiatives. There was considerable feeling that a separate Title was not necessary and current legislative authority would suffice. There was also some concern of the need for new Federal programs and the question of their necessity in a time of fiscal constraint. At the same time ACTION had conducted a series of demonstration grants and their performance was impressive. Many urban and other groups spoke in support of the direction these programs represents.

ACTION's reauthorization was finally approved by the Congress in November, 1979, and signed into law by President Carter in early December. This reauthorization addressed the Urban proposals by including authorizing language within Title I, Part C of the Act. Together with the programs we had originally proposed was included a new concept, Helping Hand, a voluntary service response to the needs of persons being deinstitutionalized from public institutions and the communities that they enter. Language was written into the Act ensuring that the mayor or chief local elected official would have a specific role in reviewing proposed urban projects before they were funded by ACTION. While the focus on these initiatives remained urban, the authorization made it clear these were programs open to all communities regardless of population size.

While this dialogue was continuing in the Congress, the Agency's original package was reduced to $12 million for FY 1980 and amount also requested in FY 1981. These reduced requests represent our recognition of the growing fiscal constraints affecting the entire Federal budget. They also reflect an evolving set of programmatic priorities in response Congressional direction.

It continues to be our view that these are highly cost-effective ways to meet the nation's urban challenge. They focus on giving people the capacity to help themselves solve their own problems, without massive inflow of public monies. They represent an approach which emphasizes local initiative and which focuses on the positive opportunities represented by neighborhood people working together to build a better community.

We are in a position to appropriate funds in FY 1980 and believe the funding level and relative emphasis on program components is responsive to Congressional intent as expressed by both the authorization and the record. It represents the Administration's priorities as well.

Question: Recently, officials of the ACTION Agency were in Thailand exploring ways the Agency could assist with the Indochinese Refugee problem. Did this visit have any thing to do with ACTION's Domestic Programs?

Answer: One hundred and sixty-eight thousand Indochinese refugees will be arriving in the U.S. during 1980. The visit of ACTION/Peace Corps representatives to first asylum camps and transit centers was made for the purpose assessing the resettlement requirements of these refugees, overseas and domestically. Peace Corps is recruiting volunteers to work in refugee camps overseas; ACTION is developing resettlement programs in the U.S. We are submitting a summary of these activities for the record.

Question: How will ACTION coordinate with other established refugee organizations and assure us that not another layer of bureaucracy will be created?

Answer: ACTION has participated fully in the deliberations of the Interagency Committee for Refugee Affairs and is working in close cooperation with the Departments of State, HEW, DOL and Justice. Most recently, ACTION is concluding an Interagency Agreement with HEW to support ongoing resettlement activities in eight target states through its State Offices of Voluntary Citizen Participation (S/OVCPs) and to provide training and technical assistance to mutual assistance associations through Support Services Assistance grants.

SUMMARY OF ACTION AND PEACE CORPS' REFUGEE ASSISTANCE ACTIVITIES TO DATE

I. PEACE CORPS

1. Peace Corps is offering volunteers to refugee camps, processing centers, and transit centers in Southeast Asia through multilateral agreements with the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Volunteer Programme (UNVP). They are to work principally in the areas of health, water supply, sanitation, nutrition and social work.

   Peace Corps Director Dick Celeste anticipates additional volunteers will be shortly available to provide orientation and English language training in the Refugee Processing Centers in the Philippines and Indonesia.

   A tripartite agreement to allow for these placements has been executed and placements are being made now in coordination with the UNHCR in Southeast Asia and Geneva.

2. Peace Corps will continue to provide leadership and support to national volunteer service programs from as many as a dozen nations in order to promote their participation in the Asian refugee assistance program. Dick Celeste has met with the British and Dutch volunteer programs, and Mary King has met with the Australian and Japanese national volunteer service programs. The basic concept is volunteers from many nations working side by side under UNHCR auspices in order to internationalize the response, and also to express the spirit of volunteering which transcends national interest.

3. Based on discussions with the Kampuchean Working Group, Dick Celeste has also made a commitment of 25 Peace Corps volunteers strictly for Khmer relief activities in holding camps along the Thailand-Cambodia border. These volunteers are presently completing their terms of service in Africa, Latin America, and Asia; they are experienced in the health area and are accustomed to working with very few resources. Transportation costs for these 25 volunteers (who would not be placed under the UNHCR mechanism mentioned above) would be handled from dollars appropriated for Kampuchean relief. Assignment of the 25 volunteers, plus an additional ten (10) each month thereafter, is still pending a formal request from the Working Group.

4. Peace Corps has also offered to provide direct volunteer assistance for medical screening and logistics to the Intergovernmental Committee for European Migration (ICEM) which transports refugees from camps to transit centers and on to the country of resettlement.

5. Peace Corps will continue to aid private voluntary organizations and other international groups in gaining access to former volunteers. Over 100 former Peace Corps volunteers are currently working in Asian refugee camps and transit centers for the U.S. Refugee Program or voluntary agencies.

II. DOMESTIC OPERATIONS

Efforts are being directed to the 15-20 U.S. counties most seriously affected by the Indochinese refugee population, and to areas identified by ACTION state offices and the Department of Justice where potential backlash may occur against the refugees.

Special emphasis is being placed on assisting local associations composed of people who are themselves Indochinese refugees as well as grass roots local community organizations which are encouraging volunteers to become involved.

1. VISTA

No new VISTA slots can be assigned for refugee assistance under forthcoming FY 1980 appropriations. New monies would be required and are being discussed with the Department of Labor. However, leadership and technical assistance will be offered to VISTA sponsoring agencies (usually nonprofit voluntary agencies) to facilitate involvement of those organizations in situations where community tensions may occur between groups historically served by VISTA and the incoming refugee population.

Some VISTA efforts involving Indochinese refugees include the following examples:

- Pierce County, Washington. Seven VISTA volunteers work with the Asian Alliance to help some 15,000 Asian and Pacific immigrants (7,700 of them Indochinese refugees) obtain employment and English language training. This program has cost ACTION $89,694.

- Omaha, Nebraska. VISTA volunteers are working with the Indochinese-American Association and refugee community to organize self-help projects, child care cooperatives, marketing cooperatives for Indochinese handicrafts and community programs in English language training. (There are now 1,900 refugees in Nebraska, most of whom are Vietnamese. Of the Indochinese refugees, 95 percent are working as skilled laborers; less than 3 percent are on welfare.) Also in Omaha, an organization of former Peace Corps Volunteers and former VISTAs has been instrumental in organizing resettlement in that city.

- Houston, Texas. Nine VISTA volunteers assigned to YMCA Urban Services are involved in community organization and advocacy in neighborhoods heavily populated by Vietnamese and ethnic Chinese refugees. Their work has helped integrate refugees into the community. They are standing by, ready to help on an emergency basis if there are continued outbreaks of Ku Klux Klan activity directed against the refugees.

- Des Moines, Iowa. Eight hundred volunteers are being recruited to help tutor 4,000 Indochinese refugees in English. A $5,000 mini-grant from ACTION to the Iowa Refugee Service Center is helping to pay for educational materials, travel and supplies. Returned Peace Corps Volunteers who served in Asia and now live in Iowa are assisting this project.

VISTA has requested that a portion of the Program Reserve (1 percent of VISTA's FY 1980 appropriation when it becomes available) be used to expand VISTA's program involvement in refugee assistance. Final decision on this is pending.

Materials are being identified for dissemination by Peace Corps to requesting VISTA projects across the country.

Former VISTA volunteers (there are approximately 50,000) are being encouraged to become involved in local civic efforts, especially those that involve assistance to Indochinese community organizations.

2. Retired Senior Volunteer Program (RSVP)

Technical assistance papers are being distributed to 600 local RSVP sponsoring agencies to encourage expansion of resettlement agencies. These are principally local councils of churches, aging councils and private voluntary groups. Innovative project models, such as "Adopt a Refugee Family," are being publicized.

In Washington State, for example, five RSVP volunteers are teaching English at Winachi Valley College to Indochinese refugees. They work one-on-one in evenings and Saturdays to help refugees master their command of English. Because age is respected in Asian cultures, RSVP volunteers -- most of whom are in their early seventies -- are greatly admired and very successful in working with Indochinese refugees.

3. Center for Service Learning

Technical assistance is being provided to 3,000 high schools and 2,000 colleges to promote involvement of student volunteers in refugee resettlement through training materials and publications.

Earlier this fall, ACTION Deputy Director Mary King announced a University Year for ACTION grant to UCLA for $359,000. Twenty-one volunteers in Orange County, Los Angeles County and San Diego County begin work full-time in January with refugees and at the same time receive academic credit. Peace Corps training materials are being used to train these 63 volunteers.

4. Office of Voluntary Citizen Participation

(a) Mini-Grants: A total of $100,000 is being devoted nationally during the first two quarters of FY 1980 to support local voluntary organizations in refugee assistance projects. These mini-grants ($2,000-$5,000) are designed to stimulate grassroots volunteer efforts at the local level.

Indochinese mutual assistance associations are being encouraged to apply for mini-grants. An extremely rapid turn-around time, as little as one week to ten days, and a simple application form make this procedure quickly accessible and useful to grass roots community organizations. Proposals for volunteer coordination, English teaching, and orientation are being sought.

As an example of how mini-grants can relieve community tensions, following the violence this fall in Denver's Lincoln Park Homes, the city's Department of Social Services was awarded a $5,000 mini-grant by ACTION. It was used to establish a street-level Refugee Information Clearinghouse staffed by community volunteers. After the incident, Governor Lamm sought ACTION's help in establishing a permanent mechanism for coordinating state and local government voluntary efforts through the establishment of a State Office of Voluntary Citizen Participation.

(b) State Offices of Voluntary Citizen Participation (S/OVCPs): These offices are ideally situated to serve as coordinating mechanisms for refugee resettlement efforts, public and private, in their states. Some S/OVCP offices (Iowa and North Carolina) have already begun working as coordinating bodies despite extremely limited resources. Most of these offices are located within the Governor's Office and are therefore well placed to coordinate resettlement activities with state government agencies. The prestige, visibility and stature of these offices, and the frequent involvement of the states' First Ladies, makes them ideal to encourage community volunteers and better coordination between the public and private sectors.

There are 25 state OVCPs in the following states: Alaska, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, Texas, and Virginia. Nine of these states represent regions most affected by the arrival of refugees. Others, in addition, such as North Carolina, Arkansas and Missouri, are states in which racial conflicts and tensions have been exacerbated by the settlement of refugees.

(c) Former Volunteer Services: Historically, the Peace Corps has served extensively in Southeast Asia and many returned volunteers are sensitive to the cultures and traditions of that part of the world. Some groups of former volunteers have already undertaken acculturation projects and community education efforts in their local communities. Others are working in refugee camps in Southeast Asia.

(d) Peace Corps Partnership Program: The Peace Corps Partnership Program raises money in local community groups and American primary and secondary schools to fund projects in Peace Corps countries. One of the purposes of this program is to establish direct personal links between American communities and the overseas "partner" communities.

Through this program, ACTION is developing a procedure for schools and churches to support refugee relief efforts. Normally, these supporting groups receive photographs. We hope similar information concerning refugees and the conditions under which they live can be provided to American supporters.

This program is an effective community education instrument that can be used to develop an informed and sympathetic understanding of refugee conditions in Southeast Asia.

(e) The Support Service Assistance Program provides training and technical assistance to public and private organizations for activities related to volunteering (e.g., conferences, workshops, seminars, direct consultations, and information dissemination and retrieval). Through this program, we will be funding a skills bank of former volunteers who are interested in assisting in refugee assistance and resettlement efforts in five states.

III. ACTION Publications

The following ACTION publications will be used in the efforts for Indochinese refugee relief and resettlement.

- Peace Corps Times is a bi-monthly newspaper that serves as a forum for Peace Corps volunteers and a base for exchange of cross-cultural information. It reaches 6,000 present Peace Corps Volunteers in 61 countries and is also read by officials of host country governments.

- Prime Times is a bi-monthly newspaper that provides technical assistance on ACTION programs and policies. It also has feature stories about volunteers in the Retired Senior Volunteer Program (RSVP), the Foster Grandparents Program, and the Senior Companion Program. Prime Times circulation is nearly 285,000 and reaches public officials, community leaders, and organizations for the aging.

- Reconnection is a bi-monthly publication with news on domestic and international efforts of former volunteers. It provides 40,000 former Peace Corps and VISTA volunteers

with information to further their education and apprises them of agency programs so that their interest in voluntary action will continue. Through this publication, former volunteers keep in touch with each other and share experiences in citizen participation in their local communities.

- o VISTA Currents is published bi-monthly and offers technical assistance to 5,000 VISTA volunteers and their sponsoring organizations. A typical issue might cover such topics as: tenant organizing, explanation of HUD programs, gardening tips, emergency hotline numbers, and community energy projects. Although the subjects are technical, they are explained in terms which aid organizing. Circulation is over 6,000.

- o Synergist is a two-color magazine published three times during the school year by the National Center for Service Learning. It is used to reach the growing number of service-learning, work-study educators. The Center also provides training, information and consultation services to educators working with student volunteers and service-learning programs at secondary and post-secondary levels. Circulation is 40,000.

- o Hotline is a weekly, one-page bulletin, listing classified ads for employment as well as educational opportunities. It is geared exclusively for former VISTA and Peace Corps volunteers and has a circulation of 17,000. Hotline also publishes ads for community involvement, and in the past three months has published a number of permanent and part-time vacancies in state and local public agencies and private groups to coordinate or provide services in refugee programs and activites.

IV. INTERAGENCY COOPERATION

(a) ACTION has been discussing with the Department of Health, Education, and Welfare broader application of HEW's "special projects funding grants" for awards to grass roots mutual assistance associations for resettlement efforts in orientation and acculturation. HEW monies could be routed through ACTION's program apparatus quickly and effectively. The two agencies hope to complete work on an inter-agency agreement by mid-February.

Similar discussions have been initiated with the Department of Labor. Inter-agency cooperation would again focus on Indochinese mutual assistance organizations and the direct involvement of Indochinese refugees in self-help activities.

(b) A proposal from the Independent Foundation possibly to be jointly funded by an ACTION-HEW grant will offer a skills bank of former volunteers whose skills are pertinent to refugee resettlement and cross-cultural training models for host community and refugee orientation in five states.

(c) Community Relations Service of the Department of Justice. In response to CRS interest in collaboration, ACTION has been in contact with their officials. The result is a clear sense of urgency concerning new levels of tension and community backlash from minority and other national groups in the resettlement of Indochinese refugees. From a targeting standpoint, the Texas Gulf Coast and Orange County, California are the most likely areas for combined ACTION and CRS activity.

With ACTION programs already underway in Orange County, ACTION staff was represented at a conference in Corpus

Christi, Texas, on December 7-8, hosted by the U.S. Catholic Conference. The chief topic was problems facing the Texas Gulf Coast due to the influx of Indochinese refugees. ACTION had been invited by Dr. Nguyen Van Chau, Executive Director of Resettlement Offices, Inc., in Beaumont, Texas. Dr. Chau has now been approached to sponsor experienced VISTAs and RSVPs to help minimize community tensions.

Question: Last year, you briefly discussed the concept of a National Youth Service. You mentioned a $2.7 million study on this subject. What became of that study?

Answer: This study was never conducted because the appropriation for the study was never approved.

VISTA

Question: At a time of budgetary constraints throughout the Federal Government, why do you deserve such a substantial funding increase?

Answer: The requested budget increase for VISTA stems not from lack of support or respect for constraints in Federal spending, but is rather a manifestation of recent budgetary constraints in the program itself. Over the past three years, VISTA has been severely hampered by the effects of consecutive continuing resolutions which were preceded by the efforts of the previous Administration to phase out the program. Inflationary increases have made it impossible to operate the program at continuing resolution levels. The cost of living, for example, has increased 24% since 1977. In fact, while the CPI has increased 130% since base year 1967, VISTA has been able to increase volunteer subsistence allowance only 71%. Transportation costs have gone up as gasoline and other fuel costs have increased and volunteer medical costs, likewise, are rising. Having to absorb these cost increases at continuing resolution levels has forced a reduction in volunteer strength, with volunteer training, technical assistance, and support in the form of supervision and on-the-job transportation all being truncated.

Yet, through this time, VISTA has proved to be one Federal anti-poverty program that works and works cost-effectively. In FY 1979, for example, VISTA volunteers mobilized $6.5 million in resources and each recruited an equivalent of 15 full-time non-ACTION volunteers to work on their projects. It is estimated that during that year VISTAs served or assured benefits to 1.2 million of the nation's poor.

Most important has been VISTA's success in meeting its primary objective - to develop a capacity for leadership, problem-solving, and active citizen participation among the poor. The greater involvement of poor people in the decision-making processes that affect their lives brings long-term benefits to the poor themselves and to their communities, and serves to improve the quality of life for all citizens.

Still, in a nation with some 27 million people living in official poverty and at least twice that living just above the poverty threshold, VISTA volunteers are sorely needed. We can provide VISTAs to only a few hundred of the thousands of groups that apply for them and, in fact, almost all our existing projects are

drastically understaffed. In addition, our credibility among grassroots, anti-poverty groups has suffered as we often cannot afford to replace volunteers once their term of service is finished even through the sponsor is in compliance with our programming criteria. Countless Americans who want to volunteer for VISTA are denied the opportunity because we do not have the funds to support them.

This budget request reflects a reaffirmation of the President's support for our continued rebuilding of the program. In FY 1981, we will continue to build on our current efforts and aim, as I've stated, to concentrate our efforts in helping small farmers and rural communities expand VISTA's energy initiatives, and aid in refugee resettlement efforts. After a three-year period of no growth, this budget would, at last, give us a chance to demonstrate what we would have VISTA be.

Question: What has been the impact on VISTA, volunteers, and the Agency of not having an appropriation since 1977?

Answer: Lack of an appropriation has proved devastating to the VISTA program, its volunteers and the Agency.

Inflation has made it impossible to operate the program at continuing resolution levels, hampering attempts to make qualitative improvements in volunteer training, technical assistance, supervision, and transportation intended in the Administration's budget requests over the last three years. For example, ACTION's legislative mandate to support VISTA volunteers at a subsistence level has required cost of living increases since November 1978. Other direct volunteer support costs such as an increase in volunteer subsistence allowance to compensate partially for volunteer loss of eligibility for food stamps, rises in certain volunteer medical coverage, and increases in travel costs have similarly had to be absorbed by the program.

Most critical has been VISTA's failure to meet its obligation to provide volunteers and adequate supervision and transportation funds to its grassroots sponsors. There is hardly a sponsor that has not been hurt by our lack of appropriations: E.G., those projects needing 15 VISTAs now receive only 5, those needing 5 are lucky to get 2. Another continuing resolution may mean that VISTA could not maintain even this minimal commitment to a number of projects even though they are performing in accordance with VISTA programming criteria. Failure to meet these obligations would not only jeopardize the very existence of many of these organizations which are small and grassroots, but could have a destructive effect on VISTA's and the Federal Government's credibility among anti-poverty groups and the poor.

Question: If additional funds for fiscal year 1980 come late in the year, could you reasonably spend the additional money?

Answer: The amount VISTA could reasonably spend in FY 80 would depend largely on the timing of an appropriation. For example, if an appropriation were received April 1st, VISTA would be able to use $3-4 million and would be able to field an additional 279 volunteer service years over the continuing resolution level.

The Service-Learning budget, on the other hand, would remain essentially at the President's request level since enough time would remain in the year to award the program grants planned at this level.

Question: If the programs remain on a continuing resolution through Fiscal Year 1980, could you reasonably spend the Administration's request for Fiscal Year 1981?

Answer: Both the VISTA and Service-Learning programs could reasonably spend the Administration's request for FY 1981 if these programs remained on a continuing resolution through FY80.

Service-Learning activities are funded primarily through program grants. There are no FY81 activities that depend on an FY80 appropriation.

If VISTA does not receive an appropriation in FY80, VISTA would require an increase of about 900 training entries over the present FY81 plan in order to reach its goal of 5,000 volunteer service years in 1981. This increase, however, is well within the capability of the Agency's recruiting mechanism.

Question: What has been the relationship between the increases in volunteer allowances and increases in the cost of living?

Answer: In 1967, the base year for the Consumer Price Index, VISTA volunteers received allowances of $185 per month. By December 1979, volunteer allowances stood at $317 per month, an increase of 71%. If these allowances had kept pace with the CPI, they would have increased 130%, to $425 per month.

The budget for VISTA for FY 1981 asks for a modest increase in the cost-of-living allowance.

Question: What effect has increased energy costs had on programs? What are you doing to address the energy-related needs of low-income people?

Answer: Inadequate on-the-job transportation funds for VISTA volunteers have long been one of our shortcomings and this problem has been compounded by the rising cost of fuel. For a long time, VISTA placed most of the burden of providing on-the-job transportation funds on sponsoring organizations, reserving its limited funds chiefly for small, grassroots organizations. However, as we have moved away from large public and private institutions, toward grassroots and often unsophisticated groups, relatively more sponsors require on-the-job transportation funding. Likewise, we have increased the number of rural sponsors, requiring more money for travel - in fact, some of our volunteers travel over 1,000 miles a month, a considerable cost.

It has become almost a cliche that those on low and/or fixed income are the people who are most affected by rising energy prices and scarcities. Forced not only into substandard housing because of astronomical rent rates and building costs but also paying regressive utility rates, low income people are made to bear more than their fair share of the brunt of the energy crisis.

VISTA's efforts in the areas of energy conservation and alternative energy technology are in only developmental stages yet these efforts have demonstrated to us the viability of voluntary, self-help projects in meeting the energy needs of the poor.

Approximately 390 VISTA volunteers are presently serving on 90 energy-related projects. VISTAs were involved in a town-wide

winterization program in Fitchburg, Massachusetts. In New Mexico, four VISTAs serving with the New Mexico Solar Energy Association are promoting the use of solar energy. They have built model greenhouses which are attached to homes to collect solar energy for hearing and to grow vegetables. For every greenhouse they have built, seven more have been constructed by the community. Volunteers serving with the Southwest Alabama Farmers Cooperative Association have constructed a 500-gallon a day alcohol fuel refinery, to our knowledge, the only black and small farmer unit of this kind in the country.

In Maine, both the Maine Citizens' Committee for Utility Rate Reform and the Portland Wood Fuel Cooperative are organizing low income and elderly residents to convert to wood fuel and have developed ways to make good firewood available and affordable.

In FY 1981, VISTA plans to build upon the energy programming efforts begun in FY 1980. Approximately 650 volunteers will be assigned to energy projects at a cost of $5 million. Current discussions with the Community Service Administration and the Department of Energy will be continued in FY 1981 to explore the potential for joint programming efforts.

Question: Your budget requests an FY 80 supplemental of $10.2 million for the VISTA program. Would there be any adverse effect if this increase in VISTA service years to 4,835 were put off until FY 81?

Answer: Recent amendments to the Domestic Volunteer Service Act included a floor of $28 million for VISTA (Title I, Part A). While total funds available for Title I under the FY 80 Continuing Resolution have not increased over the FY 79 level, by virtue of the new floor, Part A, VISTA has increased from $25.6 million in FY 79 to $28 million in FY 80. The additional $2.4 million was drawn from Parts B (Service-Learning) and C (Demonstrations) of Title I. The increase requested in the FY 80 amended budget, then, is $7.9 million rather than $10.2 million.

Disapproval of this amended request would have the following adverse effects:

VISTA will be unable to launch one of its major rural initiatives for this year: The Community Development Program, which would place 250 especially trained volunteers in the most underserved and isolated rural communities throughout the country. (Congress has mandated VISTA to pay particular attention to the needs of the rural communities.)

Career Development training required by recent legislation for low-income locally-recruited volunteers, as well as other VISTAs who request such training, would be severely curtailed without additional funds.

Additional funding is needed to provide adequate project supervision and on-the-job volunteer transportation costs. (For the past three years, there have been no funds available for increased transportation, despite the dramatic rise in gasoline prices.) Rural areas have suffered the most due to the lack of adequate transportation funds.

Without additional funding, it will be impossible to allow for an increase in VISTA volunteer subsistence allowances to compensate partially for volunteer loss of eligibility for food stamps.

Also, volunteers have been hard hit by inflation and VISTA has been unable to keep pace with rapid increases in the inflation rate.

Question: How many persons annually seek to become VISTA volunteers? How many, if any, do you turn away?

Answer: Since the beginning of Fiscal Year 1977, 16,700 individuals applied for VISTA service with nearly 6,700 applying during Fiscal Year 1979 alone.

During those same three fiscal years, approximately 7,500 trainees entered VISTA service with nearly 2,800 entering during Fiscal Year 1979. VISTA must turn away almost two-thirds of those individuals who desire to serve.

Question: Generally, volunteers and project sponsors have regarded VISTA's training efforts as insufficient. Suggestions for improvements relate to a need for more specific skill training for volunteers, more in-service training at the project level, and better training coordination between ACTION and project sponsors.

What are the goals of VISTA's pre-service, on-the-job, and in-service training efforts? What steps has ACTION taken to improve volunteer training efforts in the past year?

Answer: It is true that the need exists to improve VISTA's pre-service, in-service, and supervisor training. In FY '78 and '79, VISTA attempted to launch major improvements in the deisgn and delivery of both pre-service and in-service training through competitive contracting with major trainging institutions. While sufficient funds existed in FY '78 to award the first part of these contracts for curriculum design, the lack of an appropriation in FY '79, and again in FY '80, prevented us from signing contracts for the delivery phase.

VISTA is currently attempting to implement portions of the curricula designed for pre-service and in-service training, but cannot, under a continuing resolution, deliver the full range of training needed by both volunteers and supervisors.

While lack of an appropriation has significantly hampered our training efforts, VISTA has worked to improve volunteer skill development in such areas as problem-solving, resource mobilization, and local leadership development.

Question: Describe some of the VISTA projects which most effectively appear to be helping to alleviate poverty conditions for our Nation's disadvantaged population?

Answer: Currently, there are nearly 4,000 VISTA volunteers assigned to 700 anti-poverty sponsoring organizations in 2,000 locations throughout the country. VISTA volunteers serve to meet the basic human needs of the poor in health, community services, knowledge/skills, energy/conservation, housing, economic development and legal rights.

In Arizona, ten VISTA volunteers, all of whom are low-income locally-recruited volunteers, are assigned to a project called Adelante Campesino. The volunteers are serving many of the 15,000 impoverished, farmworker families in West Maricopa county who do not have adequate services available to them. One of the goals of the volunteers is to establish a health clinic, as well as establish a second satellite service center to provide farmworker families with information on food stamps, day care, legal aid, emergency assistance and health issues. In addition, Adelante Campesino prepares educational materials on the above issues for distribution to over 1600 field workers. Other activities of the volunteers include the establishment of a food and clothing bank, a food buying coopemtive, and basic education classes for farmworkers.

In California, five VISTA volunteers, all of whom are handicapped, are assisting an increased number of disabled people to secure control of their lives, gain increased awareness of the options available to them, and have begun to have input into the decision-making process that affects their lives.

Volunteers are involved in organizing disabled persons to be aware of issues that affect their lives, the use of public services and the development of mechanisms that will bring about changes for those who are disabled. VISTAs have been responsible for designing accessways, "curb out" service for disabled and facilities for wheelchair fixing. Another goal of the volunteers is to replicate the services provided by the center for independent living in other parts of the state.

The National Citizens' Coalition for Nursing Home Reform :

The Nursing Home Reform National VISTA grant, now in its second year, is working in 20 localities in 19 states. Their focus is to work with residents in nursing homes with 80% or more who are on medicare.

In Jackson, Mississippi, the local sponsor, the Jackson Gray Panthers, has recruited senior VISTA volunteers from the low-income community. They have organized a complaint center for patients in nursing homes and boarding homes. They are now recruiting a Corps of part-time volunteers, multi-racial and multi-age, to make home visitations. They will be trained, with VISTA help, to monitor conditions in the homes, and how to handle complaints. This effort represents the only program providing this service in the State. The project has been privately-funded, but the State has indicated their possible future support.

In Lackawanna and Luzerne Counties in Pennsylvania, Intergaith Friends, a community-based organization, using 2 low-income volunteers, one, who is a senior, have recruited 50 part-time volunteers to visit over 500 low-income residents in nursing homes in 2 counties. They provide technical assistance to residents councils in 6 nursing homes, assisting residents with their own newsletter.

Question: What steps have been taken to sponsor more VISTA projects in rural areas and among American Indians where there is a recognized need for volunteers?

Answer: VISTA is concerned about the social and economic problems facing rural America. All too often the rural poor suffer from an uneven distribution of services and allocation of public resources.

VISTA attempts to distribute its volunteers equitably between rural and urban areas as required by Section 414 of the Domestic Volunteer Service Act of 1973. As of December 31, 1979, approximately 40% of VISTA sponsoring organizations were dealing with rural, Indian, and migrant problems.

In rural areas, VISTA's efforts are focused on helping low-income people determine their greatest needs and assist them to find ways through self-help to meet those needs. Often they are the only full-time resource that can help local people become aware of the services or programs available to the community.

In the South, a national VISTA grant has been awarded for a third successive year to the Federation of Southern Cooperatives, a non-profit, regional association of over 130 cooperatives and credit unions serving small farmers and other low-income people in 10 Southeastern States. The VISTA grant supports approximately 100 volunteers to help develop cooperatives of small farmers and organize and expand rural credit union savings so that there will be more capital for loans and investments.

Fifty-six VISTA volunteers are assigned to the Bristol Bay Native Association. This project is focused on the economic and social development of a region containing 29 rural Eskimo villages in Southwest Alaska. Volunteers form an information exchange system between villages and the association head office. Projects being initiated are: Development of Eskimo-controlled herring fisheries, ownership of fish canneries, incorporation of villages to comply with State law, development of funding sources and development of a comprehensive communications system.

Volunteers assigned through Snow College of Ephriam, Utah, have established five senior nutrition programs, provided assistance to 200 rural senior citizens in securing grants and loans to upgrade and winterize their homes, established a total senior citizens' program, and have recruited over 75 community residents to work on the above projects.

VISTA is currently sponsoring, with CSA and USDA, 16 selected Small Farm Assistance projects. One of these projects is in North Dakota where 15 locally-recruited volunteers are assigned to the Farmers Home Administration to identify and assist limited resource farm people in 15 counties throughout the State.

If VISTA receives adequate funding, by the latter part of FY 1980, 250 community development volunteers who are especially trained and supported with back-up technical assistance, will be assigned to unsophisticated grassroots organizations and small governmental units whose constituencies are primarily low-income. Volunteers will help these groups or municipalities involve local citizens in decision-making on specific improvements they desire and help find the funds and services necessary to achieve these improvements. This effort is designed to locate people and

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communities in rural areas, who suffer from poverty but who are not aware of anti-poverty programs that are available to them. An additional 250 community development volunteer placements will be made in FY 1981 to increase the utilization of public and private programs by these underserved groups.

A disproportionately large number of the nation's poor are Native Americans. There are approximately 120 VISTAs working on 29 Native American projects throughout the country. Of these VISTAs, half are themselves Native Americans. A 1979 ACTION evaluation estimates that these projects serve about 6,000 Native Americans.

VISTA volunteer activities include: Legal services and para-legal training, food stamp advocacy, establishing drug abuse and alcohol prevention and counseling programs, housing rehabilitation, strengthening tribal entities through training, and researching and writing codes for tribal jurisdiction.

In January of 1979, VISTA awarded a national grant to the Coalition of Indian-Controlled School Boards. The Coalition seeks to bring about educational reform in American Indian education by helping Indians gain and maintain a voice in the educational processes that affect their children. Volunteers are serving in 7 States (Oklahoma, Michigan, Wyoming, Montana, South Dakota, Washington, and California).

To combat the growing problem of chemical dependency among Native Americans, three VISTA volunteers are working in a drug and alcohol abuse with eight Northern Indian Pueblos in San Juan Pueblo, New Mexico.

Cultural heritage preservation is the primary focus of the Samll Tribes Organization of Western Washington VISTA project. VISTA volunteers are working at 6 different tribal community sites to ensure that Northwest Indian language, culture, and crafts are not lost, but rather passed on to future generations. Half of the volunteers are themselves tribal elders.

Native Americans, like other VISTA projects, have suffered as a result of VISTA not having received an appropriation since FY 1977. Even without an appropriation, VISTA has attempted to target more projects and resources toward meeting the economic, social, and cultural needs of Native Americans. If additional resources become available, a great deal more could be done.

Question: The last few years, the controversies in the timely enactment of the Labor/HEW appropriations bill have prevented timely enactment of the Continuing Resolution at the beginning of each fiscal year. This has placed a very heavy burden on VISTA volunteers because their checks are some of the first affected in all of the Federal Government and they are very dependent on these stipends for their subsistence. Have you considered taking any administrative steps--such as changing the monthly pay day--to relieve this problem?

Answer: ACTION is currently reviewing the two House Bills (HR 5995 sponsored by Rep. Spellman and HR 5704 sponsored by Rep. Fisher) which are designed to ensure Federal employee pay

despite the uncertainties of enactment of a Continuing Resolution at the start of the Fiscal Year.

This has been a serious problem for the volunteers for the past two years. While VISTA has done everything possible in the past to assist volunteers during these emergencies situations such as advancing to the volunteers funds earmarked from their end-of-service readjustment allowance through appeals to local sponsors and ACTION'S state and regional offices to help the volunteers, the agency is unfortunately unable by law to pay VISTAs their living allowances when there is no appropriation for the agency.

QUESTION: What information might we expect from $400,000 invested by ACTION last year for evaluations?

ANSWER: Only $193,500 of the $400,000 was used for VISTA and UYA evaluations last year. The studies completed included issues of goal achievement, demographic data on the communities served and volunteers, supervision, volunteer training, community involvement, volunteer roles and activities, volunteer feelings about voluntarism and future plans, and the VISTA program criteria. The relationships between these different variables were also analyzed and reported.

A similar study was conducted on the four national grant University Year for Action (UYA) demonstration projects. The report for the UYA study is in printing and will be released by March, 1980. The FY '79 VISTA Activities Survey is available at the Library of Congress.

The remaining amount of the $400,000 was used to conduct five studies of Older Americans Volunteer Programs and other ACTION program demonstrations.

QUESTION: Each year ACTION's Evaluation Office studies various aspects of VISTA in order to identify the program's strengths and weaknesses. The studies typically examine volunteer activities, project sponsors, and community needs and reveal findings quantitatively, in terms of volunteer service years (service time in terms of 365-day periods) devoted to a particular community need, number of training days for volunteers, number and types of projects, and other such performance indicators. These indicators, however, reveal little about the volunteers' impact on the community where projects are located.

- How do you measure whether VISTA is achieving its major goals of improving self-sufficiency among the poor, assuring the continuation of projects after VISTA phases out, and instituting a sense of consciousness about poverty problems among the volunteers themselves?

ANSWER: The VISTA Volunteer Activities Survey of FY '78 and FY '79 assessed the accomplishment of the goals of improving self-sufficiency along different dimensions and of increasing low-income community involvement in the solving of their own problems. In addition, the continuation of the project after VISTA phase-out was assessed through the questions of mobilized resources and transferring of skills to low-income participants. Volunteer attitudes and feelings towards long-term involvement in working to overcome poverty problems were analyzed. The specific findings on these issues is contained in the reports themselves and is positive in all cases.

The source of the data for these two studies was the volunteers and local project supervisors. As such, the assessments are limited to a scientific analysis of perceived accomplishments. ACTION is currently exploring the development of a sound and reliable methodology for measuring actual impact on the low-income participants in the projects. The goal is to have such a design ready for review by the Office of Management and Budget next August, 1980.

QUESTION: I am familiar with VISTA, RSVP, and Peace Corps, but I'm not as familiar with the Agency's Service Learning Programs. Just how many high school and college people are involved in Service-Learning programs?

ANSWER: Projecting on the basis of data gathered through two national surveys, the National Center for Service-Learning estimates that 750,000 high school and college students are involved in Service-Learning programs.

QUESTION: Just how cost effective is the VISTA and Service-Learning programs? How much does it cost to support a volunteer in one of these programs a year?

ANSWER: The National Center for Service-Learning (NCSL) is very cost effective. With an annual technical assistance budget of about $500,000, NCSL is able to provide training, information, and consultation to facilitate the establishment and improvement of high school and college Service-Learning programs across the United States. The programs are locally funded and turn to NCSL for technical rather than financial assistance. Each year, NCSL responds to more than 3,600 individual requests for technical materials and direct consultation and trains some 250 directors of high school and college Service-Learning programs.

VISTA has proved to be one Federal anti-poverty program that works and works cost-effectively. In FY 1979, for example, VISTA volunteers mobilized $6.5 million in resources and each recruited an equivalent of 15 full-time non-ACTION volunteers to work on their projects. It is estimated that during that year VISTAs served or assured benefits to 1.2 million of the nation's poor.

More important has been VISTA's success in meeting its primary objective -- to develop a capacity for leadership, problem-solving, and active citizen participation among the poor. The greater involvement of poor people in the decision-making processes that affect their lives brings long-term benefits to the poor themselves and to their communities, and serves to improve the quality of life for all citizens.

A VISTA volunteer now costs approximately $7,100 per year of service. This amount includes pre- and in-service training, comprehensive health insurance and project support costs. A volunteer in the University Year for ACTION program costs approximately $6,400 per year. The difference in cost between UYA and VISTA results mainly from the lower subsistence allowances received by UYA volunteers.

QUESTION: Your budget request for the University Year for ACTION drops from $4.2 million in FY '79 to $3 million in FY '80, then rises to $3.1 million in FY '81. Why is there such a sharp reduction in the funding request for UYA (27%)? Does the Administration of ACTION not consider this to be an effective program?

ANSWER: ACTION requested zero funding for UYA for FY '79, not $4.2 million. However, since the agency operated under a continuing resolution for the entire year, the actual FY '79 budget was the same as in FY '78, or $4.6 million.

ACTION is requesting $3.1 million in its amended FY '80 budget, and $3.1 million in FY '81 for UYA.

Following the submission of the FY '79 budget request, the Agency was made aware that broad support existed for the UYA program and that UYA, as the Agency's full-time service-learning model should be strengthened and maintained. The Agency determined that the more sensible approach was not to discontinue the program, but to examine existing policies and revise or eliminate those that were inhabiting program effectiveness. This process is well under way and will be completed by the end of the year.

URBAN VOLUNTEER PROGRAMS

Question: ACTION is requesting a $12 million FY '80 supplemental for the new Urban Volunteer Programs. The original FY '80 request for this effort, which this committee did not consider due to lack of authorizing legislation, was $25 million. Why has ACTION halved the funding request for this program?

Answer: ACTION's Amended Budget request for Fiscal Year 1980 included $12 million for Urban program activities as part of the Special Volunteer Programs authorized under Title I, Part C of the Domestic Volunteer Services Act, as amended.

The requested funding level for these activities reflects the intent of Congress as expressed in the authorization for ACTION which was enacted last December 1979. The authorizing legislation placed Fixed Income Consumer Counseling, Helping Hand and other activities originally proposed as a separate Urban Volunteer Program Title, as emphasis areas within the existing Special Volunteer Programs legislative authority.

The requested funding levels also reflect the Administration's desire to present a budget proposal which is modest and prudent, recognizing the need to limit major program initiatives. At the same time, it is the Administration's view, and that of ACTION, that these initiatives are cost-effective ways to mobilize citizen volunteer to assist their neighbors in the tasks of strengthening and revitalizing both urban and rural neighborhoods. The focus on the Fixed Income Consumer Counseling and Helping Hand concepts also reflects the priorities of the Congress as expressed in the authorizing legislation.

Question: Given the likelihood that a supplemental appropriations bill will not be enacted until the Summer, will you be able to obligate all these funds in this fiscal year?

Answer: Yes, ACTION will be able to carry out the program described in the Amended Budget request for FY 1980 fully, and will do so in a thoughtful and planned manner. This can be done for two reasons.

First, the vast majority of these activities will be implemented through ACTION's field structure of Regional and State Program Offices. The number of projects which will be funded by each

of the 50 ACTION State Program Offices is relatively small and well within the capacity of those offices. Second, these are project grant programs; thus, obligation of funds will take place on issuance of the grant.

Question: What is the urgency of initiating this program at this time of fiscal constraint?

Answer: We believe these are the type of low-cost, grass-roots programs which are responsive to a time of fiscal constraints. They mobilize citizen volunteers who serve with little or no compensation to deal with exactly those issues of inflation which confront all Americans, and especially the poor and elderly. For example, the Fixed Income Consumer Counseling Program will provide assistance to the poor and elderly to give them the knowledge to better utilize available income to meet their basic living expenses in a time or rapidly rising costs.

Our request is, of course, not a new one. The Congress has been considering the Urban Program for two years and has, through the recent authorization, provided guidance as to program priorities which is reflected in our amended budget request. Further, it is a proposal which has been scaled down from the original $40 million request to $25 million and now to $12 million. This will permit further demonstrations, including concentration on Fixed Income Consumer Counseling, and the Congressionally-initiated Helping Hand concept.

AGENCY-WIDE TRAVEL

Question: What has been the effect on ACTION of the $500 million government-wide travel cut included in the continuing resolution for 1980?

Answer: Since ACTION is operating at the Continuing Resolution level, essentially FY 1979 funding, the government-wide travel reduction has not affected program operations. When our appropriations status is clarified, specifically with respect to the number of VISTA trainee entries, (the main requirement for travel funds), the Agency will be able to accurately assess the impact of the resolution.

VOLUNTARY CITIZEN PARTICIPATION

Question: Why is ACTION requesting that Mini-Grants be increased from $219,000 (FY 80) to $1,500,000 in FY 81? What are the benefits of this program?

Answer: Mini-grants are one of the few programs which ACTION has that provides funds for private voluntary sector organizations. It offers seed monies to volunteer programs seeking independence, but which need a small amount of money to get them going or to provide one-time needs to ongoing volunteer efforts. These grants often , in turn, generate other resources.

The Mini-grant program has been operating on an FY 77 Budget for two years due to the absence of an authorization and continuing resolution funding. At the same time, requests for this quick turn-around funding have steadily increased from the private voluntary sector. Mandated cost efficiency - one volunteer hour recruited for

every federal dollar. Actual calculated cost to ACTION - 58¢ per volunteer hour.

Sixty-six mini-grants were awarded in FY 79 and were distributed to forty states, involving 5,851 volunteers who gave an estimated 365,000 hours of service, for a total cost to ACTION of $212,000.

FY 80 funding was divided equally between energy and refugee efforts.

Monies have been earmarked for special efforts during FY 81:
IYDP: 40 grants totaling $200,000
Energy: 50 grants totaling $140,000
Refugee Assistance: 20 grants totaling $100,000
Balance of $1,060,000 will be targeted for rural and elderly.

Question: Why is ACTION proposing to triple Support Service Assistance funding from the FY 80 level of $223,000 to a proposed level of $900,000 in FY 81?

Answer: In response to Executive Order #12137, the Support Service Assistance program will strengthen ACTION's ability to provide training and technical assistance funds to the private voluntary sector. This is one of the Agency's most sought after programs as it fulfills a need which in continually expressed by private voluntary organizations.

Support Service Assistance has been operating on an FY 77 budget for two years due to the absence of an authorization and Continuing Resolution funding. At the same time, requests for this funding have steadily increased from the private voluntary sector.

Monies have been earmarked for special efforts during FY 81:
-Energy: 10 grants totaling $300,000
-Refugee Assistance: 10 grants totaling $200,000
Balance of $400,000 will be committed to other private sector needs as defined by requests.

FY 80 funding covered Rural Programs and requests from State Offices of Voluntary Citizen Participation.

ACTIVITIES IN APPALACHIA

Question: What are ACTION Volunteers doing in Appalachia to help alleviate poverty?

Answer: ACTION remains committed to helping alleviate poverty in Appalachia. During Sam Brown's recent visit to Appalachia, he was impressed with the perserverance of the groups that VISTA started 10 or 20 years ago. Final solutions to poverty in Appalachia involve a long, hard battle. There is reason for encouragement, however, by the progress of communities utilizing ACTION volunteers, 70% of whom are locally recruited.

The Appalachia range, as you know, includes 397 counties in 13 states. ACTION volunteers throughout Appalachia are involved in a wide variety of projects. These volunteers are marked by their commitment to the long process of alleviating poverty in Appalachia. The following examples of VISTA, SCP, FGP, and RSVP projects illustrate the value and variety of ACTION efforts in this area.

Four locally recruited VISTA volunteers are assigned to work with the Grass Roots Economic Development Corporation, an associate member of the Federation of Southern Coopeatives, which serves as a liaison between the Federation and the member cooperatives in the Kentucky mountain area. The Grass Roots Development Corporation, organized in 1969, works on economic development especially in the Counties of Wolf and Breathitt, which are the two poorest counties in the United States; per capita income is less than $3000 per family. Two of these VISTA volunteers work the 300 member feeder-pig cooperative in the production and purchasing programs. The VISTAs have assisted in the area of management, marketing, training and general out-reach. These volunteers also work with participating small farmers in increase their herds and production capacities. The other two VISTAs work directly with the Grass Roots Handicraft co-op. Over the last two years, the volunteers have assisted with marketing, production and developing a store for a local market outlet. The membership of the co-op has increased from 50 to 90 members in the last two years and sales have doubled. This means each co-op member will increase their annual income by $500 to $700.

Sixty-nine Senior Companions serve in five West Virginia rural counties. Most of the clients served are isolated, have no families, and would not be able to maintain independent living without the Senior Companions. One client is 93 years old and has been in a wheelchair for over a year; his only contact with the outside world is his Senior Companion. A man 96 years old who had a stroke 7 years ago and his wife, diagnosed as senile, have been kept out of a nursing home for over three years, according to their daughter, who says, "... the need was so great... It makes you believe in government. I cannot say enough."

Five VISTAs are working with the Center for Health Services in Nashville, Tennessee. The VISTAs are developing and working with over 20 health councils throughout central and eastern Tennessee. The councils are community originated and controlled and the majority of them have initiated and continue to provide primary health care services. The health councils deal with the ongoing clinic operation while working in other areas such as water quality, roads, health education and nutrition.

The FGP of the Ohio Appalachian Development boasts of St. John's Villa in Carrolton, Ohio. Fifty-five Foster Grandparents serve 110 children who are severely, profoundly and trainably retarded. For the past 4-5 years FGs have helped their children reach the Special Olympics in swimming. Twenty-five FGs have found the answer to the question, "How do you teach a mentally disabled child to sew when talking about the eye of a needle?" Their patience and fortitude have helped the children learn even advance sewing skills. Some children are now able to use sewing machines while others make quilts, afghans and latch-hook rugs. A research study conducted by the school with the help of an optometrist and the FGP project director show that FGs can increase the learning capacity of mentally retarded children. Of the 14 children selected for the study because of their lack of skills, 10 graduated to a classroom where self-help skills are taught.

At 88 (on George Washington's birthday,) Hayes Storer of Maysville, Kentucky doesn't spend much time reflecting on his own age because he is too busy visiting other elderly confined in nursing homes. Three times each week, Mr. Storer visits a local nursing home spending time with patients who are lonely or suffering. He is one

ofeight or nine volunteers in his age bracket serving as volunteers in the local RSVP.

A project initiated by RSVP volunteers of Maysville is a Geriatric Health Clinic operated by the county once each week. Started as a result of RSVP volunteer concern, the volunteers also assist in its operation. Approximately 10 older persons receive health screening each week.

The Rural Advancement Fund utilizes five VISTAs for small farm training in Wadesboro, North Carolina. Their efforts include training on agricultural methods appropriate for small scale farming, limited resource farming, rural development, farmers cooperatives, and education on public policy issues affecting agriculture.

Sixty-four Senior Companions serve elderly residents of Lackawanna County, Pennsylvania. The elderly in this area are primarily immigrants and first generation. The high level of ethnic identification and interaction that existed when the elderly were young has disintegrated and many are alone and unprepared to manage on their own. Many elderly are victims of black lung. In Carbondale, Pa., a demonstration of five Senior Companions is in place in the acute care hospital. Senior Companions are serving clients who will be discharged from the hospital within one month. Most of their clients have had major surgery such as amputation of limbs, colostomies, broken hips, etc.

Five VISTAs are assigned to the East Tennessee Communities Project (ETCP) of Kacksboro. Among the group's accomplishments are assisting in a 1978 study documenting Tennessee's enforcement of strip-mine laws which has resulted in a better enforcement at both the federal and state levels.

We are making progress in Appalachia. However, we receive many requests for volunteers from community organizations that we must turn down due to lack of funds. Our efforts in assisting the poor in Appalachia would be greatly enhanced with receipt of our budget request.

Four VISTAs volunteers are assigned to the 4th and Gill Neighborhood Project in Knoxville, Tennessee. This project was organized last November to assist in urban community development in one of the oldest and poorer neighborhoods in Knoxville.

Two exceptional RSVP volunteers of Tupelo, Mississippi are Dr. E.D. Foster, 102 and Mrs. Dorothy Mathis who is in her 80's. Dr. Foster has visited schools in the area recounting stories from early days in the Tupelo area. Although partially blind and deaf he has eager audiences among the youngsters. Although legally blind, Mrs. Mathias works with mentally disabled children four days each week. She also participates in a local crime prevention program.

The FGP of Luzerne County has placed 67 Foster Grandparents at White Haven Center, a residential institution for the mentally retarded. One FG, a retired nun, has nurtured a miracle in a severely retarded black child. Once thought impossible the boy can now walk. This task took 2½ years to accomplish. Another FG over the course of 6-8 months encouraged and taught a 15 year old girl with multiple handicaps to swallow solid food.

OLDER AMERICANS VOLUNTEER PROGRAM

QUESTION: How do you integrate VISTA's program activities with goals of the Foster Grandparent, Senior Companion and Retired Senior Volunteer Programs?

ANSWER: ACTION encourages integrated programming of VISTA and the Older American Volunteer Programs in order to best maximize the work of volunteers. In fact, over 14,000 OAVP volunteers serve on the same projects as VISTAs.

RSVP volunteers especially provide valuable support to VISTA organizers in poor communities since the RSVP program design allows for versatility in volunteer assignments. Approximately 8,400 RSVP volunteers are working in VISTA projects. For example, in Michigan VISTA's and RSVP volunteers are working together on a Senior Energy Project through the Energy Administration, the Department of Commerce, the Office of Services to the Aging, the Department of Management, and the Area Agencies on Aging. These volunteers educate senior citizens on energy conservation and advise them on energy assistance programs and how to meet their fuel costs. They have also succeeded in negotiating with Michigan Consolidated Gas to prevent gas cut-offs in the homes of seniors over 65.

Approximately 5,700 Senior Companion and Foster Grandparent volunteers are involved in joint projects with VISTAs. VISTA volunteers additionally enhance FGP and SCP by providing referrals of recipients and volunteers to FGP and SCP projects.

ACTION is also linking projects within OAVP. In 66 instances a project sponsor administers more than one OAVP project. For example, during FY 80 we are establishing 10 locations where RSVP and SCP service areas overlap to develop long-term care initiatives for older Americans.

ACTION is currently conducting a study on joint programming which will be completed by April 1, 1980. The study will assist our continuing efforts to integrate the goals of VISTA and OAVP programming.

QUESTION: Are these programs having a positive impact on resolving various social problems? Describe some of the projects Foster Grandparents have been involved in.

ANSWER: Yes, some nearly 17,000 Foster Grandparents are effectively serving the needs of more than 42,000 exceptional children and children with special needs. Bringing together older persons, often with disabilities of his or her own, with a child who is significantly disabled in some other way has reduced the generation gap, established a caring relationship and provided one-to-one personal instruction for children who might other wise be isolated from society. Foster Grandparents serve mentally retarded children, those who are developmentally impaired, blind, deaf or severely emotionally or psychologically disturbed or who have specific learning disabilities. Other Grandparents seek to prevent or delay the institutionalization of children and to deinstitutionalize children who have the potential

for independent living. Still other Foster Grandparents serve abused and neglected children, youth offenders and children in home settings. For example, the Foster Grandparent placements are in mental retardation settings. Foster Grandparents in Minneapolis help severely and profoundly retarded children from the Homeward Bound residential facility move toward their highest level of functioning at a public school. Neurologically impaired chidlren, some who have autistic traits and others who are now experiencing their first one-to-one personal relationships since admission to the Kansas Neurological Institute, are served by Foster Grandparents in Topeka. Muscatatuck State Hospital is a combined volunteer station and residence of the first mental patient in Indiana to be named a Foster Grandparent. Assistance to physically disabled children is another program emphasis. One such Foster Grandparent project serves a predominantly poverty area in South Central Los Angeles (Watts). Foster Grandparents in Austin, Texas and Pittsburgh, Pennsylvania have achieved success and early release of children from hospitals in another area of program enphasis that demonstrates the positive impact of the Foster Grandparent Program.

QUESTION: Last year, the Congress substantially increased the appropriations for the Older Americans programs. What progress has the Agency made in carrying out Congress' wishes in regard to these increased funds?

ANSWER: ACTION has implemented the wishes of Congress in regard to the increased FY '80 appropriations. The increases for stipends, transportation, insurance, and administration have been allocated to the ACTION Regional Offices for distribution to project sposors. For the new FY '80 projects, criteria is now being developed for project selection. The process to expand 170 RSVP projects is also underway.

The major share of the increased appropriation was intended by Congress to be used to increase stipend levels to $2.00 per hour.

QUESTION: How are OAVP volunteers being used to help meet problems created by the energy crisis?

ANSWER: OAVP volunteers continue to be actively involved in energy related activities. ACTION has encouraged OAVP projects to develop and promote volunteer assignments which emphasize energy conservation. This encouragement has been by way of demonstration monies, technical assistance papers, and special training sessions.

RSVP projects are particularly active in energy related programming with over 3,500 volunteers contributing their services for energy conservation. RSVP volunteers provide information to consumers, particularly the elderly, on home weatherization, energy audits, and basic conservation techniques. Volunteers also help elderly persons to weatherize their homes by assisting them with routine home maintenance and simple weatherization activities. RSVP volunteers are involved in information and referral systems for individuals seeking information on special energy savings problems.

Senior Companions provide energy conservation information to their clients and arrange for necessary weatherization work and energy audits.

Some Foster Grandparents transfer their energy related know-

ledge to youth with special needs. The Grandparents are trained to help youth offenders learn energy saving techniques and home weatherization skills.

QUESTION: Last year, the OAVP project directors raised a number of questions relating to staff salaries, volunteer stipends, transportation allowances for volunteers, and project expansion. Did the OAVP increased appropriation for FY '80 resolve those issues?

ANSWER: The increased appropriation did ease some of the pressures brought on by the inflation of the past several years. Stipends were increased to $2.00/hour, transportation allowances were increased to an average of $1.85/volunteer/day, 170 RSVP projects are being expanded, and some project staff salaries were increased to provide equity.

These issues are not entirely resolved as inflation continues to exist into the 1980's.

QUESTION: What demonstration efforts or new program thrusts will be evident in OAVP programming in FY '81?

ANSWER: RSVP will be involved with the following:

a. RSVP has signed an agreement with the Joint Action in Community Service, Inc. (JAC), a Washington-based non-profit organization, linking the resources of both agencies in the development of RSVP volunteer services to assist hard-core unemployable youth between the ages of 16 and 21.

b. Working in cooperation with the Senior Companion Program (SCP), RSVP will test the feasibility of combining the volunteer resources of both programs to provide long-term care services for the elderly.

c. Energy conservation and refugee assistance will continue to be major areas of emphasis in RSVP programming in FY '81.

FGP program thrusts will be:

a. Deinstitutionalization (in keeping with 1981 being the United Nation's "Year of the Disabled Person").

b. Child abuse and youth offender efforts will be focused on assisting troubled families.

c. Juvenile alcoholism and drug abuse.

SCP efforts will be the following:

a. Continue to demonstrate the role of Senior Companions in the prevention of institutionalization.

b. Explore the role of Senior Companions in long-term care.

c. Develop components in the areas of mental health, hos-

pice care, substance abuse, and patient release from acute care hospitals.

QUESTION: To what extent has local program support been able to augment limited OAVP resources?

ANSWER: Local project support has exceeded the minimum non-Federal contribution required. ACTION encourages its OAVP project sponsors to develop local community support and provides project directors training and technical assistance in how to do so. Since ACTION resources are limited, project expansion usually becomes possible only with increased local contributions.

In addition to local support, a total of approximately $14 million of state funds (or other Federal funds passed through states) support OAVP projects. Of the $14 million, FGP has $10 million, SCP has $2 million, and RSVP has $2 million. ACTION continues to encourage and assist such state funding efforts.

OFFICE OF VOLUNTARY CITIZEN PARTICIPATION OF ACTION

Question: What is the Office of Voluntary Citizen Participation and how does it support other ACTION programs? Please provide some examples?

Answer: The Office of Voluntary Citizen Participation was established in March of '78 to provide a link between ACTION and the private voluntary sector in the U.S. and abroad, and between Domestic and International volunteer programs, both within the Agency and outside. It's programs include 8 on-going programs and 3 special project activities: PROGRAMS - State Offices of Voluntary Citizen Participation - Mini-Grant program - Support Service Assistance program - Former Volunteer Service - Information Collection and Exchange (Distribution to non-government organizations) - Domestic Development Service - Development Education - Peace Corps Partnership. SPECIAL PROJECTS - Youth Employment Support - Community Energy Project - Refugee Assistance.

Interagency activities:

o Formal agreement between Domestic Operations Regional and State Offices and OVCP for design, implementation and monitoring of The Youth Employment Service (YES) programs.

o OVCP is disseminating a packet of materials on Older American Programs to State OVCPs which includes information on replication of models and potential State funding sources.

o OVCP participated in all DO Regional Directors' meeting in FY 1979.

o OVCP participated in four DO Inter-Regional Training Sessions in 1979 and 1980.

o OVCP advocates with other agencies on behalf of ACTION programs in Interagency efforts (HEW and DOL for refugee assistance and EPA for noise abatement activities.)

o Former Volunteer services offer career counseling to Former VISTA and Peace Corps volunteers.

o Reconnection, the publication for former volunteers, prints information about ACTION programs and projects as well as those of other private voluntary organizations to stimulate awareness and involvement at the community level.

o Former volunteer services is involved in VISTA's 15th Anniversary --

-Compiling list of former VISTAs for history paper
-Publishing a special VISTA Anniversary edition of Reconnection
-Providing former VISTAs as speakers in secondary schools nationwide; also developing packets for these speakers

o OVCP involved in the Worldwide Country Directors' Workshop

Question: What has ACTION done to improve and strengthen relationships with the private voluntary sector? What are its plans for 1980-1981?

Answer:

o Provide small grants and supportive service assistance to encourage innovative approaches to problems, particularly at the neighborhood level.

o Provides assistance and referral to private voluntary organizations with regard to possible funding sources.

o Maintain cooperative working relationships with private voluntary organizations at the National, State and Local levels through meetings and joint programming. Works with State and Local groups through S/OVCPs and former volunteer groups.

o Continue to advocate for voluntary action at the Federal level.

o Examples:

-International Year of the Disabled: OVCP funded a conference January 24-25, 1980, at the University of Texas to assist the National Private Advocacy groups in implementing and further developing plans for involving volunteers in IYDP.

-Youth Employment Support: Via five State/OVCPs, OVCP is trying to encourage the private sector to support minority and disadvantaged youth who need assistance and encouragement in finding and keeping jobs.

-Former Volunteer Services: By tapping the resources of the former volunteer groups in the U.S., OVCP helps mobilize citizens and assist community projects in need of the special skills these groups bring to their communities.

-Peace Corps Partnership: Develops relationships with Women's and school and community organizations as a source of partnerships. These groups participate in and stimulate partnerships between the U.S. and special project overseas.

o OVCP (Former volunteer services staff) have run COS conferences in the U.S. (Detroit, San Francisco) and Africa (Lesotho, Swaziland) in 1979.

o Involved VISTAs working in Federation of Southern Co-ops in development of appropriate technology information and materials and in development education efforts.

o Participated in the planning and development of the Peace Corps Summer Intern Program, a special demonstration effort to educate students to development issues.

Question: Part of the justification for retaining the Peace Corps as an autonomous program within ACTION was your position that there are complementaries between Peace Corps and the Domestic programs. Please provide some examples:

Answer:

-Former Volunteer Services serve both former VISTA and returned Peace Corps Volunteers.

-Peace Corps and VISTA Volunteers become involved in community projects in the U.S. and abroad in an attempt to utilize the skills learned during VISTA and Peace Corps service. They are alerted to projects needing their assistance through Former Volunteer Groups, by responding to community needs, Reconnection (a publication for Former Volunteers), and the State Offices of Voluntary Citizen Participation.

-The principal focus of Peace Corps partnership is the identification and monitoring of the domestic partner without which there is no program. Peace Corps partnership calls upon the aid of the State Offices of Voluntary Citizen Center For Service Learning along with thousands of schools and community groups to disseminate information about the program and recruit American Partners.

-Peace Corps has no method for dissemination of Development Education in the U.S. and must rely on existing networks with which ACTION Offices like the Office of Voluntary Citizen Participation are in frequent contact and have established credibility because of their broad activities.

-Information Collection and Exchange (ICE) was developed as a means of disseminating information on appropriate technology learned in Peace Corps projects to other Peace Corps projects and the international development programs. The ICE manuals are also being distributed domestically to the numerous appropriate technology groups in the U.S. and by ACTION to the development assistance programs based in the U.S. but working overseas.

-The Domestic Development Service Program which provides technical assistance to foreign governments in establishing their own domestic volunteer programs, such as VISTA and RSVP, is not restricted to Peace Corps countries.

Question: Why has the proposed budget for the State Offices of Voluntary Citizen Participation increased to double the 1979 level? What have been the benefits of this program?

Answer: In light of the new guidelines for the State Offices of Voluntary Participation, ACTION will be funding new Offices for a period of five years instead of three. Also, funding will be increased to up to $100,000 per year. The purpose of this increased support is to insure the viability of the offices during their most critical period of existence--the first five years.

We did not request a 100% increase in our budget for FY 81 versus FY 79 but rather projected costs of 12 ongoing programs. Because ACTION has been on a continuing resolution, our requests for gradual increases in the budget to establish new offices were unfulfilled. Our budget requests for FY 79-81 have been as follows:

FY 79	$550,000	(based on old guidelines)
FY 80	$792,000	(based on old guidelines)
FY 81	$1,095,000	(based on old guidelines)

ACCOMPLISHMENTS:

State OVCPs in FY 1979 mobilized for voluntary action, over ACTION funding, $3 million. This included state legislated funds, core budgets, and other federal grants, excluding ACTION and private sector monies.

Currently there are 26 State OVCPs. Fifteen are funded locally, six are on continuing ACTION funding and five are new offices established by ACTION in FY 79 (Idaho, Illinois, Colorado, New Hampshire,* and Nebraska).

EXAMPLES OF INDIVIDUAL OFFICE ACCOMPLISHMENTS:

Hawaii developed a volunteer bill of rights which was passed by the State Legislature.

Iowa, Kentucky, and Arkansas staffed the state offices for the International Year of the Child.

Massachusetts gave technical assistance on recruitment and training of volunteers to the Fitchburg Action to Conserve Energy (FACE) project during the nine week campaign to cut energy consumption in Fitchburg, MA through low cost/no cost techniques and citizen participation.

California convened an insurance task force to analyze problems of nonprofit and community-based organizations utilizing volunteers.

North Carolina offered technical assistance in grant writing and foundation research to help fund a state International Year for the Child conference in early 1980.

Florida established a program for status offenders (runaways, truants, and ungovernables) to place these youth in volunteer homes instead of detention centers. Approximately a thousand volunteer homes are now available for this purpose and an average of 260 of these youths utilize them on a daily basis.

NATIONAL LABOR RELATIONS BOARD

STATEMENTS OF:
JOHN FANNING, CHAIRMAN
WILLIAM LUBBERS, GENERAL COUNSEL

ACCOMPANIED BY:
JOHN E. HIGGINS, JR., DEPUTY GENERAL COUNSEL
ROBERT VOLGER, ACTING EXECUTIVE SECRETARY
ARTHUR LEFF, ACTING CHIEF ADMINISTRATIVE LAW JUDGE
LEE D. VINCENT, COMPTROLLER

BUDGET REQUEST

Senator INOUYE. Now, we'll hear from the National Labor Relations Board. The Board's 1980 supplemental requests include $4,623,000 for pay and $1,200,000 for program costs. Fiscal 1981 request is for $118,265,000.

I believe we have the Chairman, John Fanning, and General Counsel, William Lubbers, this afternoon.

INTRODUCTION OF ASSOCIATES

Senator INOUYE. Mr. Fanning, welcome, sir. Before we proceed, I presume you'd like to introduce your colleagues.

Mr. FANNING. Yes, Mr. Chairman, I would. You've already recognized Mr. Lubbers. I'm also accompanied by our Acting Chief Administrative Law Judge, Arthur Leff; our Acting Executive Secretary, Mr. Robert Volger; our Comptroller, Mr. Lee Vincent; and by our Deputy General Counsel, Mr. John Higgins.

Senator INOUYE. We have received a statement. Without objection, the full statement will be made a part of the record.

Mr. Lubbers, also, I believe you have a statement.

Mr. LUBBERS. I would like to submit it for the record, sir.

Senator INOUYE. They'll be printed in the record in full. Please proceed.

[The statements follow:]

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STATEMENT OF JOHN H. FANNING

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 1981.

As you know, we have already submitted to you a detailed written Fiscal Year 1981 Justification. But, with your permission, I would like to touch briefly on some of the significant highlights of that justification.

Our Fiscal Year 1981 request is for an appropriation of $118,265,000. This is an increase of $4,392,000 over the total appropriation plus pay act and special supplemental funds requested for appropriation for Fiscal Year 1980 and represents an increase of about 88 staff-years of employment over what we plan to use in 1980.

I am here before you to make this request because, despite our Agency's historical record of highly productive case handling performance, our case intake is increasing even faster and because inflation has not failed to take its toll at the NLRB. For 1981, I trust you will note, we have been able to hold our budget request to within 3.9% of our 1980 costs plus pay act and special supplemental.

The funds and staff-years of employment requested are essential if the NLRB is to cope successfully with the anticipated record high workload we foresee in Fiscal Year 1981. Fiscal Year 1979 unfair labor practice case intake exceeded the intake for the same 12 months of the previous year by over 4.0%. We presently are receiving well over 1,000 new cases every week with our heaviest case intake normally later in the year. In 1980, we expect a total of 59,411 cases, an 8.2% increase. In 1981, total unfair labor practice and representation case intake is estimated to exceed 61,700, up another 3.9%.

This pattern of increasing case intake is, of course, nothing new. As I have said many times before, I long ago concluded that growth in the NLRB caseload has joined death and taxes as one of life's 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, 94% of the caseload increase, in the period 1971-1981, has been from unfair labor practice charges. Unfair labor practice cases require far more Agency staff resources than do representation cases. Second, the 5.2% annual rate of increase in case filings over that period has been absorbed with less than a 4% annual increase in Agency employment. Third, the NLRB did not, in that period or in the 45 years before, file one of those cases. Unlike the vast majority of Federal agencies, the NLRB itself does not initiate its 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, I believe - for efficiency and economy, and I assure you that, with your continuing assistance, we will be able to continue on that path.

However, with this note, I must make one other major point: despite what I consider to be an outstanding record of Agency money management, the NLRB is severely challenged by its fight against inflationary supply, communications and travel cost increases, particularly the latter. I cannot underscore enough the potential for adverse impact on our effects to efficiently enforce the NLRA when, in an inflationary environment, fixed ceiling limitations are placed on particular object classes of expenditure such as travel. For instance, close to 90% of our travel directly involves casehandling or case management and is mandatory to dispose of the cases voluntarily brought before us. We must cope with cost increases in the travel area that seem to be rising at the rate of 1% a month or more. The budget cycle does not permit planning for these increases, which are unpredictable in their size and timing. We do our very best to absorb them when they occur. In 1978, we absorbed 9.4% more than our original planned 1978 level of travel and transportation expenditures. In 1979, we absorbed 8.6% more than originally budgeted for that year. For 1980, unfortunately, we have had to request from Congress additional resources to meet our needs. I have prepared separately a statement on the details of this 1980 supplemental request.

Let me make clear, however, that we present our 1981 budget request to you with every expectation of its adequacy. We received fine and sensitive consideration from OMB for which we are very pleased. Our managers know the seriousness of today's prevailing economic climate and I wish to assure you for myself and on behalf of the General Counsel, who will also address this issue, that this Agency will continue to exercise extreme care, consistent with proper effectuation of the NLRA, to expend only those resources necessary to discharge our statutory responsibilities.

Before I turn attention to the other important matters reflected in our request, I would like to review, briefly, the NLRB's budgeting methods - how we developed this request for 88 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 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 1981 will be well over $1,000,000. 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 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.

Productivity

Having estimated the amounts of case intake and having an estimate of the settlement rate, we can them 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 within the area of responsibility the Board has not delegated to the General Counsel.

ADMINISTRATIVE LAW JUDGES

Our Administrative Law Judges have maintained a high level of productivity in 1979 and I am proud of their accomplishments under the leadership of Chief Judge Tom Kessel, who retired this year. The Judges issued 1,189 decisions, closed 1,227 hearings and obtained 739 settlements in 1979.

Despite this high output, complaints pending a hearing at the end of 1979 were the highest in the history of the NLRB at 2,088 up almost 16.5% over 1978. Currently, the pending trial load is 2,224. Our 1981 budget request anticipates only a slight reduction from this level but no further worsening of this backlog.

We have for some time intensively recruited qualified Judges; however, in 1979, due to retirements and a delay in opening our New York Office for Judges, we averaged only 99.3 staff-years of Judges employment. Our 1981 budget request estimates Judges average employment of about 123 staff-years. We are having increased success in hiring Judges and I expect us to achieve this goal. In 1981, we expect the Judges to issue 1,647 decisions, close 1,694 hearings and settle 877 cases.

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 1,399 contested unfair labor practice cases in 1980 and about 1,532 in 1981. In 1979 we decided 1,185 unfair labor practice cases, a record number. In fact, as we have set a record for issuing decisions in each of the last three years, the Board's output is continuing at the highest level in its history. Our heavy caseload is also shown in the fact that we will decide about 737 contested representation cases in 1980 and 786 in 1981. The Board decided 647 election cases in 1979.

In addition to the contested election cases in which the Board issued a decision in 1979, the Board also ruled on 971 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 1981. It is our best judgment that we can handle the increases we foresee with an increase of only 6.6 professional staff-years and about 5.8 clerical staff-years of employment.

Finally, I want to refer to just one of the measures of what the National Labor Relations Board accomplishes in the public interest.

The General Counsel, in his statement, notes that in 1979 this Agency caused a record $17,724,850 in backpay, fees, dues and fines to be returned to employees. This is a sizable public benefit resulting from our operations. I am proud to call your attention especially to a record $12,000,000 backpay settlement which we have obtained in one case in the early months of the current Fiscal Year. This was accomplished by painstaking research by agents from a number of our field offices.

CONCLUSION

As indicated at the outset, we believe an efficient and economic use of the funds appropriated by the Congress is a hallmark of 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 almost 62,000 cases 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, William A. Lubbers, 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.

Statement of William A. Lubbers

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 1981.

The Agency request for Fiscal Year 1981 is $118,265,000, an increase of $4,392,000 or 3.9% over the total of the appropriation plus pay act and additional supplemental funds requested for Fiscal Year 1980. These funds will provide an average staff of 3,194 during Fiscal Year 1981, an increase of 88 staff-years over the 3,106 staff-years estimated for Fiscal Year 1980 or an increase of 2.8%. Total case intake for 1981, all of which is initially processed in one of the regional offices under my responsibility, will rise from 59,411 to 61,724, an increase of 3.9%. The average employment increase requested for all of the offices under the General Counsel's responsibility is about 2.0%, about half as much as the anticipated increase in intake in 1981 over 1980.

This, as you know, is my first appearance before this committee; however, I have a long-time familiarity with and respect for the operations falling under the responsibility of the General Counsel of the National Relations Board. I am pleased to tell you that, even though it has only been a few months since my appointment as General Counsel, my respect and admiration has significantly deepened for the work of the many fine men and women who serve in the various offices of the General Counsel. I foresee, in this new decade of the 1980's, no lessening in the rising caseload of the Agency or its many challenges; and it will take all of our best efforts to maintain, in the years to come, the record of the National Labor Relations Board as the most effective Agency in the Federal Government. It is to this goal that I am dedicated and, with the support of the able staff of the General Counsel, confident of success.

In the discussion which follows, I have attempted to briefly set forth the responsibilites of the Office of the General Counsel, the problems which we faced in 1979, the accomplishemnts in 1979, the challenges we are currently facing, and the plans we have for 1981.

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 pleased to recount the accomplishments achieved in 1979 and of our record thus far in Fiscal Year 1980.

Our accomplishments in Fiscal Year 1979 included:

1. The Regional Offices docketed and began processing 41,259 unfair labor practice cases, a record high number, up 4.1% over Fiscal Year 1978. There were 13,648 representation petitions filed, a small increase over Fiscal Year 1978.

2. Over 90% of the unfair labor practice cases were disposed of in a median time of 39 days and, of course, without the need for formal litigation before the Board.

3. The Regional Offices issued a record 5,409 complaints in a median time of 45 days compared to 5,320 complaints in 47 days last year.

4. Settlements. The settlement rate for cases closed rose significantly in FY 1979 to 84.1 percent, higher than the FY 1978 rate of 82.5 percent. The record 10,665 cases settled represents a 13.3 percent increase over FY 1978. The 84.1 percent settlement rate is the highest sustained settlement rate in the Agency's history.

5. Litigation Results. The 81.1 percent of Board and ALJ decisions won in whole or in part was a decrease from the 83.6 percent attained in FY 1978, but exceeds the 81.0 percent figure for FY 1977.

6. Backpay, and Fees, Dues, and Fines. In FY 1979, a record $17,724,850 was distributed in cases closed, an 8.8 percent increase over FY 1978's total of $13,543,750.

7. Reinstatement Offers. This fiscal year 5,837 offers of reinstatement were made of which 3,817 were accepted. This represents an increase of 5.5 percent over FY 1978 in the number of offers of reinstatement secured.

8. RD Decisions. Excluding blocked cases, in FY 1979, Regional Directors issued approximately 1,970 decisions in contested representation cases after a hearing in a median of 41 days. Thus in FY 1979, a greater number of decisions were issued more promptly than in FY 1978 when 1,862 decisions were issued in a median of 43 days.

9. Elections. In this fiscal year, 7,791 conclusive elections were conducted compared to 8,380 in FY 1978. The time to proceed to an election after direction or agreement was a median of 25 days, a slight increase from the 24-day median attained in FY 1977 and FY 1978.

These are highlights only. There are many similar examples in Fiscal Year 1979 of the effectiveness of the effort of our Washington and Field staffs.

Our formal Justification, submitted to you separately, contains some rather significant displays. The "pie" charts on pages 13 and 15 of our Justification show how our cases were disposed of in Fiscal Year 1979 compared to the 1978 disposition pattern.

It is apparent from the analysis in our Justification 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 to process than contested representation cases.

Let me stress that in the unfair labor practice area, 90% of the 41,259 charges filed are investigated and disposed of informally, in a median of 39 days in Fiscal Year 1979. Of the cases which are found to have merit, over 84.1% 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.

We have placed great stress on our settlement program and Page 14 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.

This past year the Office of the General Counsel has also embarked on an intensive public information officer program in our field offices. The purpose of the effort is to enable the field offices to carefully screen out clearly non-meritorious case filings which would otherwise consume Agency resources to resolve. While we hope that this new program will result in case reduction, we cannot, of course, ultimately control whether or not a charge is filed.

1980 and 1981 Outlook

There are two principal challenges to the effective operation of the Office of the General Counsel and Agency as I now see them.

One is to sustain our high rate of settlements and the second is to seek every innovative method possible to remain within our 1980 appropriation plus pay act, additionally requested supplemental funds and our 1981 request now before you for consideration.

With regard to the first challenge, it has consistently been the objective of the General Counsel to maintain the highest possible level of voluntary settlements. The accomplishment of this objective requires the dedication and vigilent effort of each of our casehandling professionals. Success in sustaining a high rate of settlements significantly reduces the economic impact a dispute has on the employees and company involved. Also, the

earlier a settlement resolution of a dispute is achieved the less costly it is to the Agency to process. Currently, each 1% change in the rate of voluntary settlements costs the Agency $1,000,000 by the time all those additional cases have been formally litigated.

The second challenge faced by the Office of the General Counsel and the Agency is to successfully cope with the inflationary cost increases we face almost daily as our staff members incur the expenses necessary to enforce the National Labor Relations Act. For the sake of brevity, I will not repeat at this point the specific problems in 1980 that have caused us to request that you authorize the Agency additional supplemental funding in 1980. I do wish to underscore the Chairman's remarks regarding the critical role that the availability of adequate travel funds plays in the effective enforcement of the Act. The resolution of almost every charge and petition filed with the Agency involves a mandatory expenditure of travel money. There is no viable alternative to a face-to-face investigation in the conduct of a complete inquiry regarding a case. The concern of the labor Bar, management and employee representatives is consistently directed toward the quality and timeliness of this Agency's investigations.

I am also concerned with the high number of trials currently pending a hearing before an Administrative Law Judge. I am hopeful though that our recently increased ability to hire qualified Judges and the budget funds we have requested for 1981 will permit the Agency to stabilize the number of pending trials and that we will then begin to reduce the trial backlog. Here again, resolution of disputes by settlement is critically important and I have directed our field offices to continue to seek settlement resolutions up to, during and after trials whenever fair and feasible.

Also 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 a major Agency goal has been, and I should add will be, 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 year the Office of the General Counsel in Washington and the Field has hired 234 full-time professionals and summer student assistants. Of these, 142 (60.68%) were minorities and women and of the 190 full-time professionals hired during this period, 96 (50.52%) were minorities and women. During Fiscal Year 1979, 174 administrative and clerical employees were hired, 87 of whom were minorities (50%). In addition, offers of employment were declined by 15 minority and 23 women professional candidates. Further, the Agency continues to successfully use the Bridge and Co-op Programs as a means by which to increase the number of minority professionals employed at NLRB. There is also an Upward Mobility Tuition Support Program.

The Office of the General Counsel, through the Agency's Division of Administration Data Systems staff, is continuing to

implement our computer based case handling information system. It is currently being tested and refined in several regional offices. I - like former General Counsel John Irving - consider successful implementation of this system an essential tool to allow the General Counsel to be able to manage our estimated 62,000 1981 caseload.

Finally, staff training is also an essential component of the Agency's success in casehandling. We feel that productivity achievements are largely a product of the quality of the training programs provided to our employees. Over the years this Agency has developed very effective programs for purposes of Upward Mobility, EEO, supervisory and technical training. These include as well conferences devoted to the training of casehandling professionals in Agency procedures, law, and successful investigative and trial techniques. Our 1981 appropriation request continues these essential programs.

1980 Supplemental

Before concluding I would like to briefly discuss our need for additional funds in 1980.

Our Justification supplies ample evidence of the effect inflation has had on this Agency's operations. Even as I speak, airline fares, upon which our Agency expended in excess of $930,000 in FY 1979, are rising along with fuel prices in excess of 1% per month. It is important to note that almost all of our travel costs are mandated for direct casehandling needs or used for training and essential management coordination of our many Regional locations.

As our Supplemental Justification notes, the return of funds in FY 1979 is very misleading. Our accounting systems support is in developmental transition and treasury deadlines are unalterable so over $1,025,000 of additional obligations were not recorded in time for the official 1979 accounting summaries. We will ultimately return approximately $1,520,000 in savings generated by one-time events. The bulk of the savings was generated by the understaffing of Judges; this will not recur as hiring is on target in 1980. Similarly, savings related to reduced trial reporting and savings relating to reduced enforcement needs will disappear. Employee transfer costs incurred to fill vacancies in crucial positions will be higher. Higher witness costs are now mandatory. I am, therefore, submitting a separate statement urging favorable Congressional consideration of our request for additional funds in 1980.

CONCLUSION

In closing, I want to thank this committee for your help and understanding. We have been able because of you to carry 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.

Thank you.

HIGHLIGHT

Mr. FANNING. Thank you, Senator.

It's always an honor and privilege to appear before you. I think this is my 23d appearance before the Senate Appropriations Committee. I would like to just briefly highlight what has already been submitted to you in our written statement, in our justification.

Every year we have to come to you to seek the resources to handle an increased caseload, and this year is no exception. But this year is also no exception to our tradition of productivity improvements and of submitting a budget which calls for us to do more work with a less than proportional increase in employees.

In nearly every part of the agency, we believe we can set new records for work output in 1980 and 1981, and that, of course, includes a record number of decisions to be issued by the Board itself. The one area in which we may be disappointed would be our trial work, which could be hindered by a shortage of administrative law judges.

Since our last appearance here, we have opened an office of administrative law judges in New York City. As that office reaches full strength, we will be able to provide better service to the Northeast. Opening the New York office, as expected, has been also an aid in recruiting new judges. And on the basis of that, we have just recently initiated action to open a similar office in Atlanta, Ga.

Inflation, which has gone far beyond the ability of managers to handle through administrative economy measures, now looms as a threat to our ability to deliver the services that Congress and the public expect of us. Even if we receive the supplemental appropriation as requested, the relentlessness of the increases in cost of goods and services will make our current budget and possibly our 1981 budget the tightest we've ever had.

Now, because the General Counsel, as you know, under the statute has responsibility for the investigation and initial determination of merit in unfair labor practice cases, as well as supervising our field establishment on a day-to-day basis, I believe he should be allowed a moment to highlight his plans and concerns for the future.

Senator INOUYE. Mr. Lubbers?

Mr. LUBBERS. Mr. Chairman, this is a privilege and an honor to appear before this committee and before you. I have submitted my formal statement for the record. I would like just to make a brief statement and then make myself available for whatever questions you may have.

This is, as you know, my first appearance before the committee as General Counsel. I'm very proud to be associated with this agency and with the fine, dedicated men and women who have worked to make this a most effective agency. I hope my term as General Counsel will see further improvements in the delivery of our services to the public.

The prompt and effective resolution of disputes is a key to the proper enforcement of the act. Without the resources the Congress has provided us in the past, we could not have achieved the outstanding record we have. We seek your continued assistance. For my part, I assure you that we will continue our traditions of productivity increases and the prudent use of funds.

At the same time, I must say, we are beset with predictable cost increases which seriously affect the delivery of services.

Your favorable action on our request will assure that we can maintain our effectiveness.

CASES DISMISSED OR WITHDRAWN

Senator INOUYE. Thank you very much.

I recall that you suggested that last year you handled about 41,000 unfair labor practice cases, about 14,000 representation cases, and about two-thirds of these were dismissed or withdrawn because of lack of merit. I'd like to know why so many of them have been withdrawn or dismissed. Is that because the one filing the charges is really not aware of what constitutes an unfair labor practice?

Mr. FANNING. I think a lot of it is that. I think people looking for an election sometimes don't realize the technical qualifications that must be present before we can run an election. For example, we insist that at least 30 percent of the employees in what we call an appropriate unit, which is fairly technical, want to have an election by signing union representation cards.

In other words, they've signed cards indicating they want to be members of a particular union, and they come to us to request that we run an employee election. But we may find that under established precedents and even under the statute, that they are not eligible to have an election.

After talking with them, they probably withdraw the request, or if they do not we would dismiss it. The same way in an unfair labor practice case. A lot of people in the heat of anger or disappointment over one thing or another think that an unfair labor practice has been committed against them. They will come into one of our regional offices, tell their story, and it may be—I got some letters this week in which it was obvious that the individuals who were complaining and wanting the Board to help them really should be addressing their complaints to the Wage and Hour Division of the U.S. Department of Labor, under the Fair Labor Standards Act.

There are all kinds of things of that kind. Ultimately, of course, Mr. Lubbers and his staff have to decide whether there's enough merit to proceed with the issuance of a complaint.

Senator INOUYE. I would think, as you do, that many of them are really not aware of the law. But at the same time, I'm aware that many of these charges are filed by rather eminent lawyers representing very prominent and powerful labor organizations. I expect them, as labor law experts, to know just about everything that should be known.

Is it just to get an advantage, political or otherwise?

Mr. FANNING. I suspect there's something to that. But it would be interesting to note that 50 percent of our charges are filed by individuals. I think that's the figure.

Mr. LUBBERS. Yes; that's very close.

I think that is part of the reason, as you yourself have surmised, Senator. I also think a point might be noted with respect to these charges that are individually dismissed or withdrawn. The time and expense by the agency is not, in my opinion, a waste of time. Even the dismissal

and the notice to the individual filing the charge that the charge will be dismissed unless it's withdrawn, is itself often a delineation of rights under the act.

Many times these charges may involve something that might be an unfair labor practice but cannot be sustained by the evidence, so that people who are bringing it to us are not so far wrong in their assessment that this might be an unfair labor practice. Investigation will often reveal justification for the action by the charged party. The evidence may be insufficient and so the case is eventually dismissed.

Those cases normally, not always but normally, will take much less time in our processing. But I think the availability of the service, when they come to us, is in itself an item which furthers peaceful labor relations. In a sense, it may be a little bit of a safety valve.

There's another factor involved, too. I think that some of these cases are dismissed because clearly they don't belong with us. There may be—there may have been a wrong committed by someone. The individual bringing it may feel very strongly. Many times, I think they feel the NLRB is the place to come for that. We may not have jurisdiction. They are then started toward a place where they can find some help.

I think we perform a service in that sense, when they do come to us and we have to dismiss it and point them in a direction that they may have some help.

PROFIT FROM BOARD'S APPEAL PROCEDURE

Senator INOUYE. It's been suggested that your appeal procedures are such that resolution of unfair labor practice cases may take anywhere from 3 to 4 years. During that period, one can argue that the guilty party is profiting.

Is there anything to serve as a disincentive?

Mr. FANNING. I think that 3 to 4 years would be an unusual case, Senator, although admittedly there are some of that duration.

We have one case where it was literally the first case I voted on in 1957, when I came to the Board, and we're still arguing about the back pay, which is several million dollars. But there is no doubt that delay is a factor which enters into the strategy of some parties. And there is no doubt that delay can be a profitable thing, depending on who is looking for the delay.

There have been suggestions made in the labor reform bill over 1 or 2 years ago that we try to take the profit out of such situations by the Board concluding what the collective bargaining agreement might have resulted in as far as benefits were concerned in that period, and make an assessment, almost in the way of damages, for that delay. That did not pass the Congress, of course, and under the law as it now stands by a Supreme Court decision, we have no authority to do that.

I think that, again, it varies with the attorney and it varies with the company and it varies with the union. But it is a factor. It is a problem, no question about it. But I would think that the cases that are delayed that long are exhausting all their administrative and judicial remedies right up to the Supreme Court. And we try to avoid that.

Senator INOUYE. I understand you recently completed a pilot program to improve the screening of cases that come through your doors. And you found it successful?

Mr. FANNING. Yes; I'll let Mr. Lubbers talk about that.

Senator INOUYE. Have you extended this to other field offices?

Mr. LUBBERS. We have extended it to all of our field offices during, I think, the first half of the last fiscal year. It is not entirely a new program. It was an expansion of an existing program the purpose of which was to meet those people who come to the door with charges or with complaints, to find out whether or not they are at the right place, to give them some expert advice as to the nature of the problem, whether they have the right place, to try to ascertain the true nature of the problem, to point out to those that clearly had cases that belong somewhere else, if they could, that's where they should go, and to accept the charges, of course, of those who insisted upon filing charges.

That program, as I said, has been expanded. We place more importance on that informational officer function and duty officer partly with the objective of seeing whether or not this might screen out some of those cases that you're talking about, and partly to give the people that do come to us, even if we are directing them elsewhere, the feeling that the Government is not unconcerned with their problems and will help them to go to the right place, and to help them feel as good as they can, even if there's no place to go.

We think that's an important aspect of that problem.

Along with that program, we have instituted somewhat expanded recordkeeping in order to try to keep track of the effect of the program on the case level and that sort of thing. We have not yet had an opportunity to evaluate the information collected. We're in the process. I think we're just about to commence that.

I might say one thing about the question before this one. There are, of course, problems with time delay. But I think maybe to keep the record straight, about 90 percent of the cases that do come to the agency are handled short of litigation. They're either dismissed or withdrawn, as you mentioned earlier.

Or when complaint issues—even 84 percent or so of those cases are being settled short of litigation. Only 5, roughly 5 to 5½ percent at the present time, are going into litigation. Of that, about 3½ percent go all the way to the Board, and from there on to the courts.

Senator INOUYE. Will this screening program reduce your workload?

Mr. LUBBERS. We don't know that yet because we haven't had a chance to analyze the figures that are coming in. We are waiting to do that, as I said. My own sort of reaction to it is it's unlikely to cut it significantly. But I'm not sure.

Mr. FANNING. At the present time, Senator, I might supplement Bill's statement by pointing out that 90 percent of these cases that are filed in the field are disposed of in the field within 50 days.

Senator INOUYE. Excuse me.

Mr. FANNING. I was just observing that 90 percent of our cases are disposed of in the field within 50 days.

Mr. LUBBERS. Thirty-nine days.

SETTLEMENT RATE

Senator INOUYE. Is that the current settlement rate?

Mr. LUBBERS. The current settlement rate of meritorious cases.

Senator INOUYE. Is 84 percent?

Mr. LUBBERS. Is 84 percent. And roughly 34 percent is our present merit factor.

Senator INOUYE. If I recall, before the summer of 1978, it was below 80 percent, wasn't it? And at that time, you suggested that if you increased the number of administrative law judges, you could increase this number?

Mr. FANNING. I think the number has increased.

Senator INOUYE. You think you've solved the problem now or you need more?

Mr. FANNING. We look for a settlement rate of as close to 85 percent as possible. We've varied in that in past years between 83 and 84 percent. I think the administrative law judges are another problem. Actually, they do settle cases. They settle them sort of on the courthouse steps after a case goes to the complete stage and they go out to hear the case.

This is a less profitable use of settlement. We'd like to get them settled, if they are going to settle, long before they reach the administrative law judge period.

FREEDOM OF INFORMATION ACT

Senator INOUYE. As with all agencies, we would like to submit to you several written questions and request your response to them. So I have my last one I'd like to ask for the record here, and it refers to the Freedom of Information Act.

Have you figured out how much it's costing your agency to administer this Freedom of Information Act?

Mr. LUBBERS. I don't know, but we'll undertake to try to find out.

Mr. FANNING. We never thought you'd ask that question or we would have had an answer, because we do keep figures on that.

Senator INOUYE. We're asking all agencies that seem to be targeted.

Mr. FANNING. It's a substantial amount, according to my recollection.

Mr. LUBBERS. I think I might say that the number of requests seems to be dropping to some extent, in that we may be spending less time on the requests, because many of the things have been settled during the first several years.

Senator INOUYE. Then I'd like to submit a few questions related to this and not just in terms of numbers, but as to whether you've made a study on reasons for these requests. I can understand if it's submitted by someone who is concerned or involved for their information. But oftentimes, it's done by the general public, and I'd like to know why they're doing this.

Mr. FANNING. We'll give you a study of that, sir.

Senator INOUYE. Mr. Fanning, Mr. Lubbers and gentlemen, thank you very much. You've been extremely helpful. We'll do our best to assist you.

Mr. LUBBERS. Thank you.

Mr. FANNING. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

PUBLIC INFORMATION PROGRAM

The Public Information Program operates in all Agency offices for the purpose of responding to public information inquiries and requests for remedial action, and assisting in the filing of unfair labor practice charges. In August 1979, the Agency announced a number of modifications in the Public Information Program in an effort to provide even more effective service in responding to the public inquiries received, thereby possibly reducing the filing of clearly nonmeritorious charges with the Agency and, where appropriate, to refer inquiring members of the public to the governmental agency with jurisdiction over the subject matter of the inquiry. These modifications included a renewed emphasis on training in the Regional Offices for professionals who serve in the Information Officer role, guidance as to the minimum experience requirements for individuals who serve as Information Officers, allocation of sufficient staff resources and the development of elucidating brochures about the Act and the Agency for distribution to the public.

Commencing in November 1979, the Agency also instituted a reporting system for the collection of data pertaining to the effectiveness of the Public Information Program. Data for the period November-December 1979 has thus far been received from our Regional Offices; the next report, which covers the period from January through March 1980, should be received in Washington by mid-April. Much of the information contained in these reports has not previously been gathered by the Agency. Accordingly, no complete assessment of the effectiveness of the 1979 modifications can by made at this time. However, some preliminary information received indicates that positive benefits may be ascribed to the Public Information Program. Thus, for example, in comparing the Agency's unfair labor practice charge intake for the November-December period from 1976 through 1979, the following reduction in intake is demonstrated.

November-December
Unfair Labor Practice Intake

	Number of Situations	Difference	
1976	4,959		
1977	5,336	+377	(+7.6%)
1978	5,520	+184	(+3.4%)
1979	5,436	- 84	(-1.5%)

Although the percentage decrease in 1979 charge intake is minor as compared to the charge intake of 1978, and is predicated upon only 2 months' experience under the revised Program, the fact that the 1979 intake decreased indicates there may be a reversal in the prior trend of increasing charge intake.

The information gathered thus far also reveals that during the November-December 1979 period, our Regional Offices handled 24,608 inquiries from the public. Of these inquiries, 1,770 charges were accepted. Accordingly, only 7 percent of all inquiries received resulted in the filing of unfair labor practice charges. Thus, 7 percent rate compares with a 10 percent rate of charge acceptance by the Agency which was computed during a 2-month experiment in 1978 involving eight Regional Offices and may indicate some success in reducing the filing of clearly nonmeritorious charges by providing greater assistance to the public at the prefiling stage.

It is possible that the reduction in case intake experienced in 1979 can be attributed, at least in part, to the Public Information Program. However, no accurate projection of intake can be based upon the limited sampling of only 2 months' experience under the Program. It is anticipated that, while an effective Public Information Program may not substantially reduce Agency case intake, it will provide improved service to the public by providing greater information and knowledge concerning the Act and the work of the Agency, and also may result in slowing the rate of increase in the filing of charges with the Agency.

This program requires additional staff time allocations to this nonrated work. While it is too soon to tell what the full effects of the program will be, this increased staff allocation to the program may require additional budgeted staff for this service in future budget requests.

Effect on Appropriation Requests

In formulating the workload estimates on which our FY 1981 appropriation request is based, several of our Regional Directors took into account the likelihood that our Public Information Program would lessen the increase in case filings which would otherwise occur. Therefore, we believe the program is one of the factors behind the fact that our total workload increase of 4%, estimated for FY 1981, is lower than the increases experienced in most recent years.

However, the corresponding reduction in budget requirements will be less than proportional to the number of cases avoided through the Public Information Program, since the cases so avoided will usually be the relatively simple, nonmeritorious ones which, in any event, require relatively little staff time compared to cases which present a probable violation of the National Labor Relations Act.

STREAMLINING ADMINISTRATIVE LAW PROCEDURES

In last year's hearings, we discussed a GAO recommendation that the agencies which use Administrative Law Judges should establish procedures which would preclude extensive review of Administrative Law Judges' decisions. You replied that it would require legislation.

Have the authorizing committees made any progress in dealing with this GAO recommendation?

I could not say. I do not know the status of the recommendation.

FREEDOM OF INFORMATION ACT

Are most of the requests from the general public or news reporters, or are they by persons who are the target of specific government actions in an attempt to learn the government's position prior to a trial or to delay government action?

About 80% of the initial requests are by parties to NLRB

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proceedings seeking documents relating to the proceeding. About 95% of appeals from action on initial request are from such persons.

What does it cost your Agency to administer Freedom of Information Act provisions?

NATIONAL LABOR RELATIONS BOARD
FOIA COSTS

1974	$ 222,000
1975	495,000
1976	298,000
1977	417,000
1978	442,000

FEDERAL MEDIATION AND CONCILIATION SERVICE

STATEMENTS OF:
WAYNE L. HORVITZ, DIRECTOR
JOHN C. ZANCANARO, ASSOCIATE DIRECTOR OF MEDIATION SERVICES
M. DAVID VAUGHN, GENERAL COUNSEL
ROBERT P. GAJDYS, DIRECTOR OF ADMINISTRATION

BUDGET REQUEST

Senator INOUYE. Our next witnesses are from the Federal Mediation and Conciliation Service.

The agency's request includes $845,000 for fiscal 1980 supplemental pay costs, $2.3 million to start up the labor-management cooperation project, and $27.6 million for fiscal 1981 operations.

I'm very pleased to have with us Mr. Wayne Horvitz, our friend. I think this is the first time we've been on the opposite side of the table.

Mr. HORVITZ. I think it is.

INTRODUCTION OF ASSOCIATES

Senator INOUYE. I presume you'd like to introduce your colleagues.

Mr. HORVITZ. On my right, Robert Gajdys, our Director of Administration. On my left, John Zancanaro, Associate Director of Mediation Services. On my immediate left, David Vaughn, our General Counsel.

Senator INOUYE. Mr. Horvitz, we have received a statement. Without objection, your full statement will be made part of the record.

[The statement follows:]

STATEMENT OF WAYNE L. HORVITZ

It is my pleasure to present to you the Fiscal Year 1981 appropriation request for the Federal Mediation and Conciliation Service.

In this budget, we are asking for a modest increase in positions and dollars over what we were authorized in FY 1980. The increases are primarily due to our activity as outlined under the Labor Management Cooperation Act of 1978.

Let me proceed to outline what challenges the Service faces in FY 1981 and what we will be doing about them.

Major Industry Negotiations

FY 1981 will be an active year in collective bargaining. Major contracts (those covering bargaining units of 1,000 or more workers) will involve more than two and a quarter million employees. Contracts in petroleum, maritime (both longshore and offshore), food, health care, defense, coal mining, shipbuilding, aircrafts and the postal service will be expiring. In addition, the bargaining calendar will include a heavy list of contract expirations in the construction and retail food industries.

FMCS has been paying close attention to the retail food industry for several years. The food industry along with construction, is critical to the Nation's economy. The Service targets these industries, as well as energy, postal and health care. At the staffing and funding level requested in this budget submission, the Service will be able to closely monitor developments in these industries and actively participate at the earliest possible stage of negotiation to avoid trouble spots. This added emphasis could help avert possible strikes that would seriously impact the economy.

In both the retail food and construction industries, there are sizeable contract expirations occurring all through the bargaining year. I am sure that you are aware, as we are, that the coal industry and the United Mineworkers Union will again be negotiating a new contract in FY 1981.

Though the rapid unionization in the health care industry is leveling off, the contracts that have been negotiated are of shorter duration; therefore, the collective bargaining cycle is shorter than in the rest of the private sector. Contract disputes require large investments of the mediators' time in comparison to other private sector disputes. The mediator often serves in a dual capacity; educator as well as third-party neutral, thus limiting the amount of mediator time available for other disputes.

Public Sector Negotiations

Two areas of negotiation that will not be easier in FY 1981 are the federal and public sector arenas. Disputes in the public sector, involving public employee unions and state and local governments, are commanding an increasing share of the Service's attention. About half of the Nation's 9.5 million public employees are unionized and the number is growing rapidly. Severe budget constraints are limiting state mediation services' abilities to cope with this rising demand. The result is that these unions and governments are seeking FMCS assistance in public employee disputes, thus adding to the already heavy demands on our mediator workforce.

The federal sector continues to expand as a major area of the Service's dispute mediation program. Public Law 95-454, dated October 13, 1978, replaced Executive Order 11491, and established collective bargaining in the federal sector and directed FMCS to provide its services to federal agencies and labor organizations. At the end of FY 1979, the Service had closed 516 cases of which 318 involved joint meetings.

FMCS has taken special steps to meet the expanding need in the federal sector. A mediator on our national staff has the responsibility of coordinating our activities in this area. We will continue to conduct federal workshops so that all of our mediators will be fully knowledgeable of the unique requirements of this area.

Technical Assistance/Public Information and Educational Activities

The Service's technical assistance programs are designed to assist the parties in developing better labor-management relationships. By working with the parties away from the pressurized atmosphere of contract negotiations, FMCS mediators can accomplish more in helping the parties improve their relationships. TA programs include assisting in the formulation of and participation in area and industry labor-management committees, foreman-steward training programs, consultation and liaison work with company and union officials, and the Relations-by-Objectives Program (RBO) developed by the Service. FMCS closed 1,591 TA cases in FY 1979.

Mediators participate in public information and educational activities each year. Through university lectures and participation in seminars and conferences, the labor-management community and the general public gain understanding of the uses of mediation, technical assistance, arbitration, and collective bargaining.

Arbitration Services

The Service, as part of its mandate under Title II of the Labor Management Relations Act, has the responsibility to improve the quality and availability of arbitration services. To accomplish this, FMCS maintains a roster of qualified arbitrators. We supply arbitrators from this roster to parties on their request. At the close of FY 1979, the Service had received 27, 180 requests and issued 30,096 panels; some cases involve the supplying of more than one panel. This was an increase of about 10,000 requests over the past five years and the acceleration of this demand is expected to continue through FY 1981.

In addition, the Service conducts arbitrator development and training programs for new arbitrators and holds continuing education workshops for established arbitrators.

Approximately 98 percent of collective bargaining agreements contain grievance procedures culminating in binding arbitration. Many thousands of other labor-management agreements, particularly in the public sector, utilize advisory arbitration of factfinders to aid in dispute resolution.

Management and Administrative Support

The Service's management and administrative support staff includes employees 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, planning and evaluation, employee training, and program effectiveness.

In FY 1981, we intend to implement an integrated employee training and development program for both mediators and non-mediators to provide for upward mobility and expanded training and education. FMCS has significantly increased its emphasis on training of mediators to upgrade their present skills and equip them with new ones.

We reinstituted the internal agency audit program in FY 1979 to review agency programs and procedures. This effective program will continue in FY 1981 and give us the information we need to make quick adjustments to ever changing geographical and industrial patterns.

The President's goals and objectives in the 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 further pursued in FY 1981.

The Service's Office of the General Counsel will continue to be involved in legislative, interagency programs, policy development, the legal aspects of the arbitration program, and dispute mediation.

Age Discrimination Project

Though the Service continues to focus most of its effort on the resolution of labor-management disputes, the

new Age Discrimination Project will progress, following our involvement beginning in FY 1980.

FMCS was designated by the Department of Health, Education and Welfare as the agency responsible for providing mediation assistance for complaints involving age discrimination in federally-funded programs. We anticipate a workload level of approximately 700 cases during FY 1981.

Labor-Management Cooperation Project

As I outlined to you in my separate statement on our request for a supplemental appropriation for FY 1980, the Labor-Management Cooperation Act of 1978 authorizes the Service to provide assistance in the establishment and operation of plant, area, and industry-wide committees. The assistance takes the form of providing federal grants to qualified and deserving committees. Our FY 1981 appropriations request contains a provision for funds to continue this effort.

Summary

The budget submission which follows has been developed to make the most productive use of our required resources. To accomplish our mission the Service will require a total appropriation of $27,640,000 in FY 1981. As you know, $2,422,000 will be allocated for the Labor-Management Cooperation Project and an increase of $1,298,000 for on-going FMCS program activities.

To meet the increasing workload in all program areas the Service will require 527 permanent full-time positions in FY 1981.

Budget tables for Fiscal Years 1980 and 1981, beginning on page 3 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 41.

Mr. Chairman, I will be happy to respond to any questions you may have.

Senator INOUYE. Proceed as you wish, sir.

Mr. HORVITZ. Well, in the interest of time, we could proceed right to the questions. Or if you like, I can read the statement. The statement's been received. It's been made a part of the record.

Senator INOUYE. Would you like to summarize it?

Mr. HORVITZ. As you know, as you pointed out already, we have a request for a supplemental. As far as the request for the 1981 budget, I think what I'd like to do is to read the two summary statements and then proceed to the questions.

I'd like to present a request for approval of the supplemental first. Our request is for an additional $2,327,000 in funds for fiscal year 1980. Of this, $2 million will be dispensed in grants. The remainder will cover administrative expenses to implement the program. This would support additional staff positions.

Section 6 of the Comprehensive Employment and Training Act passed by Congress in the fall of 1978 included a provision to encourage the formation of joint labor-management committees. The law assigned the administration of the program to FMCS because of the Service's widespread involvement in the establishment of the labor committees now in existence.

The key ingredient is the assistance of the third party neutral, a role that mediators are uniquely able to fulfill because they have the trust and confidence of labor and management across the country.

There's been growing recognition that joint labor-management committees can bring new outlooks in today's collective bargaining environment. In view of the increasing complexity of the issues before the parties, there's a great need for a growing relationship away from the immediate heat of the bargaining table, a forum where the parties can identify, study and discuss their problems.

This can affect a section of a plant or company or they can affect an industry, geographical area or community. And labor-management committees have been equally effective in industries—for example, the construction industry, known for its turbulent labor relations.

Building an effective labor-management committee is a slow process. The initial emphasis of a committee is usually on solving an immediate tangible problem, such as rectifying an area's labor image. It may take months or even years before the LMC can proceed to do such things as industrial development or training.

Through the funding of this legislation, new committees could be established and existing ones strengthened. A new and important dimension could be added to labor-management relations. A community of interest between workers and management could be enlarged, thus creating a cooperative forum through which serious social and economic problems can be addressed.

Perhaps I should pause there, Senator, and see if there are any questions on that portion before I proceed to 1981.

LABOR-MANAGEMENT COMMITTEES

Senator INOUYE. How many labor-management committees do you anticipate during fiscal 1981?

Mr. HORVITZ. The original congressional discussion anticipated funding at the area of $10 million. It was then reduced to $5 million after further discussion, and now we're asking for $2 million. Part of that is the congressional action that was taken, part is the OMB perception of how they should operate. But mainly, we want to start small. We feel that this area is one in which we expect to be inundated by consultants and others who have all kinds of expertise and who are looking for various kinds of funding.

We're not a grants agency. This would be our first experience. I want to proceed very, very carefully. We expect to put seed money into 34 or 35 grants over the entire period of fiscal year 1981.

Senator INOUYE. And I would suppose that if it succeeds, you'll be requesting increased amounts?

Mr. HORVITZ. If there's a demand.

Senator INOUYE. Do you anticipate a demand?

Mr. HORVITZ. Right now, the labor-management climate in the private sector particularly is rather unstable, peculiarly unstable, more than it's been in perhaps all the years I have been in this business, which is over 30. And some of the impact of the instability is affecting the attempt to work out cooperative arrangements.

However, the public sector side is so demanding now with respect to the kinds of disputes that we're seeing there that there seems to be a new and fertile ground to move in public sector labor relations—more into these kinds of forums.

So one may offset the other. If it weren't for that climate—and I think it is cyclical—I would say we would get increased demand, because a lot of people are worrying about the fact that the normal kinds of dispute resolution are not working.

You have a situation in your own State public sector situation which we eventually mediated to a conclusion through traditional methods. Some of those situations cry out for different kinds of approaches. We hope to be able to meet that demand and also encourage it through the use of our mediators in the field and others who are right there on the scene.

We are structured to do this. We have 8 regions, 80 field offices, and we have people who are right on the scene all the time. This doesn't come out of Washington. This will come out of the locals.

STAFFING

Senator INOUYE. How many mediators do you have?

Mr. HORVITZ. Right now, 290.

Senator INOUYE. 290?

Mr. HORVITZ. Our total complement of personnel is 515.

Senator INOUYE. Of that, 290 are mediators?

Mr. HORVITZ. Are professional mediators.

Senator INOUYE. Your support staff is small.

Mr. HORVITZ. My Director of Administration reminds me of that periodically.

AGE DISCRIMINATION CASES

Senator INOUYE. The ratio is a strained one.

On age discrimination, last year you estimated a first-year caseload of 500 cases. For fiscal 1981, you're estimating 700. And I believe you began this program about a year ago. How do you happen to submit this estimate that there will be an increase of 200 cases next year? Is there any basis for that?

Mr. HORVITZ. Well, I'd have to go into a little background, if you'll forgive me. This program was originally an HEW program. We are now budgeted for the program. The reason that it was structured that way is that technically, under the law, this is what we call a nontraditional area for us. We are not handling labor disputes. OMB is very wary of us spending Federal money in areas which the law does not permit us to be in, technically speaking.

So what has happened here is that HEW feels it is more efficient to employ us to do mediation than it would be to go to the private sector and spend Government money to get mediators. We are structured, as I said, with field offices around the country.

They came to us when Secretary Califano was directing this program and they wanted to put a government-wide mediation component into the Age Discrimination Act, as passed by the Congress, as part of the procedure to attempt to resolve the dispute without them going to court. So they came to us as a unique kind of thing, knowing we had not done this before and no Government agency had done it before.

So the question of how that would be funded got the attention of OMB, and they decided, rather than have us charge them, to give us the funds as a separate budget item. And so all of these caseload estimates are worked out between us and HEW. They have the cases.

When we make estimates on the disputes that we anticipate, we can go back and look at history and say, well, this is going on and that's going on and we think we'll have 500 more labor disputes or 1,000. In fact, we're estimating about 2,000 more, and I can explain why.

In this area with HEW, we really don't know what's going to happen. These figures to some extent are subject to experience, and we have no experience yet. We just started. And they are estimating. I guess, primarily their estimates are based on similar programs with some kind of an appeal procedure.

And beyond that I'd have to say, very frankly, it's guesswork. Now, we have an evaluation procedure built into the program jointly with HEW. And we will be evaluating the program as it goes along, and the evaluation may call for some changes.

WOMEN MEDIATORS

Senator INOUYE. Just out of curiosity—I hope this doesn't get you into trouble—how many of your mediators are ladies?

Mr. HORVITZ. Well, I'd like to answer that in two ways, if I may. First of all, to give you a direct answer and then to explain something about our present program. There are 16.

Senator INOUYE. Out of 290?

Mr. HORVITZ. Yes; but in the last class of mediators we put on, there were approximately 50 percent women and minorities. So that we have had a bad record, which I'd like to correct more rapidly. But I don't have the authority to hire more mediators.

Senator INOUYE. I suppose labor-management relations has always been pictured in books and movies as a man's world, rough and tumble, striking, et cetera. But I think times have changed.

Mr. HORVITZ. What happened is that historically the mediation service did, which was the intelligent thing to do—that is, in the selection process, they went to the labor-management community. They hired people from either management or labor who had some modicum of experience, 5 or 10 years or whatever. Before they got close to retirement age they, for one reason or another, wanted to shift careers, and they came to work.

It was a good source of mediators. But since the labor-management community didn't behave any better than anybody else, in those days there weren't many women and blacks in the market, or any other minorities. It was essentially a white man's world in unions and in corporations and in businesses.

And so, one of the things that we've done in the past 3 years, which was actually started before my time, and I've tried to continue it, is recognizing that fact, we developed both a direct recruiting program in which we take people of experience, but also an intern program. And what we try to do is, each time we put on a class of mediators, which is maybe 10 or 12, we try to put on an additional number of interns.

Out of the intern program, we go to the schools, for example, like the Cornell School or the Industrial Relations School at Berkeley and others around the country. And that way we can begin to recruit women and minorities who are coming directly out of school. And we put them through a different program.

Unfortunately, we don't have enough vacancies any more that we can rapidly catch up to those overall statistics. But we are trying.

Senator INOUYE. Don't feel too bad, because the Appropriations Committee on which I serve has how many females? About two or three.

Mr. HORVITZ. I think Mr. Gajdys wanted to make a comment.

ADDITIONAL EEO STATISTICS

Mr. GAJDYS. Senator, I'd like, if I may, to give some additional statistics that might put the EEO posture of FMCS in more of an objective balance than looking at the traditional area in which we have been weakest. Although we have had some substantial success under the Director's leadership in the last 3 years, right now in the Mediation Service 34 percent of all of our positions are filled by females—15 percent of all of our positions are filled by minorities.

Within fiscal year 1979, the last year of our statistics, over 83 percent of all of the people hired by the Service in permanent and temporary

positions were either minorities or women. Now, granted, a majority of those were in our nonmediator ranks. But this is because we had no mediator class hired during that period.

I think the Director's comment on our last class is indicative of the goals he's established under a firm affirmative action program and it shows that it was not rhetoric. I'm sure the statistics will continue to improve and show that we are not only establishing an effective record in our nonmediator area, but will continue to achieve an equitable goal in our mediator area.

Senator INOUYE. I realize you have much to do in the mediator area. But just for the record, how many of the 290 are members of minority groups?

Mr. GAJDYS. The statistics we have are in total positions and not broken out by mediator positions. We'll be glad to supply the figure for the record—59, or 11 percent are black; 9 Hispanics or 2 percent; 4 Pacific Islanders or 1 percent; 3 Native Americans or 1 percent. We have 17 SES senior executive positions in our Service. We have one black male as a regional director. I'm glad to say, as Director of Administration, I'm an American Indian and part of that percentage.

CONCLUDING REMARKS

Senator INOUYE. Mr. Horvitz, witnesses, I thank you very much. I would like to submit to you a few questions for the record for your response.

Mr. HORVITZ. Surely.

Senator INOUYE. I'm certain we'll do all right with you.

Mr. HORVITZ. I appreciate it.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

LABOR-MANAGMENT COOPERATION PROJECT

Question. Federal mediators were involved in the activities of 330 labor-management committees in fiscal year 1979. How will this new program differ from your past activities?

Answer. LMC's currently have no source of Federal funding which relates exclusively to their functions as labor-management committees. This program would provide that source.

FMCS currently assists in the establishment and operation of these committees through its technical assistance functions. The establishment of the program would create additional opportunities for FMCS to provide more and better technical assistance services to LMC's as part of the grants program.

Through the funding of this legislation, new committees could be established and existing ones strengthened. A new and important dimension could be added to labor-management relations. The community of interest between workers and management could be enlarged thus creating a cooperative forum through which serious social and economic problems could be addressed.

In short, this program will differ from our past efforts in two ways: (1) We will now be complementing our human resources with financial resources; and, (2) the intensity and variety of assistance offered, will be much greater than in the past.

Question. What do you estimate is the optimum number of labor-management committees?

Answer. The answer to a literal interpretation of this question would be—wherever a collective bargaining relationship exists. By providing a channel of communication which exists both between bargaining sessions and outside of bargaining, labor-man-

agement committees offer the parties a chance to meet in a nonadversarial situation to discuss issues and work out problems that are of mutual concern. The traditional adversary relationship is reduced because the problems are perceived as mutual.

If the question is intended to address the optimum number of labor-management committees which should be funded, then the answer is much more restrictive. We wish to concentrate the $2 million of funding on a limited number of committees so as to enable them to successfully pursue projects which have measurable results. We believe it would be a mistake to scatter a few dollars over many committees. If this approach was chosen, it would be most difficult to ascertain the effectiveness of the funding effort.

Question. Should we expect to see the requests for this activity increase rapidly over the next few years?

Answer. We expect the requests we will receive from labor-management committees to increase rapidly over the next few years. The increased visibility of the program coupled with a slow growth economy which may place additional strains on the collective bargaining process, are likely to generate increased interest in labor-management committees. It is not expected, however, that the agency's request for funds will be proportionate to the requests received by the agency. Fund granting is totally new to FMCS, consequently, it is our intention to proceed cautiously.

Question. When do you expect the number of grants to begin leveling off?

Answer. We expect moderate growth for the next 3 to 5 years. After that, barring unforeseeable changes in the labor relations environment, there should be some leveling in the number of grants.

Question. Why was there a delay last year in sending up a budget amendment for this project? We added money for this in the Senate bill, but we didn't have a President's request, so it was dropped.

Answer. The delay in submitting this budget supplement was based on two reasons. First, the administration's fiscal year 1980 budget had already been finalized when the authorizing legislation was passed. Second, since FMCS had never administered a grant program, considerable staff time was necessary to formulate specific resource needs, program design, and implementing procedures.

Age Discrimination

Question. Did you begin this program in January 1980, as you indicated in last year's testimony?

Answer. FMCS began handling age-discrimination mediation cases in November 1979.

NATIONAL MEDIATION BOARD

STATEMENTS OF:
ROBERT O. HARRIS, CHAIRMAN
GEORGE S. IVES, MEMBER
ROBERT J. BROWN, MEMBER
ROWLAND K. QUINN., JR., EXECUTIVE SECRETARY
ROY J. CARVATTA, STAFF DIRECTOR/GRIEVANCES
MARY C. PRICCI, ADMINISTRATIVE OFFICER
SHELDON KLINE, RESEARCH ASSISTANT

BUDGET REQUEST

Senator INOUYE. Our last panel today is the National Mediation Board, with an $81,000 fiscal 1980 pay supplemental request and $4.8 million regular fiscal 1981 request.

We have with us the Chairman of this Board, Mr. Robert O. Harris. Mr. Harris?

Mr. HARRIS. Mr. Chairman.

Senator INOUYE. Good to see you again, sir. I presume you'd like to introduce your colleagues first.

Mr. HARRIS. I'd be very happy to.

Senator INOUYE. I'm glad you have a lady here.

Mr. HARRIS. Starting at my extreme left, Ms. Mary Pricci, who is our Administrative and Budget Officer. Mr. Rowland Quinn, the Executive Secretary; Mr. Roy Carvatta, Staff Director of Grievances; Mr. Sheldon Kline, Research Assistant; Mr. George Ives, a Member; and Mr. Robert Brown, a Member.

Senator INOUYE. We have received your statement, Mr. Harris. Without objection, your full statement will be made a part of the record, and you may proceed as you wish, sir.

[The statement follows:]

STATEMENT OF ROBERT O. HARRIS

Thank you for this opportunity to appear before your subcommittee today regarding the National Mediation Board's budget for fiscal year 1981.

The total amount requested for fiscal year 1981 to administer the Railway Labor Act is for a personnel complement of 63 positions and $4,846,000, an increase of $372,000 over the fiscal year 1980 level of $4,474,000. This request also comtemplates a reduction of eight secretarial positions at the National Railroad Adjustment Board.

The appropriation for the National Mediation Board is requested for expenses necessary to carry out the provisions of the Railway Labor Act, as amended. The act is administered by the National Mediation Board. This statute was designed to provide orderly procedures for the settlement of labor disputes in the railroad and airline industries. Additionally, the Mediation Board handles questions of representation as they arise in these industries and interprets agreements made in mediation.

When the Railway Labor Act was amended in 1934 it established the National Railroad Adjustment Board for the purpose of disposing of grievances arising under the terms of collective-bargaining agreements in the railroad industry.

On June 20, 1966, the President signed Public Law 89-456, which further amended certain provisions of section 3 of the act. Under the public law, new grievances and those which have been on docket before the National Railroad Adjustment Board for a period of at least 1 year may be referred to a local board of adjustment. The purpose of this amendment was to reduce an overwhelming caseload of unresolved disputes pending before the National Railroad Adjustment Board.

The budget justification, as submitted, identifies the functions just discussed and the amounts requested for each. I would like to go over each one briefly.

Mediatory services.—For mediatory services for fiscal year 1981 we are requesting $2,650,000, an increase of $207,000 over last year due to mandatory changes. These services which are the responsibilities of the National Mediation Board, involve the making and amending of collective-bargaining agreements, the selection by employees of their bargaining representatives, as well as a number of administrative duties consistent with statutory authority under the act, and related statutes governing railroad and airline labor disputes procedures.

Voluntary arbitration and emergency disputes.—The second activity of the Mediation 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.

Emergency boards are created by the President pursuant to section 10 of the act. When the Mediation Board finds that a dispute threatens substantially to interrupt interstate commerce and deprive any section of the country of essential transportation, it notifies the President who may create an emergency board to investigate and make recommendations as to the settlement of the dispute.

The Mediation Board is requesting $184,000 for these activities, an increase of $40,000 over last year.

Boards of adjustment.—Another activity of the Mediation Board is the administration of the adjustment of grievances as authorized by Public Law 89-456, which amended certain provisions of section 3 of the Railway Labor Act.

In general, the amendment authorized the establishment of special boards of adjustment, known as public law boards, on individual railroads upon written request of either the representatives of employees or of the railraod to resolve disputes otherwise referrable to the National Railroad Adjustment Board, and those disputes pending before the Board for 1 year.

The amount requested for boards of adjustment is $1,041,000, an increase of $95,000 over fiscal year 1980. The increase will provide for the disposition of 400 additional cases.

Adjustment of railroad grievances (NRAB).—When the Railway Labor Act was amended in 1934, the National Railroad Adjustment Board was created to hear and decide disputes involving railroad employee grievances and questions concerning the application and interpretation of agreement rules. Administrative responsibility and fiscal expenditures by the Adjustment Board were placed with the Mediation Board.

This budget request contains a major reordering of priorities by the National Mediation Board in its administration of the Railroad Adjustment Board. During fiscal year 1981, secretarial support to members of the Adjustment Board will be reduced by eight positions. This is because the administration has determined that the functions performed by these secretaries were to present partisan positions rather than to assist in the final decisionmaking process. The $110,000 realized by this reduction has been reallocated for the disposition of grievances. The funds available for referees for 1981 will be increased by $183,000. The total request for fiscal year 1981 for the National Railroad Adjustment Board is $971,000.

This completes my statement. We will by happy to answer any questions you may have.

HIGHLIGHTS OF BUDGET REQUEST

Mr. HARRIS. If I may just take one moment to summarize. As you are aware, the National Mediation Board is responsible for two industries, railroads and airlines. It investigates disputes concerning the determination of collective bargaining representatives for employees of these industries and where such representatives are chosen assists the parties in settling their differences through collective bargaining.

In addition, by statute it has administrative responsibility for the National Railroad Adjustment Board, which was set up by the Railway Labor Act to settle grievances in the railroad industry.

For the services performed by the Mediation Board, we are requesting an increase of $207,000 for fiscal year 1981. These increases, as you can see on pages 4 and 5 of our submission, are basically due to inflation.

We are requesting a major change in our funding for the settlement of individual grievances in the railroad industry. First is a request for an increase in the amount which may be expended for referees, which are usually referred to as arbitrators in other industries.

Second is a decrease in the number of secretaries who are assigned to serve members of the Railroad Adjustment Board, these members being either carrier or union representatives who are employed by their respective organizations.

The increases for referees, who may serve either with the adjustment board in Chicago or on individual properties as members of a public law board, amounts, with the required travel expenses, to a total of $274,000 or 19 percent.

The elimination of eight secretaries saves eight positions and a total of $110,000.

One final comment, something that you may be interested in. One of the disputes that our staff has been working on involves Hawaiian Airlines and the machinists. They have reached an impasse and we will probably, in a day or so, proffer arbitration. Frankly, it's our expectation that it will probably be refused, and that it will allow the union the ability to strike 30 days after the refusal. We expect to have a mediator on that case. And I will probably personally take part in that case prior to the end of the 30-day period.

Senator INOUYE. All the way out in Hawaii?

Mr. HARRIS. If they won't come all the way here, I think I'd better go to Hawaii.

NATIONAL RAILROAD ADJUSTMENT BOARD

Senator INOUYE. We've had several letters and phone calls relating to the National Railroad Adjustment Board. So I'd like to zero in on this and submit the rest of the questions for your response.

What is the function of the National Mediation Board under the Railway Labor Act with respect to the National Railroad Adjustment Board?

Mr. HARRIS. Under the statute, our function is purely administrative. We are the Federal agency which acts as the conduit for the disbursement of funds. The Railroad Adjustment Board is made up of 17 carrier members, that is, railroad-employed individuals, and 17 union members who are employed by individual unions. There are no federally appointed officials involved in the Railroad Adjustment Board.

Therefore, when the act was passed in 1934, they made the National Mediation Board responsible administratively for support, and that is why the administrative officer is on our payroll. And we are responsible for disbursing the funds for the payment of referees, for travel for the referees, for office and for clerical support services.

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Senator INOUYE. Now, you've indicated that eight secretaries have been relieved of their jobs.

Mr. HARRIS. Well, they have not yet been relieved of their jobs. The Office of Management and Budget has examined the use of these secretaries and has, in the budget, directed that these positions be stricken.

Senator INOUYE. This is just for austerity, which is more the reason?

Mr. HARRIS. According to findings that we've had, it is because these people are basically employed not to render awards for the benefit of the parties, that is for the government, but to present partisan positions for either management or labor before the neutral.

Originally, when the adjustment board was established, it was thought that the labor representative and the management representative would get together and settle an individual grievance. What has happened over the years, especially in the last 3 or 4 years, is that because of the courts' findings of duty of fair representation on the part of the unions, they were unable to compromise claims. And they felt that they needed a third-party neutral to settle the cases.

So at the present time less than one-half of 1 percent of the cases are settled without the use of a neutral. Therefore, OMB found that the secretaries were not being employed for governmental purposes.

If I might, I would like to submit to you a copy of a memorandum from the general counsel indicating the basis for this. I have also attached to it a copy of a legal memorandum which I would say is in opposition to it, prepared by counsel for the unions and the National Railway Labor Conference.

Senator INOUYE. Fine. I think it will be very helpful. Without objection, it will be made a part of the record at this point.

[The information follows:]

MEMORANDUM

TO: Robert O. Harris, Chairman

FROM: William E. Fredenberger, Jr., General Counsel

SUBJECT: Clerical Support Personnel for Members of the National Railroad Adjustment Board

DATE: September 20, 1979

This memorandum is in response to your request for a legal opinion as to whether the National Mediation Board (NMB) may approve clerical support personnel for members of the National Railroad Adjustment Board (NRAB) for the functions performed by the members as partisan advocates on behalf of the parties they represent.

I am compelled to conclude that the NMB may not give such approval because the clericals cannot be paid with Government funds for such functions.

Clerical support for the NRAB is authorized and governed exclusively by two provisions of the Railway Labor Act (Act). Under Section 3, First (u), 45 U.S.C. §153, First (u), the NRAB, subject to NMB approval, may employ and fix the compensation of such "assistants" as the NRAB deems necessary to carry on its proceedings. The same provision requires the NMB to compensate the "assistants." Additionally, Section 4, Third of the Act, 45 U.S.C. §154, Third, empowers the NMB to ". . . make such expenditures (including expenditures for . . . personal services at the seat of government and elsewhere, . . . and including expenditures for salaries and compensation, . . .), as may be necessary for the execution of the functions vested . . . in the [National Railroad] Adjustment Board . . . ."

The foregoing provisions specify that "assistants", which from the NRAB's inception have been deemed to include clericals, may be employed and compensated as necessary for NRAB proceedings and/or for the execution of NRAB functions. The Act does not provide for "assistants" (including clerical support) for the NRAB for any other purpose or object.

31 U.S.C. §628, applicable to the appropriations of all federal agencies, provides that:

> Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others.

The statute narrowly restricts agency expenditures of appropriated funds to the specific objects or purposes stated in the Act administered by the agency. Sums appropriated by Congress must be applied solely to statutory objects, used for the specific work designated by Congress and expended for no other purpose. No officer or employee of an agency may disburse public monies to the contrary. See Greene County Planning Board v. Federal Power Commission, 559 F.2d 1227 (2 Cir. 1977), cert. denied, 434 U.S. 1086 (1977); Valley Construction Co. v. Hoffman, 417 F. Supp. 926 (S.D. Ga. 1976).

Unquestionably, partisan advocacy is contemplated by Section 3, First of the Railway Labor Act. However, partisan advocacy is not one of the purposes or objects stated in Section 3, First (u) or Section 4, Third of the Act for which clerical support may be supplied to the NRAB. While partisan advocacy may have become a function of all or many NRAB members and a regular part of NRAB proceedings, such advocacy is not a function of the NRAB as an adjudicative body nor is its performance by members necessary to NRAB proceedings. Nor may authority for clerical support of partisan advocacy by NRAB members be inferred from any

provision of the Act. 31 U.S.C. §628 as interpreted by the Comptroller General of the United States so narrowly circumscribes inferences of statutory objects or purposes for which funds may be expended as to effectively preclude such inferences. See 31 Comp. Gen. 624 (assignment of civil service employees to state police headquarters to search state records pertaining to federal employees), 21 Comp. Gen. 954 and 1055 (detail of executive agency employees to a congressional committee) and 4 Comp. Gen. 706 (Coast Guard Officer detailed to duty with a state). The Comptroller General's rulings are authoritative as to agency expenditures. See Planning Board v. F.P.C., supra.

Inasmuch as partisan advocacy by NRAB members is not an object or purpose of the Railway Labor Act for which the Act provides clerical support, 31 U.S.C. §628 precludes NMB expenditure of appropriated funds for such support. It follows that the NMB cannot approve the employment and compensation of employees to provide such support.

January 28, 1980

MEMORANDUM

To: James E. Yost
Charles I. Hopkins, Jr.

Re: Clerical support for members of National Railroad Adjustment Board

By memorandum dated September 20, 1979, the General Counsel of the National Mediation Board ("NMB") expressed the legal opinion that the NMB could not approve the expenditure of government funds for the salaries of clerical personnel for members of the National Railroad Adjustment Board ("NRAB") in support of the functions performed by the members as partisan advocates. He based this opinion on the conclusion that partisan advocacy is not one of the objects or purposes for which the Railway Labor Act allows the appointment of assistants for NRAB members and that, accordingly, 31 U.S.C. § 628 precludes the use of appropriated funds for such purpose.

You have asked us to review this conclusion that the NRAB is not authorized to pay the expense of clerical support for partisan advocacy by members of the NRAB. In our view, the General Counsel's conclusion is incorrect. It overlooks explicit legislative history showing that Congress contemplated advocacy by the partisan members of the NRAB. It also overlooks decisions by the Comptroller General indicating that the NRAB's conclusion that partisan advocacy is necessary for carrying out its proceedings should determinative. Finally, it fails to take fully into account the provisions of § 3, First of the Railway Labor Act, which clearly indicate that partisan activity by NRAB members is an integral part of that Board's structure.

Section 628 of Title 31 states as follows:

> "Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others."

In his memorandum, the NMB General Counsel said that this "statute narrowly restricts agency expenditures of appropriated funds to the specific objects or purposes stated in the Act administered by the agency" (emphasis added). The Comptroller General, however, has indicated that the statute does not limit expenditures only to those purposes expressly stated in the relevant statute. 1/ Rather, appropriated funds may also be used for other purposes reasonably necessary for the execution of the object for which the appropriation was made:

> "While 31 U.S.C. § 628 (1970) prohibits agencies from using appropriated funds except for the purposes for which the appropriation was made, we have long held that where an appropriation is made for a particular object, purpose, or program, it is available for expenses which are reasonably necessary and proper or incidental to the execution of the object, purpose or program for which the appropriation was made, except as to expenditures in contravention of law or for some purpose for which other appropriations are made specifically available." Matter of Costs of Intervention — Nuclear Regulatory Commission, No. B-92288 (Feb. 19, 1976) (emphasis added).

Where, as in that particular case, the agency receives a lump-sum appropriation for expenses necessary to carry out the purposes of the statute administered by the agency, the issue under § 628 becomes whether the expenditure in question is reasonably necessary in order to carry out the agency's statutory functions. Id.

Courts have similarly recognized that federal agencies may in certain circumstances spend appropriated funds without explicit statutory authority. In Chamber of Commerce v. United States Department of Agriculture, 459 F. Supp. 216 (D.D.C. 1978), for example, the court pointed out that "numerous courts have held that federal agencies have implied powers to expend funds and take other efforts to meet their statutory responsibilities." See, e.g., Lehigh & New England Railroad v. ICC, 540 F.2d 71 (3d Cir. 1976); Soriano v. United States, 494 F.2d 681 (9th Cir. 1974).

The most recent appropriation (fiscal year 1979) for the National Mediation Board, through which funds for the NRAB were appropriated, provides $3,969,000 "[f]or expenses necessary for carrying out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards

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1/ As the General Counsel recognized in his memorandum, the Comptroller General's rulings are authoritative as to agency expenditures. Because the Comptroller General is Congress' agent for the purpose of determining the legality of administrative expenditures, see 31 U.S.C. § 65(d), his decision "upon any question involving a payment to be made by [an agency] . . . shall govern the General Accounting Office in passing upon the account containing such disbursement." 31 U.S.C. § 74.

appointed by the President . . . ." 92 Stat. 1588 (1978). Accordingly, 31 U.S.C. § 628 requires that funds appropriated to the NRAB be used for functions necessary for carrying out the provisions of the Railway Labor Act ("Act") and for no other purpose. As the General Counsel stated in his memorandum, there are two provisions of the Act that govern the appointment of support personnel for members of the NRAB. Section 3, First (u) (45 U.S.C. § 153, First (u)), states that

> "[t]he Adjustment Board may, subject to the approval of the Mediation Board, employ and fix the compensations of such assistants as it deems necessary in carrying on its proceedings. The compensation of such employees shall be paid by the Mediation Board."

The other provision, § 4, Third (45 U.S.C. § 154, Third), states:

> "The Mediation Board may . . . (3) make such expenditures (including expenditures for . . . personal services . . . and including expenditures for salaries and compensation . . . and other necessary expenses of the . . . Adjustment Board . . .), as may be necessary for the execution of the functions vested in . . . the Adjustment Board, and as may be provided for by the Congress from time to time."

Both of these provisions, then, are very broad and lacking in specific detail. They allow the appointment of such assistants as the NRAB "deems necessary in carrying on its proceedings" and "as may be necessary for the execution of the functions vested in . . . the Adjustment Board."

The NMB General Counsel, however, took an unnecessarily restrictive view of § 628 and of the above-cited provisions of the Act. Although he recognized that partisan advocacy "[u]nquestionably" is contemplated by Section 3, First, of the Act, he concluded that government funds could not be used for clerical services in support of partisan functions, because "partisan advocacy is not one of the purposes or objects stated in Section 3, First (u) or Section 4, Third of the Act for which clerical support may be supplied to the NRAB." The flaw in his reasoning is, as pointed out above, that the particular purpose for which appropriated funds are spent does not have to be expressly stated in the agency's governing statute. [2/] Rather it need only appear that the expenditure is reasonably necessary to carry out the agency's statutory functions.

Both the Act itself and its legislative history indicate the important role that partisan representation is to play in NRAB proceedings. [3/] In creating the Adjustment Board, Congress left no doubt that the Board members would not be absolutely impartial decisionmakers, but rather would

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2/ In fact, in the case of the provisions of the Railway Labor Act relied on here, no specific purposes or objects of any type are stated.

3/ Provision for the NRAB was added to the Railway Labor Act as part of the 1934 amendments. 48 Stat. 1189.

be representatives of the viewpoints of either the railroads or the employees. Thus, the Act provides that members are appointed by the groups they are to represent. Section 3, First (a) states that the "Adjustment Board shall consist of thirty-four members, seventeen of whom shall be selected by the carriers and seventeen by such labor organizations of the employees, national in scope, as have been or may be organized in accordance with the provisions of section 152 of this title." And even after their appointment, they continue their ties with their respective groups; § 3, First (g) provides that "[e]ach member of the Adjustment Board shall be compensated by the party or parties he is to represent."

The necessity for partisan advocacy by NRAB members results from this structure. If a particular division of the Board fails to agree upon an award because it is evenly divided, the Act provides for the appointment of a neutral referee to sit with the division as a member and break the tie. § 3, First (l). The legislative history of § 3, First, indicates that it is this aspect of the NRAB's functioning that necessitates partisan advocacy by Board members. During Senate hearings on the bill that amended the Railway Labor Act in 1934, the Chairman of the Senate Committee on Interstate Commerce inquired of Joseph B. Eastman, the Federal Coordinator of Transportation, whether the neutral member would be at a disadvantage because he would not be appointed until after the division had conducted the hearing on the grievance. Mr. Eastman replied that the partisan members of the division through their advocacy would fully inform the neutral referee of the opposing points of view:

> "I should not suppose it would be difficult for a neutral member to inform himself of the issues involved very readily, because as a matter of fact the other members of the Board are in one sense partisan. One group represents the railroads and the other group represents the employees, and I should suppose they would provide him with all the argument that would be necessary." To Amend the Railway Labor Act: Hearings on S.3266 Before the Senate Comm. on Interstate Commerce, 73d Cong., 2d Sess., 20 (1934) (emphasis added).

Although the above comment is the only direct reference in the legislative history to partisan advocacy by NRAB members, other statements in the legislative history clearly indicate that Congress fully contemplated the partisan nature of the Board it was creating. See, e.g., S. Rep. No. 1065, 73d Cong., 2d Sess. 2 (1934) ("Each division will be composed of an equal number of representatives of the railroads and employees respectively, and each will compensate its representatives."); H.R. Rep. No. 1944, 73d Cong., 2d Sess. 3 (1934) ("The board is to consist of equal number of representatives of the employees and the carriers. The members of the board are to

be paid by the parties they represent.")

Virtually all of the grievances heard by the NRAB require the appointment of a neutral referee. The most recent annual report of the NRAB (for the fiscal year ending September 30, 1977) indicates that of the 988 cases disposed of by the Board during fiscal year 1977, only 4 were decided without a referee. Forty-Third Annual Report of the National Mediation Board (including the Report of the National Railroad Adjustment Board) at 29. Accordingly, advocacy by members of the NRAB in order to acquaint the neutral with the opposing points of view is a necessary and integral part of the Board's functioning, just as Congress contemplated it would be. Expenditures in support of this partisan advocacy, therefore, are necessary for the execution of the functions vested in the NRAB and are not proscribed by 31 U.S.C. § 628.

The decisions of the Comptroller General relied upon by the NMB General Counsel in his memorandum do not require a contrary conclusion. In each of the decisions he cites, funds appropriated for a particular agency were being used to assist someone other than the agency, without any substantial benefit accruing to the agency itself. Accordingly, the Comptroller General ruled that such expenditures were contrary to § 628, for they were being used for a purpose other than that for which they had been appropriated. In one case, for example, employees of the Federal Housing Administration were being "loaned" to several congressional committees to assist in investigations that were not closely related to the agency's work. Accordingly, the Comptroller General concluded that this use of FHA employees exceeded the agency's authority to appoint employees, since the tasks they were performing were not necessary for the performance of the FHA's functions. 21 Comp. Gen. 954 (April 27, 1942). In the case of the NRAB, however, the clerical staff is performing a task necessary for the Board's functioning. While the railroads and employees whose viewpoints are advocated by NRAB members receive incidental benefit from the services of the clerical staff, it is primarily for the benefit of the Board itself that these services are performed.

Subsequent decisions of the Comptroller General concerning agency reimbursement of intervention expenses make clear that funds appropriated to an agency may be spent to assist someone other than the agency so long as the expenditure also enables the agency to carry out its statutory duties. In the decision of the Comptroller General previously cited, Matter of Costs of Intervention — Nuclear Regulatory Commission, No. B-92288 (Feb. 19, 1976), the Comptroller General ruled that the NRC could use

appropriated funds to assist intervenors even in the absence of specific statutory authority. The question under § 628, said the Comptroller General, was whether it was necessary to pay the expenses of indigent intervenors in order to carry out NRC's statutory functions in making licensing determinations. "[O]nly the administering agency can make that determination," he held. Slip op. at 3. The Comptroller General concluded that if the NRC, in the exercise of its administrative discretion, determined that it could not make the required licensing determination unless it extended financial assistance to certain interested parties who required it and whose participation was essential to the disposition of the matter, he would not object to the use of appropriated funds for this purpose. Id. at 4. In a later decision, 56 Comp. Gen. 111 (December 3, 1976), the Comptroller General modified his earlier decision slightly, holding that the intervenor's participation did not have to be "essential," but rather the agency need only determine that the participation could "'reasonably be expected to contribute substantially to a full and fair determination of' the issue before [the agency.]" Id. at 113. 4/

The NRAB apparently has determined that partisan advocacy by its members contributes substantially to a full and fair determination of the issues presented to it and that clerical support for members performing this function is necessary for carrying on its proceedings. Accordingly, we are of the opinion that a strong argument can be made, contrary to that expressed by the NMB General Counsel, that funds appropriated to the NMB for the NRAB can be used to pay the salaries of these support personnel. A fair reading of section 3, First, of the Railway Labor Act indicates that partisan advocacy is an integral and necessary part of the NRAB's performance of its statutory duties. That being so, 31 U.S.C. section 628 does not prevent government funds from being used to support that advocacy.

Edward J. Hickey
David P. Lee

4/ In Greene County Planning Board v. FPC, 559 F.2d 1227 (2d Cir. 1977) (en banc) -- a decision on which the General Counsel relies -- the court denied a petition for review of an FPC order denying requests of intervenors for agency payment of litigation expenses. Although a panel of the court had previously concluded that the Comptroller General's intervening decision on intervention expenses in the NRC case warranted reconsideration of the matter by the FPC, the en banc court held that its holding on an earlier appeal of the case that the Federal Power Act did not allow such an expenditure, rather than the Comptroller General's decision, was controlling. In reaching this decision, the court relied heavily on the fact that the FPC, unlike the NRC, had concluded that it did not have authority to pay the legal fees of indigent intervenors. The court stated that this interpretation by the agency was entitled to great deference. Id. at 1239 n.2.
Under the terms of § 3, First (u) of the Railway Labor Act, the NRAB is vested with the authority to determine what assistants it needs in order to carry on its proceedings, subject to the NMB's approval. Accordingly, under the reasoning of Greene County, supra, the NRAB's determination that it needs clerical support for its members' partisan advocacy should be entitled to great deference.

SELECTION AND COMPENSATION OF REFEREES

Senator INOUYE. How are the adjustment board referees selected and how often are they selected?

Mr. HARRIS. They are selected by the parties, if the parties can agree either in a single case or a series of cases. If the parties can't agree, they submit their request to the Board and we select a referee.

Senator INOUYE. You select the referee?

Mr. HARRIS. Yes, if they can't agree.

Senator INOUYE. Who provides the compensation for the referee?

Mr. HARRIS. The U.S. Government.

Senator INOUYE. Through you?

Mr. HARRIS. Through us. That is where the basic budget figure comes from, the amount of money we're requesting. And we're requesting the increase because there's been an increasing backlog, and we are limited by statute, basically in the appropriation act, to pay no more than a GS–18 salary.

Senator INOUYE. Is that the reason for not being able to reduce this backlog?

Mr. HARRIS. That's part of the reason. Part of the reason is that they haven't had enough money for enough referees, and part of the reason is that the average going rate for arbitrators in the private sector is between $300 and $350 a day.

Senator INOUYE. What do you pay the referees?

Mr. HARRIS. We pay $175, and therefore ——

Senator INOUYE. You need some VISTA volunteers.

Mr. HARRIS. We have some, in effect. Basically, the arbitrators that we use, they use our cases to fill in the gaps when they can't get cases where they would be paid roughly twice as much.

We also get referees who are learning their trades.

Senator INOUYE. So that's the reason for your increase in referee services?

Mr. HARRIS. In order to get more referees. We have not requested an increase in the amount to be paid per day to an individual referee.

NRAB CASE BACKLOG

Senator INOUYE. When do you think this backlog will be reduced to a reasonable workable level?

Mr. HARRIS. Well, that would depend on several factors. One, whether we can get the money for more referees; and, two, how fast or how many new claims there will be.

At the present time, we're just about losing a little bit of ground every year. And with more referees, we should start to cut into the backlog. I can't and I don't want to really predict how long it will take. A number of years.

Senator INOUYE. What if we doubled that amount to, say, 450,000?

Mr. HARRIS. All right. That would be a 40-percent increase. If we're staying even now, I would say probably we've got a 4,000 backlog, we probably could cut the backlog in probably 6 to 8 years at that level.

Senator INOUYE. Six to 8 years?

Mr. HARRIS. Yes, sir, if the cases continue to come. That doesn't mean the case, individual case takes 6 to 8 years to be processed.

Senator INOUYE. How long do they take to get processed?

Mr. HARRIS. It depends on the case. The cases involved with a discharge are handled more speedily. They're done in 6 to 9 months. And the others run, I would guess, in the neighborhood of 2 years. Is that right?

Mr. CARVATTA. Right, Senator. Adding more money would provide more referee time. However, the decision process also requires carrier and a labor member. Since there are three people who handle a case, you would have to have the parties' cooperation. If you're talking just about the adjustment board, you would also have to increase the number of personnel that are on the board.

Mr. HARRIS. I would assume, if the money were appropriated the unions and the carriers would be willing to put on the additional people that they would need to decrease the backlog. Otherwise, it would be meaningless. In that case, the money would not be spent.

Senator INOUYE. We've got a whole flock of questions we'd like to submit to you. But most of them are technical in nature and they relate to numbers. So if you will respond to them, I'd appreciate it very much.

Mr. HARRIS. We'd be pleased to answer them.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADDITIONAL MEDIATOR POSITION

Question. You are asking for an additional mediator position for FY 1981, yet no funds. Why is this?

Answer. We are asking that an additional position be authorized but not funded at this time. If a need arises, we will come back and ask for money.

Question. Do you anticipate an additional workload for which you have not budgeted?

Answer. Presently we do not foresee any additional workload, however, if economic conditions continue to deteriorate, we might have more cases to handle. Periods of high inflation in the past resulted in more disputes brought to mediation and to shorter contracts thereby increasing the workload.

Question. Are you fully staffed presently?

Answer. Yes.

CASELOAD ESTIMATES AND RESOLUTION TIME

Question. What do you rely on in projecting caseload estimates; how sophisticated is the technique for estimating.

Answer. The Board has no sophisticated technique for estimating the number of mediation and representation cases it will handle in the upcoming years. We depend primarily on our past experience in developing these caseload estimates. To guide us in making our mediation caseload estimate, we review the collective bargaining calendar to determine which contracts will be coming up during the course of the year. We will then estimate how many of those future negotiations will result in mediation and how long that mediation effort may last. We know from prior experience, for example, that during periods of high inflation more disputes will result in mediation and the cases will take longer to resolve. Other external factors will also influence our estimates. During years in which national railroad bargaining is conducted, for instance, fewer local railroad disputes will be brought to mediation. Upon completion of the national round of bargaining, issues not resolved in national bargaining will be progressed on the individual properties as local disputes.

Question. How long does it take to resolve a representation case from docketing to certification? How about a mediation case?

Answer. The typical representation case closed during FY 1979 took approximately 76 days from the date of docketing to the issuance of a decision by the Board. Forty percent of the cases were closed within 50 days of docketing.

The typical mediation case closed during FY 1979 involved approximately 181 days from docketing to closure. Thirty percent of the cases were closed within 100 days of docketing.

Question. What negotiations are expected during FY 1981?

Answer. In addition to the national railroad negotiations which will dominate the second half of FY 1981, collective bargaining over new contract terms will occur at several of the nation's largest airlines. Mediation is possible for airline pilot agreements during FY 1981 at Northwest, Republic, U.S. Air, Hughes Airwest, United, TWA, Continental, and Delta. Flight attendants contracts at United, Braniff, Northwest, Pan American, and TWA may be in mediation during FY 1981. In short, we are anticipating that FY 1981 will be an interesting and busy year for the Mediation Board.

Question. We note there occurred a decline of 9 percent in cases closed during FY 1979 over FY 1978. Why is this?

Answer. Although it is true that the number of mediation cases closed during FY 1979 declined by more than 22 percent as compared to FY 1978, the number of closed representation cases increased by more than 13 percent over that period. In fact, the Board disposed of more representation cases in FY 1979 than in any other year of the decade.

The decline in closed mediation cases did not result from a decrease in the number of cases docketed by the Board. Rather, the decline can be attributed to the combined effects of a number of factors:

1. The number of mediation days required to resolve a mediation case has increased since FY 1978, from 14.7 days on the average to 15.2 days. This increase is due to a proliferation of proposals and a broader range of issues brought to mediation. The present economic situation is also making bargaining more contentious and agreements are reached more slowly than in the past.

2. The amount of total mediation time available declined. The number of mediator staff years dropped from 20.0 to 19.5. The amount of sick leave used in FY 1979 doubled compared to FY 1978. As a final factor, it was necessary to assign two mediators to rather lengthy hearing assignments during the year.

3. Because of the national railroad negotiations which dominated the first part of FY 1979, most local issues were not being brought to mediation. For example, the number of new dockets in the railroad industry declined by 20 percent between FY 1978 and 1979. Consequently, the number of railroad cases that were disposed of during FY 1979 dropped by 35 percent from FY 1978.

COMPUTER SYSTEM

Question. What is the status of the implementation of the ADP information retrieval system?

Answer. Since we were unable to obtain a satisfactory bid in response to our Request for Proposals (RFP) for computer support, we have reevaluated our initial approach and decided to separate our RFP into two parts, one dealing with our caseload activity data and the other with text retrieval. We will implement the first part by acquiring a mini-computer and contracting for software support. At the moment, we are still in the process of examining alternative approaches to implementing a text retrieval system. For the past several months, we have been engaged in coding our representation case files and will be in position to load data on approximately one-fourth of our historic records when our mini-computer is activiated.

Question. Will you use in fiscal 1980 all the funds originally budgeted for this new computer system?

Answer. We presently expect to obligate all the funds available for the computer system. However, if for some unexpected reasons some funds remain, we will return them to the U.S. Treasury.

OVERHEAD COSTS

Question. Of the budget estimate request for 1981 what part goes toward direct services?

Answer. As you know, while we are asking for one appropriation, we are talking about two agencies, the National Mediation Board and the National Railroad Adjustment Board. For the Mediation Board, the administrative costs for the mediatory services, emergency boards, arbitration boards, public law boards and special boards of adjustment,

run about 30 percent, leaving 70 percent for direct services. The National Railroad Adjustment Board spends 47 percent of its appropriation for administrative costs and 53 percent for direct services.

NATIONAL MEDIATION BOARD COMPARED TO FEDERAL MEDIATION AND CONCILIATION SERVICE

Question. How are your mediation activities in the airline and railroad industries different from the activities of the Federal Mediation and Conciliation Service in other industries?

Answer. Due to the fundamental structural difference between the Railway Labor Act, as amended (RLA) and the National Labor Relations Act, as amended (NLRA), the mediation activities of the National Mediation Board and the Federal Mediation and Conciliation Service are dissimilar.

The first difference lies in the nature of collective bargaining agreements negotiated under each of the enabling statutes. Unlike the agreements negotiated in industries covered by the NLRA, collective bargaining agreements in the airline and railroad industries do not expire on a certain date. Before either labor or management may initiate self-help action under the RLA, each of the Act's procedural steps, which include mediation by the Board, must have been adhered to. Self-help within NLRA-covered industries, on the other hand, may occur at any time subsequent to the contract expiration date. As a consequence, the perception of mediation by the parties we deal with is different than that of the beneficiaries of the services of the FMCS. Mediation under the RLA is mandatory mediation whereas mediation under NLRA is on a voluntary basis. Although FMCS may proffer its services in any dispute, the parties are not required to accept such assistance.

A second major difference lies in the scope of collective bargaining agreements. Under the RLA, the appropriate bargaining unit for collective bargaining purposes is the craft or class. The appropriate unit under the NLRA is based upon a community of interest and each unit is determined upon the particular facts present in that situation. Bargaining on a craft or class basis within the railroad industry has a long tradition, predating the passage of the RLA in 1926. There is over 40 years experience with this type of bargaining in the airline industry. The practices and relationships which have developed over time can only be appreciated and understood by individuals with direct experience in the railroad and airline industries. The mediators employed by the Board have such experience, having for the most part come out of labor relations positions for either labor or management. Our mediators are not only experts in the art of mediation, but also have substantial knowledge about the problems in the industries we serve.

As a third point, we would note that in addition to our mediatory function we are also responsbile for the resolution of representation disputes within the railroad and airline industries. Thus, the Board combines the functions performed separately by the FMCS and the National Labor Relations Board.

An additional difference between the administration of FMCS and the NMB is contained in Title IV - General Provisions of the appropriation bill. The Mediation Board continues to feel that the difference in treatment regarding representation allowance is inequitable.

For example, during the marathon negotiations involving United Airlines and the International Association of Machinists, which took place under the auspices of the Secretary of Labor, the Secretary's discretionary funds were utilized to buy hamburgers and other sandwiches, as well as coffee during the 38-hour continuous bargaining session. Without such funds the mediation effort would have had to have been adjourned for meals, and the parties involved have indicated to the Mediation Board that an agreement would not have been reached at that time had there been such adjournments.

In addition, under section 10 of the Railway Labor Act, the President may appoint Emergency Boards to investigate and report on certain disputes. The Mediation Board provides staff and support to such Boards. In the course of their investigations, the Boards frequently engage in extended hearing days and than may at the Board Members' discretion, attempt to mediate a settlement. Recent Boards have met at the Department of Labor for a portion of their work, where the Secretary's discretionary funds were utilized to provide coffee during the marathon sessions. However, such funds were unavailable during sessions held elsewhere, with the result that participants often left the sessions in search of food, thereby disrupting the proceedings.

Question. What potential is there for some savings by combining some of your overhead operations with other agencies?

Answer. The major portion of our overhead expenses is rent. Regardless of where we are located the same space will be needed to house the professional and clerical staff of the Mediation Board. We do not foresee any savings in overhead by combining our operations with that of any other agency.

EMERGENCY BOARDS AND ARBITRATION BOARDS

Question. We note that you requested an increase for Emergency Boards. Why? Do you expect more Emergency Boards?

Answer. The average cost of an emergency board has been around $25,000. We are asking for an increase due to increased costs of travel, reporting service and a slight increase in the daily rate paid the members of the boards. During 1979, we obligated $74,000 of the $80,000 allocated. As you can see, it was practically the whole amount available for obligations.

Question. Why was only $4,000 obligated for arbitration boards?

Answer. During FY 1979, 9 arbitration boards were created and only 6 convened for which $4,000 was obligated. A number of boards that were created during FY 1979 will meet during FY 1980.

Question. Why are arbitration boards not being used?

Answer. One reason that arbitration boards are not being utilized in greater numbers is that parties traditionally prefer to settle their own disputes rather than relying upon a binding third party decision.

SUBCOMMITTEE RECESS

Senator INOUYE. I thank you and it's always good to see you.

The subcommittee will stand in recess until 10 a.m. tomorrow, when it will continue with hearings on the Department of Education.

[Whereupon, at 4 p.m., Thursday, February 21, the subcommittee was recessed, to reconvene at 10 a.m., Friday, February 22.]

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

THURSDAY, FEBRUARY 28, 1980

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

The subcommittee met at 10:05 a.m., room S–128, the Capitol, Hon. Quentin N. Burdick presiding.

Present: Senators Budick and Schmitt.

Also present: Senator Bumpers.

COMMUNITY SERVICES ADMINISTRATION

STATEMENT OF GRACIELA OLIVAREZ, DIRECTOR

ACCOMPANIED BY:

ROBERT LANDMANN, ASSISTANT DIRECTOR FOR POLICY, PLANNING AND EVALUATION

GERROLD MUKAI, ASSOCIATE DIRECTOR FOR ECONOMIC DEVELOPMENT

JOE MALDONADO, DEPUTY ASSISTANT DIRECTOR FOR COMMUNITY ACTION

LAIRD HARRIS, DIRECTOR FOR REGIONAL OPERATIONS, OFFICE OF COMMUNITY ACTION

CURTIS CHRISTENSEN, ACTING ASSISTANT DIRECTOR FOR MANAGEMENT, DEPUTY CONTROLLER

ED FREEL, ENERGY CRISIS ASSISTANCE PROGRAM DIRECTOR

INTRODUCTION OF ASSOCIATES

Senator BURDICK. Good morning.

We will hear from the Community Services Administration and the Railroad Retirement Board on their fiscal year 1980 supplemental and fiscal 1981 request. We will begin with the Director of CSA, Grace Olivarez.

Will you introduce your colleagues and summarize your full statement?

Ms. OLIVAREZ. Thank you very much.

On my far right is Mr. Joe Maldonado, who is the Acting Director for the Office of Community Action. Next to him is Dr. Robert Landmann, who is the Assistant Director for Policy, Planning, and Evaluation; Mr. Gerrold Mukai, Associate Director for Economic Development; Mr. Laird Harris, Director of the Office of Regional Operations

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of CSA. On my left is Mr. Curtis Christensen, the Acting Controller of the Agency. Next to him is Mr. Edward Freel, who is the Director of our Energy Crisis Assistance Program.

I have a very short statement. If I remember correctly, you asked that I summarize it. It will be submitted for the record. It is a very short statement, and I will read it quickly.

BUDGET REQUEST

Thank you, Mr. Chairman, for this opportunity to present the 1981 budget request for the Community Services Administration. Although our Agency's request does not vary significantly from last year's request, it does seek increased funding for our two most significant programs—local initiative and community economic development. We believe that these programs provide the greatest opportunity for addressing the problems of the poor at the local level.

CSA will use the net increase of $12½ million in local initiative funds and some other reprogramed funds to initiate a $15 million program of additional grants to fund community action agencies demonstrating high potential for meeting the needs of the poor.

All community action agencies will be considered for the program. Initial screening will begin later this fiscal year and continue until the third quarter of fiscal year 1981.

SELECTION OF PROGRAMS

The initial selection of new local initiative programs will be based on national standards that insure that acceptable management capacity and positive program performance exist. A detailed review of a CAA's long-range antipoverty plan will be conducted.

CSA will look specifically at the participation of the community in formulating an expanded local initiative plan, whether an expanded local initiative plan considers all antipoverty resources in the community, and the appropriateness of the CAA's planned strategies to meet the problems of poverty identified for the community.

The central objective of this process will be to identify CAA programs with an unusually high potential to use the increase in local initiative funding to reduce the incidence and to limit the conditions of poverty in local communities.

VENTURE CAPITAL

The success we have experienced in the title VII program, with the competitive investment capital fund concept initiated in 1978, we believe, justifies an increase in funds of approximately $4 million for community economic development at this time. As our community development corporations have matured, their capacity to effectively invest venture capital—and to use these funds to leverage outside public and private capital—has substantially increased. Moreover, if CSA is to accelerate the movement of our stronger CDC's to a point where they can meet their own overhead costs through venture revenues, then we must provide them increased venture capital for investment in large-scale, profitable enterprises.

To support the requested increases for local initiative and community economic development, we had to do some priority setting within our other categorical programs. For example, we are requesting no funds for the summer recreation programs. In a recent survey of local priorities as seen by our community action agencies, recreation was not highly ranked by CAA's.

We are also requesting no additional 1981 funds for the community development credit unions since the $6 million appropriated in 1980 are revolving funds, and we want to first review the success of this initial effort before considering whether additional funds might be needed.

RECLASSIFICATION OF PROGRAMS

You will notice reclassification of certain program efforts in the training and technical assistance area and in the demonstration area. This was done to categorize more appropriately these efforts which in prior years have been carried out at similar levels by using categorical funds.

With the anticipated startup of the energy security trust fund, the low-income energy assistance program will be administered by the Department of Health and Human Services, so, we are requesting no energy crisis assistance funds.

Let me quickly add that we at CSA are proud of the role we have played in getting our country to address the energy needs of low-income people. This is an excellent example of CSA's advocacy role. I urge the Congress to act in a timely manner to establish a permanent program of energy assistance for the poor. Programs developed on an interim basis with little or no leadtime cannot be expected to insure that the health and lives of the poor will not be threatened from year to year and season to season.

I am pleased to state that we have continued our focus on leveraging other Federal agencies' efforts in support of our programs. Specifically, we entered into approximately 27 agreements with other Federal agencies in fiscal year 1979 and expect to increase that number in 1980.

PERSONNEL CEILING

With the approval of our request to begin staffing up to our authorized ceiling of 1,014, we will increase the monitoring of our programs at the field level. I consider this to be a top priority, and, from previous communications with the Congress, I realize that you share this view. For the new Office of Inspector General, we are also requesting 10 additional positions.

I believe that upon further examination you will find that we are presenting a fairly austere budget for 1981. As I have said before, dollars for CSA alone will not solve the problems of the poor. It takes a total concern and awareness by all Federal agencies, and we believe CSA is in the best position to keep the other Federal agencies moving in that direction.

I will be happy to answer any specific questions at this time.

Senator BURDICK. We have a little complication this morning. I am

advised that there are about four votes back to back, and so it will be at least 10 minutes a vote. We may be about 45 minutes or so. I am sorry, but that's the way it is.

The subcommittee will recess until 11 a.m.

[A brief recess was taken.]

UNRESOLVED AUDIT REPORTS

Senator BURDICK. The new Inspector General of the Community Services Administration was appointed and confirmed last October, and the 16 offices became fully operational in January 1980. I understand you started fiscal 1979 with 2,139 unresolved external audit reports, of which 1,000 were in progress.

How many remained unresolved at the end of fiscal year 1979? How many of these audits were 2 years old at the end of 1979? How many dollars does this represent? Have you considered instituting procedures whereby grantees who have outstanding audit reports will have sanctions, amounts reduced from future grants or interest charged on the amounts questioned?

Ms. OLIVAREZ. Between 1978 and January 31, 1980, we had 2,442 audits requiring some response. During that same period, October 1, 1978, to January 31, 1980, we resolved and closed 1,800, leaving us with a balance of 642 unresolved audits by January 31 of 1980.

In terms of how many were more than 2 years old, there were 139 audits that were more than 2 years old.

As far as the amounts of money that were concerned, during that same period of October 1, 1978, to January 31 of 1980, the total amount of either questioned costs or costs requiring resolution was $87.4 million. We were able to resolve $45.8 million, leaving us with a total cost unresolved, as of January 31, 1980, in the amount of $41.6 million.

I should point out, Senator, that we will be increasing the number of auditors in the agency by seven, which will provide additional help in reducing these questioned costs and unresolved audits.

Senator BURDICK. What do you anticipate by the end of the fiscal year, then, if you have reduced the number to 642?

Ms. OLIVAREZ. Well, every year we add new audits to the balance, because we are the only agency required to audit on an annual basis. Every year we have a new group of unresolved audits with questioned costs that we must resolve.

Senator BURDICK. What about that last part of the question?

Ms. OLIVAREZ. We do have sanctions. We do have procedures to make sure that grantees with either unresolved audits or questioned costs are helped to bring about a resolution of those questioned costs.

In the case of a public CAP, as you know, they have their own auditing system, and we usually withhold the funds until they have satisfied our auditors. But we already have sanctions in that area.

QUESTIONS SUBMITTED FOR RESPONSES

Senator BURDICK. I have a question which I will submit for a response in the record.

[The following question was not asked at the hearing but was submitted to the Department for response subsequent to the hearing:]

GRANTEES WITH OVERDUE AUDITS

Question. Have you considered instituting procedures whereby grantees who have outstanding audit reports will have sanction amounts reduced from future grants or record charged on the amounts in question, pending resolution?

Answer. CSA currently has such sanctions. Grantees with outstanding overdue audits do not receive refunding from CSA. The only exceptions to this are grantees which are State and local governments and which cannot comply with our timetable because of local audit policies. In these cases, CSA obligates money to the local unit but refuses to release it until a satisfactory audit is received.

In addition, CSA has instructed its regional directors to seek prompt and complete recovery of audit disallowances. This is normally done through a reduction in the amount of the next grant action.

CSA complies with existing Federal policy in charging interest on disallowed costs.

ENERGY CRISIS ASSISTANCE PROGRAM

Senator BURDICK. Please review for me how you are able to effectively monitor this year's energy crisis assistance program, which is double the amount of prior years. The total was $400 million, as I recall. I understand many States have taken the opportunity to spend much of the HEW block grant heating program under the CSA energy crisis assistance State plans. What audit assistance are you seeking from HEW on these funds?

Ms. OLIVAREZ. Well, as you know, the history of the low-income energy assistance program has been a very difficult one. We received appropriations very late in the winter for 1977, 1978, and 1979. This year, luckily, the amount of funds provided and the timely appropriation enabled us to start very early with our crisis intervention planning at the State and local level and to develop a workable income assistance program in cooperation with the Governors.

I think Mr. Freel will be able to answer the other questions more specifically, since he is involved with the technical aspects.

Mr. FREEL. Let me begin by answering the questions regarding the HEW program.

Thirty-four of the States have indicated that they would like to put all or part of their HEW block grant funds into their State ECAP program, which amounts to approximately $300 million, which, in effect, means that the ECAP program is operating in the States at about a $700 million level.

We are working with HEW to resolve exactly how we will audit these funds. It is our goal to have a single audit performed by one of the agencies, so that, grantees will not have to be facing numerous audits.

In terms of the monitoring of the program, there are some significant differences from what has taken place in the past. Two key points to make are: First, of course, that we have had experience in the past and learned from the past programs; second, CSA was also able to bring on additional temporary staff this year to help administer this program, which has allowed us to put into place a monitoring program. We developed a monitoring tool that is being used by both headquarters and the regional offices to review both State and local operations.

During this quarter, a headquarters team will visit every region, visiting a number of the States; and, in addition, each of the regional offices will be having at least two visits during this quarter to each of the States and visiting local agencies to review their operations and their compliance with their State plans that they submitted to CSA.

ENERGY CRISIS ASSISTANCE PROGRAMS

Senator BURDICK. What is going to happen next year? The program is supposed to be administered by HEW. What happens to this structure you set up?

Mr. FREEL. Well, right now, the structure is set up, the temporary positions are set up, to operate through next September to the end of this year's program. We would hope—and we are working very closely with HEW; we have been since the beginning—that a lot of the experience that we've developed and the type of program delivery mechanisms that are being developed out there, will be in a position to continue to implement these types of programs effectively regardless of what Federal agency is directly responsible for administering the program.

Senator BURDICK. What do you think, then? HEW will make use of the CSA apparatus?

Mr. FREEL. I would imagine, given the fact that in this year's program, you have the State Governors having an option in terms of developing their programs, and that would seem to be the future direction of the program. I think it is a good possibility that some of this apparatus will be made use of at the State and local level.

Senator BURDICK. It would be rather difficult to get a new apparatus, and costly, too. Wouldn't it?

Mr. FREEL. It would be.

Senator BURDICK. Or is that an embarrassing question?

Mr. FREEL. I don't know. It could be.

Senator BURDICK. I guess that is as good an answer as any.

Incidentally, the only criticism I have of the heating program is the SSI money. There has been some criticism out there. Have you got that, too?

Ms. OLIVAREZ. What?

Senator BURDICK. The SSI funds.

Ms. OLIVAREZ. I haven't heard any criticism.

Senator BURDICK. You haven't?

Ms. OLIVAREZ. Not directly.

Mr. FREEL. We have heard criticism, but we haven't actually specifically been directed.

Senator BURDICK. Well, I will get you some, if you want it. [Laughter.]

Mr. FREEL. We have heard criticism.

ENERGY ASSISTANCE RECIPIENTS

Senator BURDICK. On the grounds that there were people who weren't entitled to it that got some help.

Past energy assistance programs have combined characteristics of both crisis intervention and income transfer programs. Is it practical to combine these characteristics in a single program?

Mr. FREEL. I think it can be done; however, I am not sure this year's program is giving us a very good example of that. What you really have out there now are two types of broad assistance programs operating. One is the SSI-type program, and a number of States are implementing similar type programs with their HEW block grants, where the characteristics of the program involve specific groups such as SSI recipients, food stamp recipients, or whatever, receive a predetermined amount of assistance. And a number of the States, I indicated 34 of the States, the bulk of the assistance is being put out in what is called the energy crisis assistance program, and that program is based upon people coming in and showing specific income situations and a specific energy need, and then attempts are made to gear the assistance to the individual need.

So, you have right now two very different kinds of programs operating around the country. And it doesn't really reflect a combination of what you have just described, although I do think it is possible to develop that kind of a program.

Senator BURDICK. For the record, describe the income grants for programs. What do they include?

Mr. FREEL. Well, they include the SSI program that you just commented on, and also the States under the HEW program with the $800 million block grant had a number of options they could exercise. Two of the options—the first two options, which are direct payments to AFDC recipients, which some States have chosen to do, or payments to other groups such as food stamp recipients. A number of States have chosen these options. These are the various types of income transfer programs that you have operating this year.

COMPARISON TO OTHER INCOME TRANSFER PROGRAMS

Senator BURDICK. To what extent does the 1980 energy crisis assistance program help fill the gaps in traditional income transfer programs?

Mr. FREEL. Well, you say the traditional income transfer programs, you are referring to the income transfer programs within this year's energy program?

Senator BURDICK. Yes.

Mr. FREEL. OK. I think in some States it is playing that role, where, in fact, the States have chosen to run the bulk of their funds through an income transfer program, and in those situations the local agencies in implementing the energy crisis program were able to provide assistance to those people who are not covered by those programs.

In other States, the crisis assistance program, has been almost the entire program except for the SSI payments. One of the other problems also that has made it a little bit difficult in terms of filling in the gaps is that for the early part of the program, the crisis money was the only money in the State, and the income transfer money came at a much later date, which made it difficult to make judgments in terms of filling in the gaps.

ENERGY ASSISTANCE PROGRAM REGULATIONS

Senator BURDICK. Regulations for the 1977 special crisis intervention program and the 1978 emergency energy assistance program required a special program audit by all prime grantees. This requirement has been dropped for the 1979 crisis intervention program and the 1980 crisis assistance program. Why?

Mr. FREEL. What we are requiring now is an audit to be performed that is to be performed at the same time as the grantee is having its overall agency audit performed. We feel this will be a more effective way of tracking energy funds and of getting a better audit on those funds. We have also instituted special accounting procedures to make it more easy to track those funds than we have in the past.

Senator BURDICK. My latest information is that the CSA poverty guidelines will be updated by the end of this month, thus making more people eligible for the ECAP program. Do you have any more specific information on this today?

Ms. OLIVAREZ. All we know is that we expect those regulations to be published within the next 2 weeks.

Senator BURDICK. That is all you know?

Mr. HARRIS. We know that it is in the final stages of approval.

Senator BURDICK. But you don't know what the changes, if anything, are?

Mr. HARRIS. No; we expect it will follow its historical pattern of rising with the costs of the various services, et cetera, that are entered into.

Senator BURDICK. Will the change come in time for the balance of winter?

Mr. HARRIS. Yes.

ENERGY ASSISTANCE PROGRAMS OF PRIOR YEARS

Senator BURDICK. Indications are that both the 1978 emergency energy assistance program and the 1979 crisis intervention program served a significantly lower percentage of elderly than did the 1977 special crisis intervention program. And the court ordered emergency energy assistance program extended despite congressional mandates to give priority to the elderly.

First of all, is that a fact? And second, if it is a fact, why?

Ms. OLIVAREZ. It is a fact. First of all, the money came down later than we anticipated. Second, we didn't have the leadtime to gear up to comply with all of the legislative mandate.

Mr. HARRIS. The major difference is in the kind of assistance that you can provide. As you know, Senator, elderly people are more likely to be paying their fuel bills on time. And when a program comes down after the heating season, unless you allow for payment of back bills or future credit, which is what we built into this year's program, the elderly are, we feel, on the record of our past programs, discriminated against.

In the first program in 1977, it was the provision for future credit. In the current program, the one that is being operated now, we also have a similar provision, and our initial data shows that 51 percent of the peo-

ple receiving the assistance now are elderly. So, I believe the program has been corrected and that the past problem has been eliminated by this provision.

Senator BURDICK. You mean you didn't have the same credit this current year as they had in the 1978 program?

Ms. OLIVAREZ. What happened is that we were not allowed in the 1978 program to help with future payments—in other words, we didn't have that in the 1978 program.

Mr. HARRIS. 1978 or 1979.

Ms. OLIVAREZ. We do in the 1980 program.

Senator BURDICK. So, you think we will serve more elderly under the present program?

Ms. OLIVAREZ. Definitely.

QUESTIONS SUBMITTED FOR RESPONSES

Senator BURDICK. I am submitting some questions for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question: What measures were taken to ensure that the 1980 Energy Crisis Assistance Program gives the mandated priority to the elderly? Were these measures successful?

Answer: The rules and regulations of the Energy Crisis Assistance Program (ECAP) required a written description in each State Funding Plan of how priority would be given to serving the elderly. The regulations provided suggestions on special services to be offered to the elderly to ensure priority. These services included: intake and certification by mail; intake and certification taken in residence of those persons unable to leave their homes due to infirmity or fear of victimization; scheduled appointments; provided transportation to and from intake centers; and the use of Senior Citizens Centers and nutrition sites for provision of services. Most states selected to include all of these services in their state plans. Many states included additional provisions such as coordination with local area agencies on aging and the establishment of future credits for specifically elderly-headed households. Another significant element in the regulations which encourages the elderly to apply for ECAP assistance is that unpaid fuel bills or disconnect notices cannot be required for eligibility. In the past two years, regulations did not allow for future credits. Additionally, past programs required a notice of utility termination and/or an overdue utility bill before assistance would be given. These requirements discouraged Senior Citizens from applying because most elderly pay their fuel/utility bills and will go without other necessities such as food, in order to pay fuel/utility bills. During monitoring conducted by the ECAP staff, special attention is given to see that priority is given to the elderly and that the special services for elderly as indicated in the State Funding Plan are being implemented. From required reports submitted to Headquarters over 50% of ECAP assistance has been given to elderly-headed households.

Question: The GAO's report on the 1977 Special Crisis Intervention Program found that CSA's review of State plans was inadequate and not uniform. Has CSA's review of state plans for the 1980 Energy Crisis Assistance Program corrected the deficiencies as noted in the GAO's report on the 1977 Special Crisis Intervention Program? That same report found that CSA did not sufficiently monitor the States' administration of this program. Has this deficiency been corrected in the 1980 program?

Answer: The Community Services Administration (CSA) implemented an extensive State Funding Plan development and review process for the purpose of efficient administering of ECAP. The key point in this process is that the regulations were in place and effective prior to the heating season. The regulations specifically outlined the elements essential to the development of all state plans. These elements include: administration at the state and local level; provision of outreach activities; elderly priority; renters; limitations on payments; appeals process; how funds can be used; eligibility requirements; general and post funding requirements; coordination with utility/fuel vendors; and CSA application review and approval process. In September, all Regional staff participated in a training session. During the session, the program's rules and regulations were reviewed and a directive on reviewing State Funding Plans was given. On September 27-28, 1979, CSA hosted a two-day training program to review the regulations with state representatives and to

provide technical assistance to the states in developing their plans. During the planning process, the Regional Offices provided assistance to their respective states on the development of state funding plans. In addition, either the ECAP Director or the Deputy Director visited every Regional Office to provide further technical assistance. In almost all cases, states were required to submit revisions to their state plans in order to bring them into compliance with the regulations and the intent of the program.

In order to ensure that each state is operating in accordance with its approved State Funding Plan and the regulations, CSA instituted a vigorous monitoring program. A basic standard monitoring tool was developed to be used by both ECAP Headquarters and Regional staff when conducting on-site monitoring visits. As of the quarter ending March 1, 1980, each region has been monitored by a team of staff members from Headquarters. In addition, teams from Headquarters accompanied by the Regional staff have monitored 31 states and numerous local administering agencies. The Regional Offices have monitored all fifty states at least once. During the monitoring visits, a file search is conducted at the grantee of record (state) and at the local administering agencies. Interviews are conducted with program operators, at the state and local level, and often with beneficiaries. CSA has established a separate unit within the ECAP Task Force to coordinate and monitor the activities of the Migrants and Seasonal Farmworkers Groups and American Indian Groups.

Question: CSA has allocated $20 million of its 1980 energy assistance appropriation for its "regular" crisis intervention program. Does this program duplicate the activities of ECAP? What is this program intended to accomplish? Please provide a breakdown of the $40 million set aside in the $400 million ECAP program.

Answer: CSA allocated $20 million of its 1980 Energy Assistance Appropriation for the Crisis Assistance Program (CIP). CIP funds allow Community Action Agencies to develop an on-going crisis assistance capability for the provision of in-kind assistance to those persons facing health or life threatening situations.

CSA established separate set-asides to assure adequate access to ECAP for American Indians and Migrants and Seasonal Farmworker Groups. CSA set aside $10 million to each of these two groups. The $10 million set aside for the American Indian set-aside will be allocated through the Regional Offices to American Indian Groups that are officially recognized by the Federal or State governments as being "self-governed." Urban American Indians will be served through the local program operators in the state they reside. CSA and the Administration for Native Americans (ANA) signed a memorandum of understanding ensuring close coordination and cooperation to assure that American Indian Groups will be served. The $10 million set-aside to Migrants and Seasonal Farmworker Groups will be allocated through utilizing ten conduit grantees which serve as the agencies that implement CSA Migrant and Seasonal Farmworker programs.

Question: We understand that CSA is using temporary employees to augment regional staffs in administering the 1980 Energy Crisis Assistance Program. What are the backgrounds of the temporary employees? Do you expect temporary employees to be able and motivated to do a good job in administering ECAP?

Answer: While the majority of the ECAP Task Force are temporary employees, a few have permanent positions with CSA. The Director of ECAP, prior to coming to CSA as a special assistant to the Assistant Director, administered the Crisis Intervention Program and the Weatherization Program at the state level for three years. The ECAP Deputy Director managed the Energy Crisis Intervention Program at CSA in its first two years. Other staff members at ECAP Headquarters have had previous CSA experience, others have worked in Community Action Agencies, or have other social program backgrounds. For the most part, the Regional staff are headed by individuals who have been involved in previous CSA programs. Many of the staff have experience in Community Action Agencies, State Economic Opportunity Offices or other similar agencies. The temporary employees have shown to be quite capable and highly motivated. The utilization of both permanent and temporary employees has brought a wide range of abilities, enthusiasm, and backgrounds to a project which is important and vital to the needs of America's poor.

Question: Provide a table of states illustrating the options chosen under CSA's ECAP and the HEW Block Grant Program.

Answer: Community Services Administration (CSA) distributed $400 million dollars to the states for the implementation of the ECAP program. Funds were distributed using a formula based on heating degree days, number of low-income households in the state, and estimated differences between total home energy expenditures in 1978-1979. See Attachment A for a breakdown of the allocations of the states.

Congress appropriated $1.2 billion for an energy allowance program authorized under the Economic Opportunity Act. These funds are being administered by HEW to fund two programs: $400 million for direct payments to Supplemental Security Income (SSI) recipients; and $800 million for block grants to the states. Under the block grant program, the Governor of each state must indicate from among four options how the funds will be expended in his particular state. The four options are as follows:

A. Direct payments to all AFDC recipients in the state.
B. Direct payments to other designated groups such as food stamp recipients or general assistance recipients.
C. Assistance through the approved state ECAP program.
D. Assistance through a new state developed program.

See Attachment B for a breakdown of the options each state has chosen

ATTACHMENT A

STATE:	ALLOCATION BASED ON		
	250 M	150M	TOTAL
Alabama	$ 3,049,928	$ 827,235	$ 3,877,163
Alaska	456,064	587,715	1,043,779
Arizona	1,327,472	357,180	1,684,652
Arkansas	2,005,460	626,820	2,632,280
California	10,994,440	3,975,255	14,969,655
Colorado	2,312,896	1,978,365	4,291,261
Connecticut	4,063,856	4,017,810	8,081,666
Delaware	566,008	505,440	1,071,448
District of Columbia	777,212	575,610	1,322,822
Florida	3,917,264	493,815	4,411,079
Georgia	4,041,460	1,094,730	5,136,190
Hawaii	158,808	- 0 -	158,808
Idaho	1,020,036	977,145	1,997,181
Illinois	12,332,052	8,629,320	20,961,372
Indiana	5,753,736	4,161,375	9,915,111
Iowa	2,950,164	2,885,550	5,835,714
Kansas	1,740,780	980,280	2,721,060
Kentucky	3,554,856	1,817,580	5,372,436
Louisiana	2,156,124	399,645	2,555,769
Maine	2,025,820	2,370,435	4,396,255
Maryland	3,318,680	2,775,030	6,093,710
Massachusetts	8,213,224	7,705,635	15,918,859
Michigan	9,964,184	9,003,870	18,968,054
Minnesota	5,611,216	6,851,490	12,462,706
Mississippi			
Missouri	5,144,972	3,037,935	8,182,907
Montana	040,632	1,014,960	1,955,592
Nebraska	1,569,756	1,294,785	2,864,541
Nevada	490,676	294,645	785,321
New Hampshire	1,280,644	1,470,195	2,750,839
New Jersey	7,812,132	6,914,550	14,726,682
New Mexico	1,062,792	599,055	1,661,847
New York	24,203,968	22,320,330	46,524,298
North Carolina	4,908,796	3,079,230	7,988,026
North Dakota	804,220	1,338,915	2,143,135
Ohio	$ 10,611,632	$ 7,605,300	$ 18,216,932
Oklahoma	2,274,212	873,900	3,148,112
Oregon	2,097,080	2,142,810	4,239,890
Pennsylvania	13,704,316	11,238,540	24,942,856
Rhode Island	1,351,904	1,244,535	2,596,439
South Carolina	2,304,752	915,885	3,220,637
South Dakota	824,580	1,094,385	1,918,965
Tennessee	3,829,716	1,769,535	5,599,251
Texas	6,765,628	1,547,970	8,313,598
Utah	985,424	811,095	1,796,519
Vermont	834,760	1,031,715	1,866,475
Virginia	4,222,664	3,162,225	7,384,889
Washington	2,976,632	3,531,600	6,508,232
West Virginia	2,070,612	1,295,100	3,365,712
Wisconsin	5,788,348	5,944,050	1,732,398
Wyoming	346,120	363,000	709,120

ATTACHMENT B

ENERGY ASSISTANCE PROGRAM GRANTS SIGNED BY COB FEBRUARY 5, 1980

	PLAN A	PLAN B	PLAN D	PLAN C	TOTAL
Alabama	4,090,000		246,141		4,336,141
Alaska			3,080,642		3,080,642
Arizona		1,497,792			1,497,792
Arkansas	3,285,620				3,285,620
California		20,837,205			20,837,205
Colorado			10,370,051		10,370,051
Connecticut			21,060,267		21,060,267
Delaware				2,649,379	2,649,379
Dist. of Col.				3,017,191	3,017,191
Florida				2,588,444	2,588,444
Georgia				5,738,277	5,738,277
Guam					
Hawaii					
Idaho			5,000,000		5,000,000
Illinois	40,253,828		4,978,720		45,232,548
Indiana	9,884,500			11,928,296	21,812,796
Iowa				15,125,268	15,125,268
Kansas		4,133,782		1,004,579	5,138,361
Kentucky			4,722,500	4,804,760	9,527,260
Louisiana		2,094,830			2,094,830
Maine				12,425,176	12,425,176
Maryland				14,545,952	14,545,952
Massachusetts				40,390,843	40,390,843
Michigan			47,195,837		47,195,837
Minnesota				35,913,647	35,913,647
Mississippi	2,444,873				2,444,873
Missouri			4,900,000	11,024,029	15,924,029
Montana					
Nebraska			6,786,911		6,786,911
Nevada			544,449	1,000,000	1,544,449
New Hampshire				7,706,362	7,706,362
New Jersey			36,244,190		36,244,190
New Mexico				3,140,083	3,140,083
New York		113,352,375		3,644,724	116,997,099
North Carolina	14,000,486			2,140,000	16,140,486
North Dakota				5,818,228	5,818,228
Ohio		39,864,914			39,864,914
Oklahoma				4,580,746	4,580,746
Oregon			11,232,027		11,232,027
Pennsylvania				58,909,370	58,909,370
Puerto Rico					
Rhode Island			1,000,000	5,523,516	6,523,516
South Carolina				4,800,820	4,800,820
South Dakota			5,000,000	736,468	5,736,468
Tennessee	8,319,250			956,171	9,275,421
Texas	4,057,019			4,057,019	8,114,038
Utah			4,251,539		4,251,539
Vermont			5,407,969		5,407,969
Virgin Islands					
Virginia				16,575,523	16,575,523
Washington		18,412,218	99,469		18,511,687
West Virginia		4,559,360		2,229,202	6,788,562
Wisconsin			31,157,093		31,157,093
Wyoming		1,902,747			1,902,747
Total	86,335,576	206,655,223	203,277,805	282,974,071	779,242,675

Question: Do you feel the strict income guidelines in effect now are the best test for eligibility? Or should there be more flexibility incorporated into the determination of eligibility for such things as medical costs?

Answer: The income eligibility guidelines in effect for ECAP are actually more liberal than those established for most other CSA programs, in that they are set at 125% of the income poverty threshhold and that heads of household on SSI are automatically qualified on the basis of income eligibility. Program eligibility criteria vary from State to State and afford some flexibility for special targeting of ECAP assistance within the income eligibile universe. However, there continues to be a problem with so-called "borderline cases", marginally ineligible households with a clear need for energy assistance, which seems particularly to affect the elderly. It has been suggested that income eligibility for the elderly be set at 150% of the poverty guidelines to ameliorate this problem, or alternatively that income disregards be established for elderly households to offset the cost of basic necessities such as food, housing and medical expenses.

CAP BOARD MEMBERS

Senator BURDICK. By the way, I am skipping some questions here. You're not going to avoid them, you understand. We will send them to you by mail. [Laughter.]

Ms. OLIVAREZ. Fine.

Senator BURDICK. We have another vote on, as you know. And we expect within a reasonably short time you will reply.

Community Action Agency boards constitute one of the most important focal points for oversight over CAA activities and expenditures. In many instances, however, these boards are either unaware or unwilling to undertake these responsibilities. What action is CSA undertaking to do something about this situation, if it does exist?

Ms. OLIVAREZ. The first thing that we did, Senator, was to recognize that the only way to insure that the board of directors is going to function and carry out their responsibilities, was to institute a training program. This required us to develop training manuals, audiovisual aides, and flip charts, and all the necessary material to make sure that board members understand what their responsibilities are.

We have already begun conducting training sessions for boards of directors. We started this program in September of last year and expect to continue with extensive training of board members. This is important because when you have a combination of low-income people, elected officials, and the private sector, the program has to be designed or geared to make sure that the low-income understand the legislative intent of their responsibility, and the difference between administering the agency as opposed to setting policy and monitoring the activities of the staff.

So, training is the key in terms of having boards be effective in their responsibility. And we are already doing that.

Senator BURDICK. Fine.

We will have another 5-minute recess.

[A brief recess was taken.]

CAP BOARD MEMBER CONTROL

Senator BURDICK. CSA's community action program is founded on the concept of local community control of antipoverty programs. However, events at the now-defunct Greater Los Angeles Community Action Agency and other such agencies seem to suggest that sometimes community action agencies can escape from effective community controls. Is the existing mechanism of boards of directors adequate to assure effective community control of community action agencies? And if not, can you suggest improvements?

Mr. HARRIS. CSA finds no problem with the mechanism of the community action board itself. The problem is perfecting the mechanisms. Los Angeles was a good example of where a delegate agency became so powerful on the community action agency board that they could mount a logrolling operation, controlling the budget and the important decisions that are made.

As a consequence, we changed our regulations, prohibiting delegate

agency employees or board members from serving on the boards of community action agencies, to take the logrolling aspects out of it. In addition, we think that the training will also help a great deal—if the board members know what they are supposed to do, and if we monitor their activities better, then we think the mechanism will be improved. Also the forthcoming major changes in our basic regulations for community action agencies, which have been published for comment and are now ready to be finalized—will require increasing emphasis on the various approvals that the board must give during the planning processes, approving budgets and on self-evaluation. We believe that these steps will make the board better able to fully meet all of the legislative intent in creating this tripartite board.

Senator BURDICK. You mentioned delegate agencies? What are you talking about?

Mr. HARRIS. We provide the basic funding to a community action agency board—it often will choose a community group in an area, to run either a single program or maybe run a neighborhood center, or whatever. These are normally nonprofit organizations within the community that sign a contract with the community action agency to operate the program.

In Los Angeles, most of the programs—95 percent of the programs operate through a delegate agency.

Senator BURDICK. Well, they are really subcontractors?

Mr. HARRIS. That's right.

Senator BURDICK. And you lost control of them?

Mr. HARRIS. The subcontractors took control of the major organization.

Senator BURDICK. I see. That won't happen again.

Mr. HARRIS. Our regulations prohibit it now.

COMMUNITY ACTION FUNDING—1980

Senator BURDICK. Fine; for fiscal year 1980 the Congress approved an increase of $18 million over the fiscal 1979 level for the local initiative funding of community action agencies. The committee wanted CSA to strengthen the administrative capacity of smaller community action agencies and expand community action agencies to areas not served.

How has the increased funding been apportioned?

Ms. OLIVAREZ. We took $12,756,000, and increased the funding of the smaller community action agencies, those that are right now operating with less than $150,000. We took $5,244,000 and distributed it to what we called uncapped areas, based upon the percentage of low income people in the various counties. These two efforts totaled $18 million. And that is how we distributed it.

We did follow the intent.

NORTH DAKOTA ALLOCATIONS

Senator BURDICK. Well, now I think it is time for you to buckle up your seat belts. As of last year, North Dakota received the smallest State allocation per poor person of any State in the Union.

All of region VIII was below average, in fact, but North Dakota was the worst. We got $6.02 less per person than the national average. As I said, in fiscal 1980, CSA got $18 million over the 1979 budget—for local initiatives. Your justification book mentions that initial steps were taken to reduce disparities in funding levels.

With $18 million, why did North Dakota still become the worst funded in the Nation?

Ms. OLIVAREZ. Well, North Dakota went from an appropriation of $670,000 to $942,000. So it did receive an increase in funding; in fact, region VIII received $1.740 million——

Senator BURDICK. This is of the $18 million?

Ms. OLIVAREZ. Yes; this was to increase the allocation to the smaller CAP's. It also received $103,000 to cap uncapped areas. So all together that region had $1,850,000 going to them. In terms of the distribution per poor person, we still don't have enough money to bring everybody to the same level. We estimate that it would take a minimum of $52 million additional to equalize the distribution.

Senator BURDICK. But is there a particular reason why North Dakota is at the bottom of the ladder?

Ms. OLIVAREZ. Because of the formula we are required to use in the distribution of local additional funds.

Mr. HARRIS. Senator, I believe your figures are from fiscal year 1979. Where it comes at the bottom of the ladder in distributing the $18 million increase—we were able to increase the funding levels for those community action agencies by a full 50 percent. All the community action agencies were funded somewhere, as I recall, about $88,000 a year.

Since the recent $18 million increase—they will now vary from about $127,000 to $145,000, so there has been a significant increase in North Dakota. And that is how this year's increase of $18 million is able to help reduce the disparity in funding per poor person.

It still won't eliminate it, but it will reduce it.

Senator BURDICK. Other States were increased, too, weren't they?

Mr. HARRIS. To give you an example——

Senator BURDICK. Where do we stand now?

REGION VIII FUNDS

Mr. HARRIS. I don't know. But I can tell you that according to the formula in our law for distribution of our local initiative funds, the total for region VIII was supposed to be 2.04 percent of the total of this particular increase, the $18 million.

The increase for region VIII was in excess of 10 percent, so that shows how the areas that were principally rural, or those who got into the local initiative program late, and were adversely affected by the spinoff of Head Start—are the ones who benefited most from the addition. They got the $18 million.

By comparison, urban regions, like region II, only got $750,000 of the $18 million increase. You have all of New York State and New Jersey.

Senator BURDICK. So they got, you say, 10 percent instead 2 percent of the pie?

Mr. HARRIS. That is to help equalize for past problems.

Senator BURDICK. Well, how long will it be before the equalization process runs its course?

Mr. HARRIS. This year's request does not envisage using the increase for further equalization. The amount needed to equalize—as the Director mentioned, to equalize to the average funding per poor person that we now have, which is in the range of $17 a poor person—would require an additional $52 million for CSA. If we equalized at the higher ranges of dollars per poor person, it would be many times the $52 million.

So it is not in the immediate future.

PER PERSON ALLOWANCE IN NORTH DAKOTA

Senator BURDICK. Well, after the adjustment that you just referred to, in this last $18 million, what is the per-person allowance in North Dakota now?

Mr. HARRIS. I would have to supply that for the record. I don't know.

[The information follows:]

The per person allowance in North Dakota currently is $10.80.

INCREASED PROGRAM EFFECTIVENESS

Senator BURDICK. I understand you plan to use $15 million of local initiative money for program effectiveness efforts under certain CAP's—under which certain CAP's will receive special grants.

What specific programs are we talking about? And do you have enough money to do this, and eliminate the disparities in the funding levels at the same time?

Ms. OLIVAREZ. In answer to your first question, we don't have enough money to eliminate the disparities, because it is such a small amount that will have to be distributed among 900 grantees. They would wind up with an insignificant amount of money.

That is why we selected through the first increase to give a cost-of-living increase. The second increase, we used to improve management and administration capabilities, and with the third increase we are continuing to strengthen the management capabilities of the smaller CAP's.

With the $15 million, we want to use it to institute a special grant program that would encourage the community action agencies to produce sound program design; to take a second look at what they are doing, in terms of eliminating—or not eliminating, and/or alleviating poverty problems at the local level; to come up with some new, different or more effective approaches to the issue, and also to encourage them to do a better job of coordinating with other anti-poverty efforts at the local level.

The grants under this program will be awarded, of course, to a very limited number of community action agencies. We are expecting to make the grants in the neighborhood of $75,000 to $150,000. They will be formally reviewed to make sure that they meet the criterion that we will be publishing. We will also look at the recent management history of the community action agency to see if this is the kind of agency that can institute some new approaches toward the elimination of poverty at the local level.

Because CAP's have been under such limited funding in the past, they really haven't had a chance to be that creative or that imaginative. We hope that with these small grants that they will be more or less forced to take a second look at what is happening at the local level and to develop some projects that might involve doing some preventive work, or looking at programs that don't require the delivery of services. There is a range of things that they could do.

URBAN VERSUS RURAL CAP FUNDING

Senator BURDICK. It doesn't appear that the big CAP's in the cities are getting richer and the smaller CAP's in the rural areas are getting poorer.

Ms. OLIVAREZ. No; we are not increasing the funding to the rural CAP's.

If you recall, in the original distribution of the $18 million, the $12,756,000—they were used exclusively for smaller CAP's, and this means rural CAP's. And the new CAP's that were created were also primarily small CAP's in rural areas.

Now, this particular $15 million fund is not going to be awarded to CAP's that have sophisticated proposals, because we know that in that event the smaller CAP's would not be able to compete. We are doing it to encourage the CAP's to take a second look at what is happening at their local level and again come up with some better approaches to the issue of poverty and also to encourage them to look around to see if there are other resources that in the past they haven't touched.

Senator BURDICK. But as I understand it now, from your testimony and the other gentleman—the testimony is that the money that's going to be used for equalization has come to an end. There will be no more attempts for equalization?

Ms. OLIVAREZ. At least not in 1981—with the $15 million increase, that is a very small amount.

Mr. HARRIS. Senator, I just would like to point out that we strive for equalization as a matter of course. Funding levels for individual community action agencies do change from time to time, as some grantees are simply unable to carry out the program anymore, and either have a reduced funding level or go out of business altogether. When that happens, we do have the opportunity and we have standing directions to our regional directors to reduce disparities of funding. It is a very gradual process, but it does continue at all times.

Senator BURDICK. What is it about our country cousins? Don't you have any clout? What causes all of this?

Mr. HARRIS. I think there are two principal things. One is that the formula for distribution of our money has a tendency to deemphasize dollars per poor person as a measure and emphasizes instead public assistance, large families, et cetera.

The other thing is the history of the program—it grew very rapidly at the beginning and was directed at the cities, initially. We established funding levels, very high funding levels there.

The community action program slowed down and stopped growing altogether. And it is only in the last 2 or 3 years that it has been growing again.

So we have a history that goes all the way back to the mid 1960's that established funding levels that we are still dealing with today.

WEATHERIZATION ASSISTANCE PROGRAM

Senator BURDICK. The weatherization assistance program for low-income persons, administered by the Department of Energy, relies principally on local CETA prime sponsors to provide the labor to weatherize homes. Since the beginning of the weatherization assistance program, the community action agencies operating weatherization projects have had problems acquiring sufficient CETA labor.

At the end of fiscal year 1979 an interagency action plan involving DOE, DOL, and CSA, to increase the number of homes weatherized through fiscal year 1980, was signed. This plan made certain changes in procedures for assuring that adequate CETA labor is provided for weatherization. What are the basic provisions of the action plan? And how does it differ from the previous plan?

Ms. OLIVAREZ. The action plan expired last month, Senator. It is no longer in effect.

In its place, the Department of Energy put together a task force with the specific assignment of improving the weatherization program. As far as we know, the shortage of CETA slots still exists. And the number of homes being weatherized is not at the level that we had originally projected, had we received the necessary CETA slots.

In other words, we are falling very far behind in meeting the goals that were established when that program was in CSA, of weatherizing so many homes per year. We estimated that by the year 1990 we would have weatherized all homes that needed it. We are very far behind in that schedule.

Senator BURDICK. Well, would you say that the action plan, which now is abandoned, was an improvement over the previous plan?

Ms. OLIVAREZ. Personally, no, it was not.

Senator BURDICK. And so now, DOE is wrestling with another program; is that it?

Ms. OLIVAREZ. They have brought in one person and given him a 90-day period of time to turn the whole program around and get it moving again at the level that they had anticipated originally.

Senator BURDICK. All right. Now then, the program is in a state of suspension right now?

Ms. OLIVAREZ. As far as I know, what is going on at the local level is limited. It all depends upon the ingenuity and the imagination of the local CAP director to find labor to continue the program. But it is on a very limited basis.

Senator BURDICK. Well, let's see—it is March and winter is coming to an end in some parts of the country. So we have got time to move on this.

Ms. OLIVAREZ. Well, we are moving into the spring, when the bulk of the weatherization takes place, because of the weather conditions.

Senator BURDICK. It does? What about the fall months?

Ms. OLIVAREZ. Well, spring and fall. In other words, we're trying to get as much done as we can before the winter hits.

1980 DEMONSTRATION PROGRAMS

Senator BURDICK. In my part of the country, we start packing our house in the fall.

In its report on the 1980 Labor-HEW and related agencies appropriations bill, the committee recommended that CSA fund demonstration programs in the areas of rural development, family and children, crisis intervention, and employment and training.

Please give a brief description and the level of funding for each program in these categories, funded to date during 1979 and 1980. Now, if that is a too ambitious question, you can supply it for the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. Does this allow those CAP's to carry out any of the broader purposes of the section 222 program, such as consumer information advocacy, or alternate energy sources?

Answer. No, the DOE authorizing legislation is very narrowly limited to weatherization activities which are very narrowly defined.

Question. If not, why haven't you included any money in your request for these purposes?

Answer. This activity ranked very low in priorities during the zero-based budgeting process and subsequently was not included in the request.

Question. If the pending authorization bill goes through giving weatherization programs back to CSA, do you still have any kind of system in place to operate these broader weatherization programs?

Answer. Yes; we have managed, up until now, through careful use of R. & D. funds and judicious use of Director's authority to transfer funds, to keep a number of activities in advocacy and alternative energy source development going at a maintenance level. If additional funds become available from DOE's overcharge suits against the oil companies, we will be able to continue these projects at current levels with possibly slight expansion, but nothing approaching the real need.

Rural development.—1979, $1,918,000; 1980, $1,291,000.

Activities funded under this category address the specific needs of rural, low-income farmers and their families in retaining their economic and social self-sufficiency. These projects will enable low-income rural people to gain access to services which will improve their lives.

Family and children.—1979, $1,271,000; 1980, $1,000,000.

Projects funded under this function are directed at providing integrated social services to the family as a whole and which will preserve the family-type structure either within its own unit or within another family environment.

Employment and training.—1979, $1,049,000; 1980, $2,500,000.

These projects are designed to alleviate the very high unemployment rates in the inner cities and underemployment problems of the rural areas.

Crisis intervention.—1979, none; 1980, none.

COMMUNITY FOOD AND NUTRITION

Senator BURDICK. Now let's go to the community food and nutrition for a moment. Last year you requested only $8 million for the community food and nutrition program. This committee was instrumental in restoring most of your cut from the 1979 level. Now you are requesting $27 million, including training and technical assistance.

Why the at least partial turnaround this year, and have you found CFNP to be more necessary than you thought last year? And if you could summarize your report on CFNP, which was prepared at this committee's request.

Ms. OLIVAREZ. In answer to the question of the request for $8 million

last year and did we change our mind about the program, the answer is no. We were led to believe that the Department of Agriculture would be able to conduct outreach activities to make sure that all eligible persons were enrolled in the Federal food program. The Department of Agriculture was not able to implement the outreach component, and, when the funds were restored to $28 million, continued to do access and outreach in that category, in that area.

In terms of the program being more important, I believe very seriously that, given inflation, given the amount of funds that are being spent in Federal food programs—for example, the request for food stamps in 1981 I believe is in the neighborhood of $9.5 billion, and that doesn't include school lunches and school breakfast, et cetera—that our $26 or $27 million is a very small amount.

But we will use it to make sure that people who qualify for these programs are being reached and are being enrolled and are being helped with the application process.

We also, as you know, are involved very heavily in self-help activities, and in the last year or so the self-help activities have moved ahead in helping people become self-sufficient, and not dependent as much upon Federal food programs. These activities include the co-op buying clubs, canneries, community gardens, the greenhouses, farmers markets, even family gardens.

We spent a small percentage of our CFNP money in those areas. And of course, we have nutrition and consumer education, and we think it's important to point out to people the relationship between health and nutrition. A small percentage of our money also goes into crisis relief. While people are waiting for food stamps, or if there is an emergency situation in a community, we provide food vouchers, sometimes cash, commodities, food pantries, and, most important of all, food banks.

FOOD BANKS

And by the way, the private sector is now very heavily involved with us in the establishment of food banks around the country. As a result of the tax reform, I believe it is in the 1976 tax bill, private producers of food are now given a tax deduction if they utilize heretofore wasted food, which I believe amounts to something in the neighborhood of $6 billion wasted on an annual basis.

These companies are now working with our local grantees to make sure that that food, which is not marketable or salable but is first-quality food, is distributed to the food banks so that they can use it then for either community feeding, for food boxes, et cetera.

The private sector has been very cooperative with us in this respect, and we anticipate that more companies will be joining us in this effort, so that the distribution of all of this food that ordinarily would be destroyed is going to low-income people.

Senator BURDICK. Do you mean we're throwing away good food?

Ms. OLIVAREZ. I'm not sure I have my figures correctly, but it is something like $6 billion of food that is wasted in this country, either because of incorrect packaging, the labeling is wrong, and, under FDA regulations, it cannot be put out for sale. Or if a company, let's say, is

marketing a new product and that product is not receiving a favorable reception from the consumers, then they still have this good food that cannot be put out in the market.

Labeling, for example, is another reason why food is not sold in the commercial marketplace. These are just a few reasons how food is wasted in this country. This does not cover the amounts of food that we all waste by not eating what we serve.

Senator BURDICK. Did you ever hear of the clean plate club? [Laughter.]

My kids heard about it.

How much would we have to add to maintain this program, taking account of inflation, at its fiscal year 1979 level?

Ms. OLIVAREZ. Well, I think the additions ought to be in the areas of food stamps, school lunches, school breakfast, and all of the other programs. For example, 35 percent of the eligible persons are still not enrolled in food stamps. If we manage through our outreach activities to enroll new people in the food stamp program, then that appropriation has to increase.

About 75 percent of the eligibles are not enrolled in the WIC program, the women, infants, and children program. So it seems to me that the increases have to take place at the USDA departmental level.

COMMUNITY FOOD PROGRAM FUNDING

Senator BURDICK. Well, this community food and nutrition program was funded at $30 million last year, and now you are requesting $27 million.

Ms. OLIVAREZ. No; we are requesting $26 million.

Senator BURDICK. And your answer is because of the other programs, that no more than that is needed?

Ms. OLIVAREZ. Well, I would hope that if the food stamp appropriation comes through, that would ease the problem. You see, we don't provide for the actual feeding of people except in a crisis situation. There is no way that we can compete with USDA programs with such a small sum of money. Besides, we would be duplicating if we did.

QUESTIONS SUBMITTED FOR RESPONSES

Senator BURDICK. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. If outreach for Federal food programs is still in great need, why are you requesting a reduction in this program? What interagency agreements or other arrangements have you made with the Department of Agriculture to perform outreach for Federal food programs?

Answer. Because of our budgetary constraints, we have had to make some very difficult choices in balancing the needs of the CFNP against the needs of our other special emphasis programs, as well as the needs of CAA's for local initiative funds. I think that the amount we are requesting for the CFNP in 1981, though not adequate to fully fund the need which is out there, is fair, and sufficient to prevent undue harm to what is, by general agreement, an excellent program. Our request will also leave us with enough money to continue supporting our outreach, monitoring and advocacy

activities in respect to USDA's feeding programs, since the $1 million reduction will be spread across all categories of CFNP activities.

In answer to your question about interagency agreements, a great many such agreements have been negotiated at the State and local level during the past several years, in the form of contracts between CFNP grantees and USDA-supported agencies. As I noted earlier, these contracts enable our CAA's and CFNP grantees to perform food stamp outreach services paid in whole or in part from the funds of agencies other than CSA.

The new USDA regulations provide for the continued use of such contracts. Given our wealth of experience at the State and local level with outreach contracts, and given USDA's recognition of CSA's complementary responsibility for outreach, I feel that the time is now ripe for exploring the possibility of an interagency agreement with USDA at the Federal level to stimulate increased use of such contracts. Preliminary contacts have been made by my staff with USDA to discuss such an agreement. I also intend to include language in our final CFNP rule for fiscal year 1980 that will underline the opportunity for sharing with other agencies the financial burden for outreach.

Question. How many fewer communities are served as a result of the $2 million cut from fiscal 1979?

Answer. It is hard to estimate with any precision how many fewer communities would be served as a result of the $2 million cut, since the amounts of our general community grants range from $5,000 for a small rural CAA to $200,000 for a large city CAA. In 1979 the median grant was around $35,000—60 fewer communities would be served if each of these communities asked for $35,000. The average general community grant in 1979 was $50,000. Using this figure, 40 fewer communities would be served.

Question. How much would we have to add to maintain this program taking account of inflation, at its fiscal 1979 level?

Answer. First of all, we think that the most pressing need generated by inflation in food costs is the need to lift the spending limit or cap in the food program, and I strongly support the action taken to do this by the Senate and by the House Agricultural Committee. When the Food Stamp Act of 1977 was passed, the projected inflation rate for 1980 was 3 to 4 percent, but the actual rate is now double this figure. And we understand the rate of increase projected by the Congressional Budget Office for 1981 is 8.1 percent.

In respect to our program, the CFNP, the total expenditures for 1979 were approximately $29 million. Since the overall rate of inflation for 1981 is expected to reach 8 percent, the CFNP would need $31.3 million in 1981 to maintain program activities at the 1979 level.

Question. I notice that you have removed training and technical assistance activities from the CFNP request while showing a CFNP category under your request for T. & T.A. funds.

How are you going to use the $1 million displayed in the budget?

I understand that CFNP training and technical assistance was $3.3 million in fiscal year 1979?

Who loses in fiscal 1980 and 1981?

Answer. There were no losers in 1980 in the sense that no one component of the CFNP was disproportionately affected by the budget cut, in relation to other components.

In respect to the $1 million request for T. & T.A. funds for 1981, this is a preliminary earmarking of a minimum amount for support activities. The Agency is now engaged in an in-depth assessment of the entire CFNP support structure at the national, regional, and State level to determine how to most economically integrate the elements of this structure with each other and with community projects. We do have some discrimination conferred by our statute to adjust the amounts allocated to the different CFNP categories. It is too early to predict what the results of our reappraisal will be or who will be losers and winners. No doubt some parts of the program will be negatively affected, but we will do our utmost to minimize this so that no vital component is crippled.

CDC VENTURE CAPITAL FUND

Senator BURDICK. How effective has your venture capital fund been in providing funds for ventures with the most potential for success?

Have you been able to fund all qualified venture programs submitted? And how has the venture success-failure rate changed since this strategy began?

Ms. OLIVAREZ. In answer to the second question first, we were not able to fund all of the requests for venture capital, because of the limited amount of the venture capital pool. And that is why we are requesting an additional $4 million in 1981.

In answering the first question, how successful has it been, we believe that it has been extremely successful. Today we do not have one single failure among the ventures that were funded in the past 2 years. I think in a sense that answers question number three, that it has been quite successful, so successful that we really feel that the demand for venture capital is so great that we must have a few more dollars in order to meet at least part of that demand.

As we move to place these CDC's in a position where they don't have to come to us any more for administrative money, the only way we can do it is to make sure that the venture capital and their investments are good.

Senator BURDICK. Do you think this program has proved its worth, then?

Ms. OLIVAREZ. Of all of the programs, I would say that this one, given the small amount of funds, $44 million this year and hopefully $48 million next year— when you measure what we have accomplished in terms of the creation of jobs in the private sector, has been extremely successful.

COMMUNITY DEVELOPMENT CORPORATIONS

Senator BURDICK. I think I'm going to have one more question, and then I will submit the rest to you in writing.

Have any of the CDC's reached the institutional performance category, and how long should it take for a CDC to reach the level where its Federal funding can begin to decrease and move it toward self-sufficiency?

Ms. OLIVAREZ. We expect to move two of the CDC's by the end of this fiscal year into the institutional level, and have programed three more for 1981. In terms of how long it takes to bring them to that level, barring unforeseen circumstances or circumstances beyond their control, it should take between 1 year and 18 months for them to conduct their 2 years of planning. They then move into the transitional stage and stay at that stage for another 2 years. We then move them into the operational stage, where they are really using venture capital. They stay there for approximately 3 years. Then we program them to move into the institutional level. So altogether I would say 5 to 6 years, with adequate funding and adequate supervision.

QUESTIONS SUBMITTED FOR RESPONSES

Senator BURDICK. I think that would complete the oral testimony. Thank you all very much, and we will have questions for you for the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question: The Overall Goal of Title VII - Community Economic Development is to reduce the economic gaps between designated target areas and the surrounding community. Is this being accomplished? How does CSA measure a Community Development Corporations' impact in the Special Impact Area?

Answer: Low-income urban and rural communities are where positive economic development does not happen. Not only do they suffer from the problem of insufficient capital and skilled labor, but also experience disproportionately higher rates of unemployment, health problems, and crime than do middle and upper income communities. For example, the unemployment rate among black teenagers in Harlem is close to 90 per cent, almost four times the jobless rate for white teenagers in suburban areas.

The objectives of community economic development are the elimination of these differentials, and, as the legislation states, the establishment of permanent economic and social benefits for the residents of these communities. It is a long term, comprehensive process which requires substantial levels of public and private investment. Further, it is a process over which local residents develop increasing control to insure long lasting change. It is a process in which community institutions like CDCs, credit unions, and cooperatives are expected to work to create changes which benefit the residents of the community.

There are three primary points in understanding the process. First, the process of community economic development (CED) requires a long-term time frame. We know that CED takes many years, although the precise number depends upon the community, its history, economic resources and conditions, geographic setting, institutions, and the effects of the national economy. We know that communities move through cycles or phases, such as disinvestment or gentrification and that the process of development involves stages as well. But we need to know more about the causes of underdevelopment, as well as the dimensions of the process of correcting them: for example, the key factors responsible for growth or decline; whether there is a "critical mass" point at which a community becomes self-supporting; whether there are "trigger effects" such as winning a large contract which can catapult a Special Impact Area (SIA) into a new phase of growth; how much community mobilization is necessary to arrest the process of deterioration; the role which public programs play as catalysts for change, and the specific mix of programs needed at particular points in the process.

Second, we know that community economic development requires resident participation, however, we need to know more about precisely how much control residents need over that aspects of the process (e.g. money, institutions) to move a community forward.

Third, we know that institutions play a central role in the CED process, that they act as change agents for both positive and negative purposes. We need to know more about which types of institutions and development strategies are more effective over time in achieving CED goals.

Overall, a successful CED process should include the following kinds of impacts:

1. The Special Impact Area should demonstrate quantitative and qualitative progress toward the improvement of the economic and human well-being of the residents, relative to the surrounding area.

2. The community should achieve a level of development which is positively self-sustaining.

3. The barriers to an effective CED process should be eliminated; e.g., lack of capital, good jobs, economic or social discrimination or political dependency.

More specifically, each goal area of the framework suggests a set of general standards for CED. These are examples:

1. Community Employment and Income

2. Community Capital and Resource Allocation

3. Social Development

4. Community Participation and Stability

Question: How are successful CDCs reqarded and unsuccessful CDCs: (1) assisted; (2) evaluated; and (3) analyzed for refunding?

Answer: All CDCs are classified according to their performance level. Once they are past the initial planning stage, they are classified as transitional, operational, or probationary. Transitional CDCs are those in their early years of development without an established track record of program implementation, or those older CDCs which have a number of administrative deficiencies or have failed to develop a range of viable ventures providing significant benefits to their communities. Operational CDCs have established a strong administrative and management base and a proven record of viable venture development and significant community impact. Probationary CDCs are those with such serious administrative, fiscal, or programmatic deficiencies as to warrant discontinuation of support unless dramatic improvement is accomplished.

Operational CDCs are rewarded by being funded for two-year periods, thus being granted greater leeway and flexibility in their administrative functioning. They are also provided at the time of refunding some unallocated venture capital in the form of a "working capital fund", which allows them to invest, without further OED approval, in the predevelopment costs of ventures, e.g. architectural and engineering fees, feasibility studies, options, etc. Since venture capital grants are awarded to all CDCs on a competitive basis, from a central Competitive Investment Capital Fund, successful CDCs which are able to develop and implement business ventures of larger scale or with greater frequency are rewarded with a larger share of investment capital grants.

Transitional CDCs are funded for only one-year periods, tend to be subject to closer administrative controls, receive no "working capital funds", and, by virture of their lesser capacity to develop ventures, receive a proportionately smaller share of investment capital grants.

Probationary CDCs are not eligible for investment capital grants, are subject to very substantial restrictions on their freedom of action, are funded (if at all) for shorter periods only sufficient to determine whether they have corrected deficiencies to a point where continued funding can be considered.

CDCs in the transitional category, and troubled CDCs in the probationary category, are provided a range of assistance, including direct assistance from OED staff, or technical assistance provided by OED's support grant organizations or national contractors. This assistance can range from training of boards and staffs to organizational and institutional development to recruitment of staff to establishment of management systems to development of business or physical development ventures. CDCs in the probationary category receive very close supervision and assistance from their OED project managers, who are usually senior staff.

All CDCs (including the successful ones) are evaluated through a variety of mechanisms. All CDCs are required to contract for a third party evaluation of their board of directors and their executive directors. This requirement is imposed by special conditions on all OED grants. Secondly, the refunding process in OED provides for several evaluative and analytical stages with built-in checks and balances insuring multiple inputs.

Six months prior to a projected refunding, the Program Monitoring and Review Division of OED conducts a field assessment of the CDC, including its administrative and fiscal management, its personnel procedures, its compliance with CSA regulations and grant conditions, and its progress in comparison to the goals and objectives of the grant periods. This includes a full review of each CDC venture. This review is conducted by a division which has no responsibility for the day to day management of the CDC's grant or for the refunding process, and is thus an independent assessment. The report of this review provides the basis for the ultimate funding guidance sent the CDC, and is reviewed by OED's Senior Council, a committee consisting of the OED supervisory staff, of which the divivion chief responsible for managing the CDC is only one member. Following submission of the CDC's refunding application, a second field review is conducted, this time by the project manager and other OED staff. Again the Senior Council reviews the findings and determines the parameters for the refunding, the proper classification of the CDC (which can be changed up or down, depending on the results of the review), budget levels, and goals and objectives. Finally, a CSA Project Review Board, a committee of representatives of all Headquarters CSA offices, reviews the proposed refunding and makes recommendations to the Director of CSA independent of the funding office, OED.

In all these evaluative and analytical processes and stages, the basic standards against which CDCs are measured, are its administrative and management capacity, its compliance with regulations and conditions, and, most important, its ability to meet the goals and objectives of the grant period. These goals and objectives are, in turn, cast in terms of measurable impact upon the community being served: jobs created or preserved, profits and income produced, outside dollars leveraged, housing units or rehabilitated, businesses assisted, community services rendered, etc.

Contributing to this evaluative and analytic process is OED's management information system, now operational. CDCs report quarterly, providing a variety of narrative, financial, and non-financial data. All CDCs and all CDC ventures are audited annually. These reports and audits provide valuable bases for evaluating CDCs and making refunding decisions.

Question: Please provide a list of all CDC's funded in fiscal 1978, 1979 or the current year which were initially funded in fiscal 1975 or earlier. Provide yearly funding amounts and a target date for each to attain self-sufficiency from federal funding.

Answer: CDC's FUNDED IN FY 75 & EARLIER

GRANTEE	FY 78	FY 79	Proj. Admin. FY 80*	Projected Date** Self-Sufficiency
Bedford-Stuyvesant	---	8,828	---	---
Bronx Venture Corp.	---	492	---	---
Chicanos Por la Causa	1,823	1,230	938	---
CDC Kansas City	703	1,114	347	---
Denver CDC	2,368	642	866	---
East Boston CDC	---	71	422	---
East Los Angeles Comm Union	4,771	2,572	1,458	---
Greater Roxbury Dev. Corp.	463	1,078	---	---
Harlem Commonwealth Council	9,478	1,866	1,479	---
Hough Area Dev. Corp.	---	746	---	---
Mexican-Amer. Unity Council	1,595	538	431	---
Pyramidwest Dev. Corp.	---	75	485	---
San Juan CDC	---	79	373	---
Union Sarah Econ. Dev. Corp.	923	682	313	---
CEDC of Alaska	3,000	1,850	2,913	---
Delta Foundation	2,272	2,316	1,429	---
Dineh Cooperatives	---	---	288	---
Impact Seven, Inc.	---	1,528	---	---
Kentucky Highlands Invest. Corp.	---	2,101	---	---
Lokahi-Pacific Corp.	---	475	380	---
Lummi Indian Tribal Enterprise	2,791	42	707	---
Midwest Minnesota CDC	---	409	327	---
Natchitoches EDC	---	---	---	---
Northern Comm. Invest. Corp.	1,989	448	552	---
Seminole Empl. & Econ. Dev.	61	995	358	---
Siete del Norte CDC	---	---	387	---
Southwest Va. Comm. Dev. Fund	---	300	414	---
Tenco Developments Inc.	999	1,220	662	---
Tri-Island Econ. Dev. Council	667	---	350	---
West Side Planning Group, Inc.	434	114	---	---

* FY 80 amounts are projected for CDC administrative needs only. Venture fund needs cannot be projected in that these funds are awarded from our Investment Capital Fund on a project by project basis as needed by the CDC's.

** In 1979 progress was made in the effort to move the CDCs toward a state of self-sufficiency. In particular two (2) of our more advanced CDCs began a phase-down of CSA supported overhead costs. Targeted dates for self-sufficiency for those CDCs listed above cannot be projected in that the growth and development of individual

CDC programs are subject to many variables and are not subject to predictability. CSA, however, will continue its policy of encouraging and assisting CDCs to develop to the point of administrative independence.

Question: How are (CDC) boards evaluated? How frequently? What does CSA do to emphasize the fact that they are ones ultimately responsible for the CDCs success or failure?

Answer: Each grant awarded to a CDC by the Office of Economic Development (OED) requires that CDC boards of directors be evaluated once during the period of the grant. The requirement, which is a condition of the grant, calls for the evaluation to be performed by an independent third party. In addition, the OED reviews the effectiveness of CDC boards at least twice during each grant period, looking for factors that indicate (a) that the CDC board knows its fiduciary responsibilities, (b) that there is effective and broad representation of both the low-income residents of the CDC's impact area and the business and financial community on the board, (c) that board members are well informed by staff about the CDC's developmental activities, (d) that the board utilizes a systematic review and decision-making process in its operations and (e) that democratic procedures are followed in the conduct of CDC business.

The CDC boards are made aware by CSA that they are ultimately responsible for the success or failure of their corporation and its programs through several CSA-generated documents, sent to each board member personally, that analyze each grant period's goals with an assessment of how completely they have achieved those goals. Further, the responsible program manager and division chief are in frequent contact with the chairperson of boards to discuss problems as part of an on-going dialogue with the funding office. In addition, CDC boards are made aware through their board training sessions that, (a) they are the responsible legal entity in the CDC grant, (b) they must be familiar with their CDC's funding period goals and venture portfolio and must provide the corporation policy guidance concerning them, and (c) as representatives of the interests of low-income residents of the impact area, they must attempt to guide the CDC into community economic development programs that will result in improving the capital base as well as the employment conditions of their impact area. Finally, it is a requirement of the funding office that all requests for continued funding or venture investments must include a formal resolution that indicates the board of directors has reviewed and approved the CDC's requests for such assistance.

Question: What training is provided or made available to board members?

Answer: Each grant made to a CDC includes a budgeted amount of funds to provide a CDC with between three and 15 days of training, per grant period depending upon the sophistication and needs of the CDC. Accompanying the specification of funds is a condition, placed by the funding office on each grant, that requires each CDC to assess its training needs, develop a training plan and conduct sessions during the grant period.

To encourage the CDCs in this training effort, a cadre of competent trainers has been identified whom the CDC's can utilize for their

training program.

Question: How do board members obtain information on successful CDCs so that they may put this information to use in their Special Impact Area?

Answer: The funding office has developed a network of support grantees who provide exhaustive case studies of successful CDC community and economic development activities and analyses of other government programs that could provide help to CDCs. Their work is routinely made available to all CDC boards of directors and staff. In addition, most of the training of boards is conducted by trainers who are familiar with a number of CDCs and are able to share the ingredients of successful activities as part of their training activities.

The funding office also holds meetings with regional groupings of CDCs on a regular basis; these are attended by board members. Problems and achievements are discussed--both formally and informally--thus providing board members with information and insights into developmental activities throughout the CDC program.

MIGRANT AND SEASONAL FARMWORKERS

Question: What specific functions are performed to assist migrant and seasonal farmworkers by the Farmworker Program Office - a new desk established at the CSA Headquarters during fiscal 1978-79.

Answer: The Farmworker Program Office is currently staffed by one full-time, permanent staff person, one full-time temporary staff person and a secretary. These staff administer and monitor demonstration projects formally funded under Title IV, (categorical programs) for approximately five million migrant and seasonal farmworkers and their dependents.

Question: What measures are being taken by CSA to implement the findings and recommendations produced by migrant and farmworker research and demonstration pilot projects?

Answer: A) WIC Program Migrant Demonstration Project coordinated with USDA:

CSA cooperated with USDA in an effort to develop innovations in the WIC program that would reduce the barriers encountered by farmworkers in their efforts to participate in the program due to their transient life style. CSA provided funds to assist USDA run a pilot project and evaluate its effectiveness. As a result of this initial effort, USDA plans to continue utilizing and expanding some of the activities of the pilot project. CSA, through its farmworker grantee network will monitor these activities closely and provide guidance to USDA for improvements.

B) Communications Program grant awarded to Rural New York Farmworker Opportunities, Inc. coordinated with the Department of Labor:

This project is currently in operation and has successfully developed a comprehensive mailing list of more than 4,000 farmworker home base addresses. The grantee did an initial mailing that included a map of New York State pointing out areas where there were job openings, the number of openings, and the average wages paid in each area, as well

as list of Employment Services where more information could be obtained. In addition the project has used other types of media including news letter, radio and television. Advocacy in the form of monitoring employment issues, such as unemployment insurance and pesticide usage is an integral part of the project. CSA plans to monitor the effectiveness of this program closely and continue a dialogue with the grantee and Department of Labor to evaluate its effectiveness and determine future inter-agency support.

Question: What evaluation procedures are followed by CSA's Farmworker Office or by any other bureau at CSA responsible for administering and evaluating project grants?

Answer: CSA's Farmworker Program Office has several means of evaluating project grants. A Program Progress Review reporting form is submitted quarterly to the project manager. It contains both quantitative and qualitative information on the progress of the grant. In addition, quarterly fiscal reports are submitted to the grantee's respective regional office. The staff of the Farmworker Program Office make at least one site visit per year to grantees as time and funds permit.

Question: Are you still funding these research and demonstration programs?

Answer: The contract with USDA has been completed. The grant to Rural New York is currently in force as are several other farmworker program demonstration grants.

Question: How do you maintain close contact with state and local community agencies and farmworker organizations which implement programs for farmworkers with only three staff persons?

Answer: Because of the staff size of the Farmworker Program Office, CSA utilizes the conduit system of grantees to gather and disseminate information. Further, CSA acts as a catalyst in the coordination of communication, and depends on its extensive network of grantees, CAAs and SEOOs.

Question: Please describe how you monitor these programs.

Answer: Monitoring of these programs is done through periodic site-visits, financial reporting, and quarterly progress reports.

Question: What problems has this office faced in monitoring and evaluating the delivery of services provided by its local service agency or grantees? What improvements, if any, have been proposed?

Answer: The major problem has been limitations on staff time.

Question: Of the 1979 CFNP projects funded exclusively to serve migrant and seasonal farmworkers in fiscal 1980, how many will be funded in FY 1981? Approximately how many persons will be affected by this budget cut?

Answer: We are anticipating funding the same number of Farmworker CFNP conduits as last year. They, in turn, will make program adjustments within their own delivery system among their delegate agencies based on the new funding level.

Question: Under Title IX of the Economic Opportunity Amendments of 1978, CSA has the authority to monitor other Federal programs which impact on the needs of the poor. What efforts if any does CSA plan to make in FY 1980 to evaluate USDA's food programs for farmworkers?

Answer: CSA will monitor and evaluate USDA's food programs through its Farmworker CFNP conduit system; they will receive technical assistance in their efforts by the National Association of Farmworker Organizations. In addition the staff of CSA Community Food and Nutrition Program and the Office of Farmworker Programs will continue the coordination effort begun by the WIC demonstration project.

SOUTHEASTERN ALASKA'S COMMUNITY ACTION PROGRAM (SEACAP)

Question: As of January 1, 1980, Southeastern Alaska's Community Action Program (SEACAP) fiscal year 1980 funding was terminated by the community action agency (Rural CAP). What assurances will the Community Services Administration offer to guarantee that Southeastern Community Action Programs will not be adversely affected by this termination in funding?

Answer: CSA has been assured by Rural CAP that "no substantive reduction in the overall capacity of local and regional organization to administer service to low-income persons" will result from the decision to terminate funding to SEACAP. One of the matters of continuing concern to CSA is equitable application of federal dollars in a community action agency's area of coverage. We will continue to monitor the situation closely to ensure that services to low-income persons are maintained at their present level of effort.

Question: Under Rural CAP, who will be providing the services to low-income people in Southeastern Alaska?

Answer: This has not been finally decided. CSA, Rural CAP, SEACAP and other interested parties are currently carrying out negotiations about this matter.

Question: Can SEACAP receive CSA funds independent from Rural CAP?

Answer: Yes. Section 221 (Local Initiative) funds can be received only if Rural CAP agrees to it. Section 221 of the Economic Opportunity Act of 1964, as amended, creates this very clear requirement.

CSA special emphasis program funds are 100 percent committed at this time and these funds would be inappropriate for general programs in any case.

Question: If CSA establishes a new CAA to serve the Anchorage municipality will the funding for this new program come from the CSA funds already committed to Alaska, or will it come from the increase requested for local initiative in fiscal year 1981?

Answer: Some of the funds will come from local initiative money currently provided to other grantees in Alaska. In addition, CSA made a small increase in fiscal year 1979 funds available last year and has earmarked part of the $18 million increase in fiscal year 1980 funds for expansion. We would not expect to spend any of the requested increase for fiscal year 1981 for this purpose.

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Question: What is the CSA intent for distribution of the requested local initiative increase to existing CAA's, who have not had an increase in their funding guidance for more than two years?

Answer: In fiscal year 1978, CSA distributed a $39 million increase in local initiative funds (up to $369 million from $330 million). This was the first increase in seven years. All CAAs which had maintained minimum eligibility received part of this increase.

In fiscal year 1979, President Carter requested an additional $12 million increase to bolster the administrative capacity of small CAAs. Congress did not act on this request as CSA was included in the Labor-HEW continuting resolution.

In fiscal year 1980, CSA received an $18 million increase. The increase was provided for two purposes: to increase basic capacity for small CAAs and to extend CAA coverage into uncovered poor counties. Nothing in either the Administration's request or in the appropriation legislative history suggest any intent that CSA should apply increases to local programs simply because they had not had an increase for two or more years.

ALASKA VILLAGE ELECTRIC COOPERATIVE

Question: What were the reasons and what steps were taken in CSA's decision to terminate funding of the Alaska Village Electric Cooperative?

Answer: CSA has notified AVEC of its intent to deny refunding this year. The principal reason for this action was that AVEC was funded as a short term demonstration project in 1968. CSA has more than completed its initial commitment to this project and now needs the local initiative funds for CAA activities in other Alaska communities. CSA will work with AVEC to find alternative sources of funds.

POVERTY GUIDELINES PERTAINING TO ALASKA

Question: What steps is CSA taking to insure that the Administration promulgates poverty guidelines which reasonably address the economic realities in high-cost areas such as Alaska?

Answer: OMB annually promulgates poverty income guidelines applicable to farm and non-farm households in the continental United States. For Alaska and Hawaii, OMB applies scaling factors of 1.25 and 1.15, respectively, to the continental U.S. guidelines and rounds the resulting figures to multiples of ten. CSA has on several occasions recommended higher scaling factors for both Alaska and Hawaii, to reflect increasing cost differentials. CSA intends to continue its efforts to evaluate the need for further adjustments and make appropriate recommendations to resolve any inequities.

1982 REAUTHORIZATION

Question: What is the status of the 1982 reauthorization and how have you involved CSA grantees in the process?

Answer: The CSA reauthorization package, which includes amendments to Titles I, II, III, IV, VI, VII, and IX of the Economic Oppor-

tunity Act, was formally submitted to the Office of Management and Budget on December 20, 1979. Presently, discussions are taking place between OMB and CSA on the merits of the individual amendments. The Administration expects to transmit a bill to Congress no later than May 15, 1980.

CSA initiated its reauthorization process on April 20, 1979, by disseminating a memorandum to the field -- Regional Directors, State Economic Opportunity Office Directors, State Community Action Agency Associations, and Community Development Corporation Directors -- requesting input into Headquarters. A follow-up memorandum was sent to Regional Directors asking them to solicit suggestions from their community action agencies. The overall response at the time was large and enthusiastic, and interest has remained high to this day. CSA's reauthorization process has been a cooperative effort characterized by a continuing dialogue between field and Headquarters.

During the summer of 1979, CSA gathered and discussed the various ideas for amendments -- those which were received from the field and those which were developed in-house. Several draft bills were prepared to elicit constructive criticism. A detailed section-by-section analysis was prepared to explain the prepared amendments; this too was circulated for comment. The Agency received additional amendment suggestions throughout the fall months. Every amendment idea that was received, whether at this time or earlier, was subjected to intense scrutiny as to substantive content, legal effect, and procedural appropriateness (i.e., whether it should properly be an amendment or a regulation). On December 12, 1979, following a number of preliminary reviews, the Director, Deputy Director, Assistant Directors, and Associate Directors of CSA approved a reauthorization package for submission to OMB.

MIGRANT AND SEASONAL FARMWORKERS

Question: What kind of accountability does CSA maintain over money going to migrant organizations? How many audits have you conducted on migrant programs?

Answer: We require the grantees to submit quarterly fiscal reports, quarterly progress reports, and an independent audit on a yearly basis. As stated above audits are performed annually.

NATIONAL CENTER FOR APPROPRIATE TECHNOLOGY

Question: The budget request shows no funding for the functions of the National Center for Appropriate Technology. What is the plan to continue this important function?

Answer: We have just approved a $3.7 million grant for NCAT that will carry it through its present program year ending September 30, 1980. We feel that NCAT is fulfilling a vital function in providing CAAs and other low income community groups with technical and financial support for the development and implementation of technologies that are appropriate to the needs and the problems of the poor, and that can significantly improve their lives and living environments. We have instructed NCAT to develop a resource mobilization plan that will seek to develop other, non-CSA sources of funding in the future.

RAILROAD RETIREMENT BOARD

STATEMENT OF WILLIAM P. ADAMS, CHAIRMAN

ACCOMPANIED BY:
CHARLES J. CHAMBERLAIN, LABOR MEMBER
KENNETH P. BOEHNE, DIRECTOR, BUREAU OF MANAGEMENT CONTROL
JOHN S. SUKER, DIRECTOR, BUREAU OF BUDGET AND FISCAL OPERATIONS

Senator BURDICK. The U.S. Railroad Retirement Board will be next. But we have a vote now.

[A brief recess was taken.]

Senator BURDICK. We will now hear from Mr. William P. Adams, Chairman of the Railroad Retirement Board. Welcome, Mr. Adams, to the subcommittee, and will you introduce your colleagues.

INTRODUCTION OF ASSOCIATES

Mr. ADAMS. Thank you, Mr. Chairman.

On my right is Charles Chamberlain, Labor Member of the Board. On my left is Mr. Ken Boehne, the Director of Management Control for the Board. To his left is Mr. John Suker, our Director of Budget and Fiscal Operations.

PREPARED STATEMENTS

Senator, with your permission, we have two separate statements. One concerns our 1981 budget and the second is a supplemental request because of newly enacted legislation last November. I would like to submit both of them for the record.

Senator BURDICK. Both of them will be received in full, without objection.

[The statements follow:]

STATEMENTS OF WILLIAM P. ADAMS

Mr. Chairman and Members of the Committee, before discussing the specifics of our 1981 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 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, and was reappointed on October 20, 1978, for a term beginning August 29, 1978. The present labor member was appointed on October 10, 1977, and was reappointed on July 27, 1979, for a term beginning August 29, 1979. 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 approve 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 the 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 2000 to phase out the cost of this higher return. Public Law 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 conducted in 1976 indicated that the level appropriation starting with fiscal 1977 should have been $350 million. Since only $250 million was appropriated for fiscal years 1977 and 1978, the $350 million was 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 years 1979 and 1980 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 proposed legislation was not introduced.

The fourteenth actuarial valuation conducted in 1979 indicated that the amount of the general fund appropriation on a level basis should be increased to $500 million. The 1981 request is for $350 million because the Administration is proposing legislation to place a $350 million cap on this appropriation.

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 ex-

penses. 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 1981. As of the close of fiscal year 1979, reimbursements to Conrail and acquiring railroads totaled $222,527,399. As of February 12, 1980, there was $1,500,000 in the Account to pay $1,700,000 in claims. Claims against the Account are paid in the order of their receipt. This will fully exhaust the original $250 million authorization.

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 1980, the regular limitation on salaries and expenses under P. L. 96-123 is $39,730,000, which is the amount in the Departments of Labor, and Health and Education, and Welfare and Related Agencies Appropriation Act, 1980, H. R. 4389. The Railroad Retirement Board is absorbing the full amount of the 7% civilian pay raise effective October 1979. The absorption was achieved by using reductions in travel costs and rent and maintenance to offset the cost of the pay raise. Accordingly, the Board has not requested a pay act supplemental for 1980.

For fiscal year 1981, the budget request contains $37,223,000 as the Limitation on Salaries and Expenses. In fiscal year 1981, our objectives are to improve the timeliness and accuracy in the payment of benefits; reduce special backlogs; continue to expand our EDP operations to introduce new programs; and to implement the results from our quality control project which is being conducted in 1979 and 1980. During fiscal 1981, we expect to process 94,000 employee age and disability, spouse and survivor applications, 22,000 supplemental annuity and Medicare applications and 24,000 social security certifications. In addition, we expect to service 985,000 beneficiaries and pay benefits amounting to $5.2 billion.

Mr. Chairman, that concludes my opening statement. We would be pleased to respond to any questions you and the members of the Committee have.

Introduction

Mr. Chairman and members of the Committee, I am William P. Adams, Chairman of the Railroad Retirement Board. I am here to present the request for the administrative expense funds needed by the Board to carry out its responsibilities under the Milwaukee Railroad Restructuring Act. (P.L. 96-101)

This Act provides certain monetary benefits to employees adversely affected by the restructuring of the Milwaukee Railroad. The benefits are supplementary unemployment insurance and new career training assistance.

The Railroad Retirement Board is involved in the administration of the payment of these benefits, in preparing and maintaining certain employment listings, in preparing certain publications and reports, and in the resolution of disputes under an employee protection agreement entered into among the Milwaukee Railroad and several labor organizations pursuant to section 9(b) of the Act.

At the outset, it should be pointed out that the Board is requesting solely the administrative expenses which it will incur between fiscal years 1980 and 1984. The Department of Transportation is requesting appropriation of the benefit amounts for supplementary unemployment insurance and new career training assistance.

There are five areas in which the Board is involved under the Act.

Supplementary Unemployment Insurance

Supplementary unemployment insurance is payable to Milwaukee Road employees (1) who are employed by the restructured Milwaukee Road and are separated from that employment because of a reduction in service occurring before April 1, 1984, or (2) who are separated from Milwaukee Road employment because of a restructuring transaction, and obtain employment before April 1, 1981 with another rail carrier, and then are separated from that employer before April 1, 1984.

New Career Training Assistance

An employee who has received a separation allowance from the Milwaukee Road under an employee-protection agreement entered into under section 9 of the Milwaukee Railroad Restructuring Act may also be entitled to new career training assistance. If an employee is eligible for new career training assistance, he may receive reimbursement for the actual expenses involved in training up to a limit of $3,000.00. Actual expenses include the amount paid for tuition, room, board, fees and educational material.

Employment Listings

The Board must prepare and maintain two employment listings through December 31, 1984. The first listing will contain the names of any separated Milwaukee Road employee who asks to be included and will be distributed by the Board to all rail carriers upon request. The second listing will contain employment opportunities, by class and craft, currently available with rail carriers. This listing will be based on information submitted to the Board by rail carriers and will be made available to separated employees who are seeking employment.

Publications and Reports

Under the Act, the Board is required to publish a document describing the rights of employees under various sections of the law and to submit four reports to the Congress describing its activities thereunder.

The Employer-Employee Agreement Signed Pursuant to Section 9(b)

The Milwaukee Road and several labor organizations signed an agreement under the provisions of section 9(b) of the Act. This agreement covers such matters as: Interim employee assistance, moving expenses, employee incentive compensation, and separation allowances.

The Board's role is to settle disputes between the employee and the Milwaukee Road which arise under the Employee Protection Agreement. The Board is to arrange a meeting of the employee and a representative of the Milwaukee Road, and, at the option of the Board, a representative of the Board. If the dispute is not resolved, it may be submitted to the Board. The Board will resolve disputes involving the computation of amounts due employees under the agreement. Other disputes will be submitted by the Board to arbitrators or appraisers for settlement.

Basis for the 1980 Supplemental Request

The Board is requesting appropriation of the full $750,000 authorized for administrative expenses for the life of the program. There are several reasons for this request:

1. the final shape and size of the Milwaukee Road is not now known;
2. the number of employees eventually eligible for and claiming benefits is currently unknown, and cannot now be forecast;
3. the number of disputes under the employer-employee agreement, especially those involving the appraisal of real estate is unknown, and cannot be forecast.

Mr. Chairman, that concludes my opening statement. We would be pleased to respond to any questions you and the members of the Committee have.

WINDFALL REQUEST

Mr. ADAMS. If you would prefer to go right into the questions, I would be happy to do that.

Senator BURDICK. Do you have an opening statement? Well, we will submit that opening statement.

The 13th valuation showed a windfall appropriation of $350 million. The 14th shows $500 million. Explain the differences.

Mr. ADAMS. Senator, the $350 million came out in the 13th valuation, which corrected the original estimate of $250 million. The 14th valuation is now at $500 million.

The increase in the windfall has occurred in part due to more people being eligible for a windfall than we ever thought would be eligible. Also, the cost-of-living increases apply to these benefits prior to the time that they are actually paid, at which time they are frozen. The tremendous cost-of-living increases have escalated these benefits. These are two of the reasons for the increase.

Senator BURDICK. The administration has proposed eliminating all future cost-of-living increases in windfall benefits, and also eliminating the use of minimum primary insurance amounts in calculating a windfall. What effect would this change have on the appropriation, and what is the status of this proposal?

Mr. ADAMS. The status of that proposal right now is that the administration is backing away from it. They proposed it in the 95th Congress originally. It would have saved approximately $50 million a year. That was a proposal made prior to our 14th valuation. The administration will propose new legislation this year, referred to in the budget submitted by the President, to put a cap of $350 million on the windfall appropriation regardless of what the valuations say in the future.

Senator BURDICK. What effect would this have on the fund?

Mr. ADAMS. It will cause a considerable shortfall in the fund over the term of the repayment. By 1985, the shortfall would amount to about $1.1 billion. By the time it should have been paid out in the year 2000, it would be about $5.9 billion, roughly $6 billion that we would be short in the cost of paying out windfall benefits.

The bottom line is that it would accelerate depletion of the fund, increase the actuarial deficiency, and impose on the fund payment of benefits for social security-covered service that the Congress, by virtually unanimous vote in 1974, decided is not properly chargeable to the fund.

BUDGET REQUEST

Senator BURDICK. Well, what is your view? Is $350 million enough or should we reconsider that? It's not enough, obviously, because you're going to be $5 billion short.

Mr. ADAMS. That's right. Perhaps I should yield to my labor colleague on the Board. As the public member, I must support the administration's request to impose the $350 million ceiling.

Mr. CHAMBERLAIN. Mr. Chairman, we have already experienced a shortfall in the windfall appropriation, and actually the difference between $350 million and $500 million is another $150 million, and if you project that over a period of time certainly something must be done.

Now, labor has a bill before the House, 5144, that is proposing that the windfall appropriation be placed on a pay as you go basis, which would have the effect of reducing the initial amounts extending beyond the year 2000. But from labor's standpoint that is a sensible approach. In other words, you pay out over a longer period of time, but still fulfill the commitment that was made.

WINDFALL AUTHORIZATION

Senator BURDICK. Where do we stand with the authorizing legislation on this? Is there anything pending?

Mr. ADAMS. No; the authorization on this was in the 1974 legislation, and the authorization was to authorize to be appropriated such sums as may be necessary to pay the costs of windfall benefits on a level basis for the fiscal years 1976 through the year 2000, a 25-year level payment plan. The Board was told in the legislation to determine, every 3 years, as part of your triennial actuarial valuation the amount necessary to pay for windfall benefits. We think it is $250 million. Two years later we said that it should have been $350 million

We now say it should be $500 million to pay out by the year 2000 on a level payment basis. And the Board was told to take another look at it every 3 years.

Senator BURDICK. And this is one of those looks?

Mr. ADAMS. Yes.

Senator BURDICK. So there's no question about the authorization? That goes to the year 2000?

Mr. ADAMS. That's right.

CASH FLOW PROBLEM

Senator BURDICK. In your prior testimony, and I guess your testimony here today, you indicated there would be a serious cash flow problem in the mid-1980's. Is that still a valid assumption?

Mr. ADAMS. Yes, sir; as a matter of fact, when the administration's most recent economic assumptions came out in December, our actuary, using those assumptions in projecting the condition of our fund, projected a negative account balance as early as May of 1983. Then from the financial interchange that occurs in June of that year the fund would be positive for a short period, but by the end of that year it would go negative again.

The administration has also proposed another bill which has not been introduced, but which is similar to the bill which Mr. Chamberlain referred to, H.R. 5144, which is a labor-sponsored bill to deal with the deficit condition in the fund. This is separate and apart, of course, from the windfall. The administration proposal dealt only with the 4-percent actuarial deficit and basically said, we would like to increase taxes 2 percent and to prospectively decrease benefits by 2 percent to solve the deficit.

Hopefully, the deficit of last year also encouraged both labor and management to negotiate and resolve these issues, and propose legislation to solve it.

Senator BURDICK. This appears to be a problem.

Mr. ADAMS. Yes, sir; I will say that negotiations have been undertaken to resolve the issues, and as I understand it, they will be continuing.

Senator BURDICK. There are many changes since I came on the Labor Subcommittee 18 or 20 years ago.

QUESTIONS SUBMITTED FOR RESPONSES

Well, gentlemen, I have another vote on. But anyway, the balance of the questions will be submitted to you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

RAILROAD RETIREMENT ACCOUNT

STEPS TO BALANCE FUND

Question: At present more funds are being paid out of the railroad retirement account than contributions to the fund. What steps are being taken to put the fund in balance?

Answer: A draft bill, supported by the Administration, has been transmitted to the Congress but has not been introduced. Benefit cost savings would be achieved by changing certain benefit computational provisions of the Railroad Retirement Act to conform with related provisions of the Social Security Act. Further benefit cost savings would be realized by other computational changes and by eliminating full-time student benefits. Additional revenues would be produced by changing the tax base from a monthly to an annual base and by levying part of the employer tax on the gross amount of compensation paid to railroad employees. The Administration's bill assumes no other substantive changes in existing law, including no change in the tier II cost-of-living provisions which expire in 1980.

H.R. 5144, a bill supported by railroad labor, has been introduced in the House and hearings have been scheduled. The bill would levy on employers an automatically adjusting tax scale geared to the balance in the Railroad Retirement Account. It would reduce the time lapse in transferring funds under the financial interchange with the social security system. It would also provide automatic appropriations for monthly "pay-as-you-go" financing of windfall benefits. The computation of one of the tiers of a railroad retirement annuity is simplified by the bill. Several provisions would produce benefit cost savings as a result of changes in certain technical aspects of benefit computations.

Railroad management strongly supports many provisions of H.R. 5144 but strongly opposes others. Management and labor will continue their efforts to negotiate a legislative proposal that both can support. The administration has invited proposals negotiated by labor and management to solve the financial problem of the system.

REGIONAL RAIL PROTECTIVE ACCOUNT (CONRAIL)

PURPOSE OF DEFERRAL

Question: You have asked to defer $1 million in the Regional Rail Protective Account. What is the purpose of this deferral?

Answer: We requested the deferral of $1 million to protect against over-spending. The purpose of the deferral was to allow for any retroactive adjustments that a closing audit might require, while limiting expenditures to the $250 million appropriated.

Our Bureau of Management Control performed a comprehensive audit of the cumulative expenditures from the account. Subsequently we requested and received authority to disburse the deferral amount of $1 million.

ACCOUNT DEPLETED

Question: You state that the original $250 million in the account will be exhausted in the second quarter of fiscal year 1980. Have you depleted the account?

Answer: Yes. As of January 31, 1980 the balance in the account was $2,758,379.78. Payments in February 1980, depleted the account.

ARRANGEMENT FOR FUTURE BENEFIT PAYMENTS

Question: What provision has been made to reimburse CONRAIL and the acquiring railroads once the account is depleted? Who will pay the benefits?

Answer: CONRAIL and the acquiring railroads pay benefits to employees protected under title V of the Regional Rail Reorganization Act of 1973 and then claim reimbursement from the protective account. As we understand it, CONRAIL and the acquiring railroads are required to make the benefit payments, and are continuing to do so, although the account is depleted.

We are maintaining a register of certificates for reimbursement received after the account's depletion. If additional funds are made available to the protective account, the certificates will be reimbursed in the order we receive them. We have on hand, as of the close of business on February 29, 1980, 37 certificates for which reimbursement of $6,072,883.40 is claimed.

HEADQUARTERS RELOCATION

ESTIMATED MOVING DATE

Question: For several years, you have requested funds to relocate your headquarters in Chicago. How close are you to actually moving?

Answer: At the present time, we are not in a position to estimate how close the Board is to actually moving from its present location. The schedule for relocation, furnished by Mr. Freeman, Administrator of the General Services Administration, on September 18, 1979, calls for submitting the draft propectus for acquisition of leased space to the Office of the Management and Budget by November 1979. The schedule further calls for OMB approval to be obtained by January 1980, and for the prospectus to be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House by February 1980.

We understand that the General Services Administation did not approve the prospectus and transmit it to OMB until February 29, 1980. Until the prospectus has been cleared by OMB, it is not possible to accurately estimate when we would be able to relocate. Accordingly, the occupancy of leased space for the Railroad Retirement Board which was scheduled to take place in March 1981, is highly improbable.

FUNDS FOR RELOCATION

Question: Are there sufficient funds in your 1981 request to move if suitable space is acquired?

Answer: The funds for the costs of the physical move of headquarters are in our 1980 appropriation, not the 1981 request. Funds for additional rent and maintenance costs are included in our 1981 request.

If the 1980 funds are not obligated by September 30, 1980, they will lapse. In that event, the Board will have to request a supplemental appropriation for fiscal year 1981.

TRAVEL

OMB ALLOCATED DECREASE

Question: The continuing resolution, (Public Law 96-86) provided that OMB allocate a decrease in travel in fiscal year 1980. Has a reduction been made by OMB?

Answer: Yes. OMB did allocate a decrease in travel for the Railroad Retirement Board for fiscal year 1980.

AMOUNT OF OMB REDUCTION

Question: How much was the reduction?

Answer: The reduction in travel for fiscal year 1980 amounts to $219,000.

Source of funds	Amount of reduction	Percent of approved amount
Limitation on Railroad Unemployment and Sickness Insurance	-$118,000	-41.70
Limitation on Salaries and Expenses of Railroad Retirement Administration	-$101,000	-15.28
Total reduction	-$219,000	-22.03

ORIGINALLY APPROVED TRAVEL BUDGET

Question: What was the amount originally approved for 1980?

Answer: The originally approved amount for travel for fiscal year 1980 was $994,000.

Source of funds	Approved amount
Limitation on Railroad Unemployment and Sickness Insurance	$283,000
Limitation on Salaries and Expenses of Railroad Retirement Administration	661,000
Reimbursable	50,000
Total	$994,000

USE OF FIRST-CLASS AIR ACCOMMODATIONS

During fiscal year 1979, RRB employees used first-class accommodations on 35 trips. Of these, 26 were by the Board members, 2 by Board member aides and 7 by other RRB employees. According to GAO, the justification for such use by Board members and their aides was questionable. The justification by the others was not. The use of such accommodations has drawn criticism from both the Congress and the press -- most recently an article in the February, 1980 Reader's Digest.

In its response to the GAO report, the RRB stated that the Chief Executive Officer will hold the traveler responsible for all first-class air travel and ensure compliance with Federal travel regulations.

CONTROLS OVER BOARD MEMBER'S USE OF FIRST-CLASS TRAVEL

Question: Does this mean that the CEO must authorize and approve the use of firstclass accommodations by Board members and their staff? If not, how does the RRB plan to control use of first-class by Board members and their staff?

Answer: First-class travel by Board members and their staff is not subject to authorization and approval by the Chief Executive Officer. Each Board member is responsible for controlling his own and his staff's first-class travel in accordance with Federal travel regulations.

FIRST CLASS TRIPS IN FISCAL 1980

Question: How many trips using first-class air accommodations have been made by Board members, their staff and other Board employees during fiscal year 1980 to date? Who authorized and approved using first-class on each trip? What was the justification for use of first-class on each trip?

Answer: For the first 5 months of fiscal year 1980, only one first-class trip has been made. The labor member approved the use of first-class travel in this case because he was engaging in work en route and in the member's judgement, first-class travel for the purpose of doing the work contributed to the successful conduct of the Board's mission.

FISCAL YEAR 1981 TRAVEL BUDGET

According to the Director of Budget and Fiscal Operations the tentative fiscal year 1981 travel budget was also reduced to $775,000 by the OMB, thusly:

	Budget (minimum)	OMB cut
Railroad Retirement	$ 717,000	$560,000
Railroad Unemployment Insurance	244,000	165,000
Reimbursable	50,000	50,000
Total	$1,011,000	$775,000

(The following questions are predicated on a budget request of $775,000)

ADEQUACY OF TRAVEL REQUEST

Question: Is the amount requested in the fiscal year 1981 budget adequate to meet Board needs? If not, please explain.

Answer: The amount of $775,000 requested for travel in the Board's 1981 budget represents a level far below what we believe is necessary to properly administer the programs for which we are responsible. To stay within this amount, we will have to curtail what we consider essential program-related travel, such as personal contacts with beneficiaries, railroad employees, railroad employers, and annuitants. We may also have to reduce our travel plans for developing our Senior Executive Service candidates, our audits of field operations and possibly even our EEO program. Also, we will be required to curtail training and supervision of our field staff, which we consider essential because many such staff are relatively new to Board service.

TRAVEL NEEDS COMPARED TO 1979

Question: What action has the Board taken to enable its needing less for travel during fiscal year 1981 than it did in 1979?

Answer: Our need for travel funds for fiscal year 1981 is greater than what it was in 1979. We estimated that we would need considerably more than the $775,000 allowed by OMB. Not only are fares and subsistence costs rising, there is a growing need for program related travel. For example, more individuals are exercising their right to a hearing on initial claim determinations. This requires extensive travel by our appeals referees. If, as we expect, there is substantial revision of the Railroad Retirement Act, we shall need substantial retraining of field staff and this will entail much travel. Nonetheless, the Board is evaluating all aspects of its travel budget to see where cuts can be made in order to have the least disruptive effect on the programs which the Board is required by law to administer while complying with this limitation.

PLANS FOR REPROGRAMMING REQUEST

Question: Is this budget going to be a repeat of 1979 where your budget was $589,000 and you spent $797,000? Are you anticipating requesting an allocation of funds from other object classes toward the end of the fiscal year?

Answer: We do not anticipate requesting a reprogramming of funds to meet travel expenditures this fiscal year.

TRAVEL BUDGET SUPPORT

Question: Why does the Board budget vary so much from year to year, i.e., $589,000 in fiscal year 1979, $994,000 in fiscal year 1980 and now $775,000 in 1981? Is the budget prepared by the Board lacking in support resulting in substantial revision by OMB?

Answer: The variance is essentially the result of reductions made by OMB. OMB officials have not provided a rationale for these cuts, other than a general statement regarding the need to reduce travel by government employees. However, OMB and the Board hold quite different views of the need for personal service in the field to our more than one million beneficiaries, and undoubtedly this difference of opinion is at the root of the difference in estimates of our travel needs.

RRB RESPONSE TO THE GAO REPORT

In its response to the GAO report the Board stated that it has been aware of current travel regulations, specifically concerning first-class air travel, use of economical air travel such as excursion fares, use of GSA vehicles and authorized per diem rates. It agrees to take action to correct the deficiencies surfaced by GAO. The Chief Executive Officer (CEO) is to play a more active role in controlling costs. However, travel costs in the CEO's office have increased thusly:

FY 1976	$4,674
FY 1977	4,036
FY 1978	8,535
FY 1979	8,667**

** (budgeted $6,000)

ENFORCEMENT OF TRAVEL REGULATIONS ON ECOMOMY

Question: In the response to the GAO report the Board states that it was aware of current travel regulations stressing economy. Since this is the case, why weren't they enforced?

Answer: The Board has enforced Federal travel regulations which stress economy. The Board members did not understand the regulations as prohibiting first-class air travel. As former high-level management and labor executives, all three had been accustomed to travelling first-class in order to perform work en route, and they understood the regulations as permitting their continuing to do this as members of the Railroad Retirement Board. The added cost to the fund for using first class travel in 1979 totaled about $1000. This fiscal year, we have made only one trip via first class. The additional cost was $68.00. Trips are planned with the assistance of the Scheduled Airline Ticket Office (SATO). SATO takes advantage of bargain and excursion fares when feasible.

CONTROL OVER CHIEF EXECUTIVE OFFICER'S TRAVEL

Question: The Board's response to the GAO report envisions a strong role by the Chief Executive Officer (CEO) to control costs. Yet, his office experienced substantial increase in travel costs and greatly exceeded its fiscal year 1979 budget. What actions does the CEO plan to get better control over costs in his office?

Answer: During fiscal year 1979, the CEO's office assumed additional functions which increased its use of travel funds. We added a deputy for field operations whose specific duty is to oversee the activities of our 99 field offices, and we increased our EEO activities. The CEO will personally control travel of members of his office.

CHIEF EXECUTIVE OFFICER'S ROLE IN CONTROLLING TRAVEL

Question: Will the CEO take on additional functions or will they be delegated to an administrative officer?

Answer: The CEO is taking an active role in monitoring the use of travel funds by all bureau heads. Obviously, he does not get involved personally in every aspect of travel administration. We established last year an assistant CEO for administration, whose duties include monitoring travel.

INTERNAL REVIEW

AUDITS OF TRAVEL

Question: How many reviews has your internal review group done of RRB travel during the last 3 fiscal years? What conclusions were drawn and what recommendations were made as a result of these reviews?

Answer: The internal review group did not review travel procedures and practices during the last 3 years. Instead, it has attempted to direct its efforts to areas with significant paybacks. For instance, it performed a review of the Board's $3 billion investment portfolio. This review was a contributing factor to the Board significantly increasing its return on investments.

TRAVEL VOUCHER EXAMINATIONS

Question: When was the last time your internal review group audited travel vouchers submitted by Board members? Board members aides? Office and Bureau Chiefs? What were the findings and recommendations?

Answer: The internal review group has performed no such reviews in at least the last 15 years. However, each voucher submitted is scrutinized for compliance with travel regulations by voucher examination specialists in the Bureau of Budget and Fiscal Operations. They are responsible for ensuring that travel regulations are being followed. The specialists have not hesitated to return vouchers to Board members for corrections or to deny claimed allowances of Board members, their assistants, and bureau heads when in their judgement the claims conflict with travel regulations.

ADEQUACY OF AUDIT STAFF AND TRAINING

Question: Is your internal review group adequately staffed and trained to do the type reviews needed at the Board?

Answer: No. We need to increase our internal review staff. However, because of stringent employee ceilings, we must use scarce personnel resources in activities directly related to carrying out our mission. Nevertheless, we have had some turnover recently in our internal review group allowing us to hire experienced staff with the expertise in performing operational, ADP, financial, and compliance reviews. We direct our internal review resources to high priority areas.

CHAUFFEUR DRIVEN VEHICLE

The Board has one agency-owned vehicle (1974 Plymouth) with a driver. It is used primarily for transporting Board members to meetings in the Chicago area and for picking up and dropping off two Board members at their commuter train station. The driver parks the car at his residence. The commuter train station is located between his residence and the RRB headquarters.

VEHICLE OPERATING COSTS

Question: How much were the fiscal year 1979 operating costs for the Board-owned 1974 Plymouth? How much is the driver's salary?

Answer: Operating costs for this vehicle in fiscal year 1979 were approximately $2,900. The salary of the Board employee whose duties include driving this vehicle was about $19,000. The amount attributable to picking up and dropping off Board members is small. This employee not only transports Board members but also other Board personnel on Board business, files between outlying storage point and headquarters, mail to post office, computer tapes to various railroads, etc. He also does the postings on all headquarters bulletin boards of the personnel vacancy, placement, and other notices as well as substituting for other employees when absent. His precise job description is as follows:

3400-14,15,16

Motor Vehicle Operator WG-5703-5

General:

Job is located in the division of general services, bureau of supply and service. The incumbent is responsible for the operation of a passenger automobile and/or station wagon used to transport passengers whose official business requires the use of an automobile used to transport mail, supplies, books and miscellaneous equipment and for laboring duties involving loading and unloading trucks, moving equipment and furniture, etc. Incumbent works under supervision of the program management officer GS-13. At the time of entrance on duty receives somewhat detailed oral instructions relative to operating techniques, policies, and practices of the Board; thereafter, receives only very general instructions except in unusual situations.

Skill and Knowledge:

In addition to knowing how to drive a motor vehicle, incumbent must be familiar with rules of the road, including safety regulations; how to determine the shortest and safest route; how to load mail, supplies and equipment in order to base the load properly and prevent shifting of cargo. Has to qualify for a U.S. Motor Vehicle Operator's ID card. Also included is the ability to use tools and equipment incidental to laboring activities.

Responsibility:

In performing his duties as a motor vehicle operator follows instructions given by supervisor regarding pick-up and delivery of mail, supplies and equipment, etc. At all times keeps in touch with the supervisor (required to check in and out with office), if an unforeseen situation arises, such as mechanical failure, blowout, or motor accident, contacts supervisor immediately to inform him of reason for delay in scheduled trip. Is responsible for keeping vehicle clean and in good operating condition; makes minor repairs or reports need for repairs; sees that vehicle is properly parked or stored for the night. Keeps records and makes reports on mileage covered, gas and oil used, time consumed in travel and waiting, articles transported, destinations, repairs made, repairs needed, accidents incurred, etc. In performing laboring duties follows instructions given by warehouseman foreman. Typical of the duties performed are loading and unloading trucks, moving equipment and furniture, etc,; sorting incoming items by class or make of equipment and placing stocks securely on shelves or tables; keeping storage areas in order; periodically sweeping floors, dusting and keeping aisles open; packing outgoing material; delivering materials to Board bureaus and offices; and places personnel postings on bulletin boards. As time permits, disposes of sensitive information stored on paper, film, or magnetic tape medium by use of a shredding machine. Performs other duties as assigned.

Physical Effort:

Light physical effort is required in reaching, bending, turning, and use of arms and legs in operating hand and foot controls on the vehicles; moderate physical effort in loading and unloading mail, supplies and equipment; at times moderately heavy physical effort in performing laboring duties involving lifting and moving objects weighing up to 50 pounds.

Working Conditions:

Driving is performed outside in all weather except that incumbent is in a closed vehicle and is therefore protected in inclement weather. Emergency repair work may be required during hot, rainy or cold weather and while driving incumbent is constantly exposed

to traffic hazards. Laboring duties are usually performed in an adequately lighted and ventilated area although at times the nature of the work involves contact with dust, oil and grease. The incumbent is subject to a variety of hazards such as cuts and bruises on fingers, hands, and/or arms in lifting and handling heavy pieces of equipment, boxes, crates, etc.

VEHICLE NEED ANALYSIS

Question: Has the Board done an analysis to determine whether use of public conveyance, e.g., buses, taxis would be less costly than using the vehicle and driver? Was loss of time in waiting for public conveyance considered in the analysis?

Answer: No such analysis has been made with respect to transportation of Board officials because such transportation constitutes a negligible proportion of the overall use of such vehicle and employee. It would not be practicable to use public conveyances for the other uses of such vehicle such as transporting files, supplies and equipment.

FISCAL YEAR 1979 TRAVEL COSTS

President Carter directed that fiscal year 1979 Administrative travel costs be reduced 20 percent below the 1979 budget transmitted to the Congress. At July 6, 1979 the RRB was projecting a 19 percent reduction. At August 13, 1979 the RRB contacted the Senate and House Committees on Appropriations concerning substantial travel budget overruns. Actual fiscal year 1979 costs were $797,000 against a budget of $589,000. Offices of the Board travel costs have increased thusly:

FY 1976	$24,797
FY 1977	$26,162
FY 1978	$63,866
FY 1979	$56,611

ADMINISTRATIVE TRAVEL REDUCTIONS

Question: How much was the reduction in administrative travel costs for fiscal year 1979 (percent and dollars)?

Answer: Recently, much attention has been focused on, and many questions have been raised concerning, the amount budgeted and expended for travel by the Railroad Retirement Board, and, in particular, the Members of the Board. First-class travel by the Board has been the subject of statements on the floor of the Senate, on national television, and most recently in the February 1980 edition of the "Reader's Digest" and has resulted in a one-month audit by the General Accounting Office at the request of this committee.

As a result of the GAO audit, the Railroad Retirement Board has implemented a new procedure for the control of travel by the staff of the Board which is outlined in a letter sent to Chairman Magnuson and which appears, as an attachment to our 1981 justification statement. In addition, each Member of the Board, as a Presidential appointee, has the responsibility for authorizing and monitoring the travel within his own office.

We believe that the steps just outlined will result in the agency complying with all applicable travel regulations and will avoid any unwarranted increases in any future Board budgets.

Although there has been some benefit resulting from the auditing of Board travel, we believe that it has diverted attention from other more serious problems facing the programs administered by the agency. In fiscal year 1979, the travel costs for the Board amounted to 1-3/4% of the total administrative costs of the Board in administering a $5 billion benefit program.

In order, hopefully, to put the travel issue to rest, the Chairman of the Board has prepared, as an example, tables which show all travel by the Chairman and staff of the Chairman's office of the Board for fiscal years 1976 through

1979 and the first quarter of fiscal year 1980. A similar in depth analysis for each Board member can be furnished upon request. This example will, however, illustrate a pattern and some of the reasons for increased travel by the newly-appointed Board.

CHAIRMAN'S OFFICE
TRAVEL

FY 1976 & TQ (July 1, 1975 - June 30, 1976 & July 1, 1976 - Sept. 30, 1976)

Traveler	Date(s) of Travel	Destination [1]	Cost of Fare	Expenses Claimed	Total
Joe Duran					
Assistant	3/8-10/76	Chgo - San Diego	$292.73 (C)	$96.25	$388.98
"	4/5-9/76	Chgo - Cincinnati	$78.00 (C)	$84.00	$162.00
"	4/26-28/76	Chgo - Atlanta	$136.00 (C)	$94.50	$230.50
James Cowen					
Chairman	9/8-10/75	Chgo - Washington	$174.73 (FC)	$99.71	$274.44
"	9/28-10/1/75	Chgo - Ft. Lauderdale	$282.74 (FC)	$163.16	$445.90
"	11/18-20/75	Chgo - Tampa	$258.73 (FC)	$77.75	$336.48
"	1/12-16/76	Chgo - Charlotte, NC - Washington	$242.47 (FC)	$173.00	$415.47
"	2/10-12/76	Chgo - Washington	$182.73 (FC)	$93.68	$276.41
"	2/24-27/76	Chgo - K. C., MO	$140.73 (FC)	$93.00	$233.73
"	3/9-10/76	Chgo - Washington	$184.73 (FC)	$69.70	$254.43
"	3/23-26/76	Chgo - Harrisburg	$184.73 (FC)	$113.25	$297.98
"	3/31-4/2/76	Chgo - Washington	$184.73 (FC)	$137.56	$322.29
"	4/6-7/76	Chgo - Washington	$200.00 (FC)	$53.17	$253.17
"	5/10-13/76	Chgo - Pittsburgh	$108.00 (C)	$110.80	$218.80
"	6/16-18/76	Chgo - Washington	$170.00 FC&C	$102.05	$272.05
"	8/16-19/76	Chgo - St. Paul	$138.00 (C)	$107.25	$245.25
"	9/7-8/76	Chgo - Washington	$138.00 (C)	$60.35	$198.35
"	9/27-30/76	Chgo - Orlando	$298.00 (FC)	$118.50	$416.50
			$3395.05	$1847.68	$5242.73

(C) Coach
(FC) First Class
[1] Round trip unless an asterisk appears which indicates a one-way trip.

CHAIRMAN'S OFFICE
TRAVEL

FY 1977 (October 1, 1976 - September 30, 1977)

Traveler	Date(s) of Travel	Destination [1]	Cost of Fare	Expenses Claimed	Total
Joe Duran					
Assistant	3/28-31/77	Chgo - Binghamton, NY	$156.00 (C)	$131.95	$287.95
"	4/18-21/77	Chgo - Cincinnati	$84.00 (C)	$110.60	$194.60
"	5/9-12/77	Chgo - Denver	$188.00 (C)	$121.70	$309.70
James Cowen					
Chairman	10/18-21/76	Chgo - K. C., MO	$110.00 (C)	$137.50	$247.50
"	11/8-11/76	Chgo - Spokane	$406.00 (FC)	$124.75	$530.75
"	12/6/76	Chgo - Washington	$142.00 (C)	$22.00	$164.00
"	1/19-20/77	Chgo - Albany, NY	$158.00 (C)	$69.25	$227.25
"	2/3-4/77	Chgo - Washington	$144.00 (C)	$85.18	$229.18
"	2/8-9/77	Chgo - Washington	$144.00 (C)	$85.18	$229.18
"	3/8-9/77	Chgo - Washington	$144.00 (C)	$84.66	$228.66
"	4/4-7/77	Chgo - San Francisco	$312.00 (C)	$112.64	$424.64
"	4/12-13/77	Chgo - Washington	$144.00 (C)	$62.81	$206.81
"	4/25-28/77	Chgo - Augusta, GA	$152.00 (C)	$113.75	$265.75
"	6/6-7/77	Chgo - Washington	$144.00 (C)	$65.16	$209.16
"	6/15-17/77	Chgo - St. Louis	$126.30 (by POA)	$78.75	$205.05
"	6/20-21/77	Chgo - Washington	$144.00 (C)	$63.62	$207.62
			$2698.30	$1469.50	$4167.80

(C) Coach
(FC) First Class
[1] Round trip unless an asterisk appears which indicates a one-way trip.

CHAIRMAN'S OFFICE
TRAVEL

FY 1978 (October 1, 1977 - September 30, 1978)

Traveler	Date(s) of Travel	Destination [1]	Cost of Fare	Expenses Claimed	Total
Joe Duran					
Assistant	10/10-15/77	Chgo - San Francisco	$324.00 (C)	$213.75	$537.75
"	2/3-5/78	Chgo - Washington	$152.00 (C)	$70.89	$222.89
"	2/12-16/78	Chgo - Miami	$240.00 (C)	$239.45	$479.45
"	2/27-3/3/78	Chgo - New Orleans	$186.00 (C)	$158.72	$344.72
"	2/27-30/78	Chgo - K. C., MO	$116.00 (C)	$144.25	$260.25
"	5/1-6/78	Chgo - Washington	$152.00 (C)	$292.15	$444.15
"	5/15-19/78	Chgo - Cincinnati	$90.00 (C)	$176.15	$266.15
W. P. Adams					
Chairman	2/15-24/78	Washington, DC	-	$66.88	$66.88
"	2/27-3/1/78	Wash - New Orleans (via Atlanta)	$208.00 (C)	$94.30	$302.30
"	3/2-3/78	Washington, DC	-	$22.80	$22.80
"	3/6-9/78	Wash - Chicago	$152.00 (C)	$4.40	$156.40
"	3/10/78	Washington, DC	-	$15.65	$15.65
"	3/13-17/78	Wash - Tucson - LA - San Diego	$677.00 (FC)	$167.27	$844.27
"	3/18-20/78	Washington, DC	-	$15.10	$15.10
"	3/23-29/78	Chgo - Washington - K. C., MO	$534.00 (FC)	$127.99	$661.99
"	3/31-4/11/78	Chgo - Washington - Tampa	$431.00 (FC)	$67.15	$498.15
"	4/14-5/10/78	Chgo - Washington	$152.00 (C)	$108.03	$206.03
"	5/12-30/78	Chgo-Wash-Cincinnati Chgo-Wash-Chgo Morgantown, WV (via Pittsburgh) - Wash	$670.00 (C)	$280.28	$950.28
"	6/2-8/78	Chgo-Wash-Albany, NY - Washington	$270.00 (C)	$160.05	$430.05
"	6/10-15/78	Chgo - Butte, MT	$345.00 (FC)	$92.50	$437.50
"	6/16-7/11/78	Chgo - Washington - Ft. Lauderdale	$396.00 (FC)	$89.95	$485.95
"	7/13-7/26/78	Chgo - Washington*	$78.00 (C)	$67.28	$145.28
"	7/26-28/78	Wash - Chicago	$156.00 (C)	$24.00	$180.00
"	7/31-8/4/78	Washington, DC	-	$33.01	$33.01
"	8/7-8/78	Wash - Chicago	$179.00 FC&C	$24.00	$203.00
"	8/9-15/78	Washington, DC	-	$32.12	$32.12
"	8/15/78	Wash - Chicago	$156.00 (C)	$3.40	$159.40
"	8/16-18/78	Washington, DC	-	$23.12	$23.12
"	8/21-24/78	Wash - Chicago	$179.00 FC&C	$24.00	$203.00
"	8/25-28/78	Washington, DC	-	$15.55	$15.55
"	8/28/78	Wash - Chicago (one-way by auto)	$150.77 ($.17 a mile + tolls)	-	$150.77
"	9/19-20/78	Chgo - Washington	$202.00 (FC)	$61.57	$263.57
"	9/26/78	Chgo - Washington	$202.00 (FC)	$44.50	$246.50
			$6397.77	$2960.26	$9358.03

[1] Round trip unless an asterisk appears which indicates a one-way trip.

CHAIRMAN'S OFFICE
TRAVEL

FY 1979 (October 1, 1978 - September 30, 1979)

Traveler	Date(s) of Travel	Destination [1]	Cost of Fare	Expenses Claimed	Total
Joe Duran					
Assistant	10/22-27/78	Chgo - Dallas	$186.00 (C)	$232.84	$418.84
W. P. Adams					
Chairman	10/6-11/78	Chgo - Washington	$156.00 (C)	$86.74	$242.74
"	10/22-27/78	Chgo - Dallas	$186.00 (C)	$260.47	$446.47
"	10/30-11/1/78	Chgo - Washington	$202.00 (FC)	$108.50	$310.50
"	11/13/78	Chgo - Washington	$188.00 (FC)	$40.51	$228.51
"	12/1-2/78	Chgo - Cleveland	$128.00 (FC)	$84.44	$212.44
"	2/5-18/79	Chgo - Miami			
		Miami - Washington	$440.00 FC&C	$614.10	$1054.10
"	3/12-14/79	Chgo - Washington	$192.00 (FC)	$155.60	$347.60
"	4/5-6/79	Chgo - Wash (via NY)	$238.00 FC&C	$86.00	$324.00
"	4/10-11/79	Chgo - Washington	$168.00 (C)	$89.78	$257.78
"	4/23-25/79	Chgo - Washington	$202.00 (FC)	$133.40	$335.40
"	4/30-5/2/79	Chgo - Cincinnati	$94.00 (C)	$98.42	$192.42
"	5/14-16/79	Chgo - Seattle	$342.00 (C)	$86.50	$428.50
"	5/21-22/79	Chgo - Tulsa	$198.00 (FC)	$62.22	$260.22
"	6/1/79	Chgo - Detroit	$110.00 (FC)	$65.82	$175.82
"	6/5-6/79	Chgo - Washington	$176.00 (C)	$61.40	$237.40
"	6/11-13/79	Chgo - Miami	$320.00 (FC)	$160.71	$480.71
"	8/2-4/79	Chgo - Cable, WI	$171.50 (POA)	$115.35	$286.85
"	8/21-23/79	Chgo - Washington	$186.00 (C)	$121.85	$307.85
"	9/6-7/79	Chgo - Washington	$186.00 (C)	$100.00	$286.00
"	9/10-11/79	Chgo - Washington	$186.00 (C)	$110.00	$296.00
A. I. Havens					
Assistant	7/9-13/79	Wash - Chicago	$176.00 (C)	$12.10	$188.10
"	8/14-15/79	Wash - Chicago	$186.00 (C)	$27.40	$213.40
"	9/10-28/79	Washington, DC	-	$22.90	$22.90
R. L. Hesson					
Assistant	5/14-18/79	Huntington-Seattle	$498.00 (C)	$185.11	$683.11
"	5/20-24/79	Huntington - Tulsa (via Chicago)	$270.00 (FC&C)	$194.44	$464.44
"	6/4-8/79	Huntington - Phila	$140.00 (C)	$211.33	$351.33
			$5525.50	$3527.93	$9053.43

[1] Round trip unless an asterisk appears which indicates a one-way trip.

CHAIRMAN'S OFFICE
TRAVEL

FY 1980 (October 1, 1979 - September 30, 1980)
Only First Quarter Figures Available

Traveler	Date(s) of Travel	Destination [1]	Cost of Fare	Expenses Claimed	Total
W. P. Adams					
Chairman	10/15-16/79	Chgo - Washington	$209.00 (C)	$92.25	$301.25
"	11/11-13/79	Chgo - Washington	$202.00 (C)	$119.75	$321.75
"	11/27/79	Chgo - Washington	$207.00 (C)	$46.25	$253.25
A. I. Havens					
Assistant	10/3-5/79	Wash - Chicago	$204.00 (C)	$125.43	$329.43
"	10/23-11/8/79	Washington, DC	-	$9.00	$9.00
"	11/8-12/79	Wash - Chicago	$212.00 (C)	$21.50	$233.50
"	11/13-12/5/79	Washington, DC	-	$13.00	$13.00
"	12/12-14/79	Chgo - Washington	$212.00 (C)	$151.34	$363.34
			$1246.00	$578.52	$1824.52

(C) Coach
(FC) First Class
[1] Round trip unless an asterisk appears which indicates a one-way trip.

These statistics indicate that the current Chairman has averaged less than 2 trips per month. With respect to first-class travel, the current Chairman took office in February 1978, and has made 15 first-class round trips and 4 round trips that included a first class flight. No one in the Office of the Chairman has engaged in first-class travel since June 1979. Since February 15, 1978, a total of slightly more than $1,000 has been expended by the Office of the Chairman by using first-class travel as opposed to coach travel.

The statistics do show a dramatic percentage increase in the cost of travel by the Office of the Chairman between fiscal year 1977 and fiscal year 1978. Although this is a substantial increase when viewed in the context of percentages, the total amount expended by the Office of the Chairman was $9,358.03 for that fiscal year.

The travel conducted during fiscal year 1978 was essential to permit the new members of the Board to become fully aware of the operations of the agency and to participate in various meetings with other officials within the Administration and officials of railroad labor and management on the subject of railroad retirement and unemployment. Some of these meetings have led, for the first time in the history of the Railroad Retirement Board, to the submission to the Congress by the Administration of a legislative proposal to address the 4% actuarial deficit in the Railroad Retirement Fund and a legislative proposal to deal with the increasing cost of paying the "windfall" benefits under the Railroad Retirement Act. Such meetings have also resulted in the introduction of legislation sponsored by Labor (H.R. 5144), and in joint Labor-management negotiations to resolve the industry pension problems. In order to carry out the active role of the Board required under existing law to improve the operations of the agency and to seek solutions to the funding problems facing the agency, it is necessary for the members of the Board to have sufficient travel funds in order to carry out the responsibilities of their offices. With the cost of air travel going up almost on a weekly basis, the Board's travel budget will most assuredly continue to rise. However, with the controls that are now in place and with the foregoing explanation of the rationale for an increase in travel by the members of the Board, we are hopeful more attention will be focused on more substantive issues facin the railroad retirement program.

In fiscal year 1979, the Board reduced administrative travel by 17.2 percent, or $27,065. The Board had already obligated funds in October 1978 for our National Managers Meeting before we received OMB's notice of the required 20 percent reduction in administrative travel. Therefore, by reducing total administrative travel by 17.2 percent, we, in effect, reduced administrative travel by nearly 21 percent, after receiving the OMB bulletin.

REASON FOR TRAVEL BUDGET OVERRUN

Question: Since administrative travel costs were reduced, yet total fiscal year 1979 travel costs exceeded the budget, does it follow that budget overruns are attributable to travel costs for program purposes? Why? If not, please explain.

Answer: Yes, the budget overruns occurred in program related travel in 1979 because of the need to maintain the level of service to our beneficiaries.

POSSIBILITY OF REDUCING TRAVEL NEEDS

Question: Actual travel costs for the Board during fiscal year 1978 were $747,000. Yet your fiscal year 1979 budget was $589,000. What specifications did the Board plan to achieve this substantial year-to-year reduction? Why weren't these actions implemented? Rather than a substantial reduction, the fiscal year 1979 costs increased by 7 percent. In fact, the RRB sought Congressional approval to allocate more funds to the travel account. What happened?

Answer: The 1979 budget was approved in December 1978, one quarter into the fiscal year. It was obvious at the time that the OMB travel mark of $589,000 was an unrealistically low amount. The only way the Board could have reached this unrealistic level would have been to sharply curtail intinerant service to our beneficiaries. We later requested that

funds be reprogrammed for travel because service to the railroad public required no less.

CONTROL OVER BOARD MEMBER'S TRAVEL

Question: Although offices of the Board travel costs decreased in fiscal year 1979 from fiscal year 1978 they are still far above the fiscal years 1976 and 1977 travel costs. Why? Does the Board plan any specific actions to reduce offices of the Board travel costs? Who authorizes and approves travel by personnel in the offices of the Board?

Answer: All three of the present Board members were appointed between August 1977 and February 1978. Both the office of the Chairman and the Labor member were vacant for approximately four months. The office of the Management member was vacant for approximately one year. Following their appointments, the new Board members traveled extensively to field offices and meetings to become familiar with the agency's personnel, programs and operations, and to have personal contact with their constituents and with officials of other agencies in Washington. In addition, in fiscal year 1979, each Board member appointed at least one assistant in his office in order to carry out the Board member's responsibilities. Certain of the responsibilities of these assistants require them to engage in travel. This will result in an increased demand for travel funds.

The Board members' offices, along with the other offices of the agency, have been allocated a share of the reduced travel funds for fiscal year 1980. The Board members receive timely computer prepared reports of travel funds used and, through these reports, monitor the use of travel by those in their offices.

Board members authorize and approve travel by personnel in their offices.

FISCAL YEAR 1980 TRAVEL BUDGET

The RRB fiscal year 1980 travel budget was approved for $994,000. However, according to the Director of the Budget and Fiscal Office, the OMB cut the budget to $775,000. On the surface, this cut should force travel economies on the RRB. In reality it may have limited effect since the budget may have been inflated and the RRB cancelled the October 1979 National Managers Meetings. The National Managers Meeting held in October 1978 cost about $66,000.

JUSTIFICATION FOR INCREASE

Question: The Board travel budget was $589,000 in fiscal year 1979 and $994,000 in 1980. How did the Board justify this approximate $400,000 year-to-year increase?

Answer: In fiscal year 1978, the Board spent about $747,000 on travel. We estimated that our 1979 travel requirements would be higher. Actual 1979 travel expenditures were $798,000.

Fiscal year 1980 travel estimates reflected actual 1979 costs plus estimated increases in air fares, mileage rates, rates for high cost geographic areas, increased travel for training and other program purposes and other related travel items.

BOARD PLANS TO REDUCE TRAVEL

Question: As we understand, the OMB cut the board fiscal year 1980 travel budget to $775,000. Is this correct? How does the Board's plan to reduce expenditures from the $994,000 to the amount allocated by the OMB?

Answer: Yes, OMB did reduce the Board's 1980 travel budget from $994,000 to $775,000. We have applied these travel cuts to each budget unit and have established controls to ensure staying within the $775,000 limit. Unfortunately, this will mean reducing program related travel and thereby reducing the level of service to the people we serve.

SAVINGS FROM GAO RECOMMENDATIONS

Question: In the Board's response to the GAO report, it cites several actions to control and/or reduce travel costs. How much will these actions reduce the amount originally needed (budgeted) for 1980 ($994,000)?

Answer: Actions taken in response to the GAO report will substantially increase controls over the use of travel funds. Steps to further economize, as suggested by GAO, will result in negligible savings. For example, the additional cost of the 34 first-class trips made in fiscal year 1979 was only about $1000.

IMPACT OF TRAVEL CUTS ON BOARD CONSTITUENCY

Question: What impact will the OMB cut have on service to the Board's constituency?

Answer: To stay within the OMB approved budget for travel, we will have to curtail essential program related travel, such as, personal contacts with beneficiaries, railroad employees and employers. In addition, we will be forced to curtail the training of our field managers and drastically limit supervision of the field staff.

NEED FOR FURTHER BUDGET CUTS

Question: The October 1979 National Managers Meeting was cancelled. How much was budgeted in fiscal year 1980 for this meeting? Will cancelling this meeting and implementing some of the actions recommended by GAO reduce funds needed for travel during fiscal year 1980 to the amount approved by OMB? Is an even further budget cut in order?

Answer: Approximately $72,600 was budgeted for the October 1979 National Managers Meeting. Therefore, cancellation of this meeting reduced travel costs by that amount. Taking steps recommended by GAO will reduce travel costs by a few thousand dollars. As stated previously, to reduce travel costs further, we will have to curtail services to the people we serve. Neither a reduction in our travel costs nor an increase in travel costs would have any effect on the general funds of the Federal government. A change in travel costs would effect only those funds coming from railroad payroll taxes. Both railroad labor and railroad management, which would pay through their payroll taxes for any increase in travel costs, strongly support an increase in the Board's administrative budget, including travel, to provide the quantity and quality of service and quality control of programs that they agree with the Board is necessary. They, like the Board, believe that relatively modest increases in administrative costs will produce both improvements in service and elimination of error and waste in benefit payments.

INVESTMENT INCOME

IMPROVEMENT ON RETURN ON INVESTMENT

Question: In the past, the Board has been criticized for not maximizing its investment income. What have you done to improve your return on your investments?

Answer: We reached an agreement with the Treasury that has allowed us to take advantage of high short-term yields. We can now buy and sell short-term securities without entering the public bond market.

Our new policy has resulted in $20,200,000 in increased investment income between November 9, 1979 and March 1, 1980.

ALTERNATIVE FUNDING

"PAY-AS-YOU-GO"

Question: In a report to Chairman Magnuson, dated January 11, 1979, GAO indentified an alternative funding method -- "pay-as-you-go," cash basis. What are your views on this alternative method of funding?

Answer: The "pay-as-you-go," cash basis approach for funding windfall benefits would eliminate the need for approximations, with their associated uncertainty, and would result in a slower outflow of general revenue appropriations than originally contemplated by the 1974 legislation. That is, instead of windfall benefits being fully funded by the year 2000, appropriations -- which would decrease each year -- would be made through the year 2046. These cash basis appropriations would drop below the actuarial level in 1982.

An estimated $2,363 million for windfall benefits will have been paid out by the end of fiscal year 1980. A total of $1,376 million has been appropriated for payment of these benefits through fiscal year 1980. Including the effect of interest, this has resulted in a $1,202 million reduction in the Railroad Retirement Account. Under the "pay-as-you-go" method, special provision would have to be made to pay off this deficit. One approach to doing so is embodied in H.R. 5144 which, in brief, would amortize the deficit over 40 years.

SUBCOMMITTEE RECESS

Senator BURDICK. I think we can accomplish just as much through that question and answer method.

Thank you very much. The subcommittee stands adjourned.

[Whereupon, at 12:20 p.m., the subcommittee was recessed, to reconvene at 2:05 p.m., the same day.]

(AFTERNOON SESSION, 2:05 P.M., THURSDAY, FEBRUARY 28, 1980)

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

STATEMENT OF CHARLES BENTON, CHAIRMAN

ACCOMPANIED BY:
DR. BESSIE BOEHM MOORE, VICE CHAIRMAN, NCLIS
ALPHONSE F. TREZZA, EXECUTIVE DIRECTOR, NCLIS
DOUGLAS PRICE, DEPUTY DIRECTOR, NCLIS
MARILYN KILLEBREW GELL, DIRECTOR, WHCLIS
MARY ALICE HEDGE RESZETAR, ASSOCIATE DIRECTOR, NCLIS

SUBCOMMITTEE PROCEDURE

Senator BUMPERS [presiding]. Senator Schmitt, who was scheduled to chair these hearings, will be here very shortly, but in the interest of time, I'm going to go ahead and start the hearing.

This afternoon we will hear testimony from five of the related agencies on the HEW and Related Agencies' appropriation bill.

We will start with the National Commission on Libraries and Information Science, to be followed by the Corporation for Public Broadcasting, the Occupational Health and Safety Review Commission, the Federal Mines Safety and Health Review Commission, and we will finish with related agency testimony from from administration witnesses for the U.S Soldiers and Airmen's Home.

Charles Benton from the National Commission on Libraries is here. He is Chairman of the National Commission, and Chairman Benton, we will insert your full statement in the record, and if it is possible, please summarize your statement—we would appreciate it.

Senator PERCY. Senator, can I just have a word of welcome to my distinguished colleague and lifetime friend, Charles Benton? We want to welcome all of you, and we are very grateful for your contributions. And would you also welcome my daughter when she comes in next. [Laughter.]

Senator BUMPERS. Thank you, Senator.

Go ahead, sir.

INTRODUCTION OF ASSOCIATES

Mr. BENTON. I would first simply like to introduce the people here at the table starting on my left. Doug Price is our Deputy Director of the National Commission. Marilyn Gell is Director of the White House Conference, and I will come back here in just a moment. Mary Alice Reszetar is Associate Director of the National Commission, and this is Alphonse Trezza. We also have a Commissioner in the corner, Bob Burns, 1 of our 15 Commissioners.

Rather than starting with my own statement, it seems most appropriate to defer to seniority, as you so often do in the Senate—and with wisdom, also, on my side—and let our Vice Chairman lead off, if that's all right.

Senator BUMPERS. Before Dr. Moore testifies, I would like to say for all of you present and for the record that she is one of the real movers and shakers, not just in Arkansas but in the country, in promoting libraries. She was one of the original Commission members when it was first set up and has been Vice Chairman all but 6 months. She organized the first county library in my State in Pine Bluff in 1926. That is getting close to my birth date, so I know that you had to be very young at that time.

She has been a member of the Arkansas Library Commission since 1941, and of course I had the privilege of reappointing her to that Commission while I was Governor of the State.

I could go on and on about her many accomplishments, but there isn't anybody in my State who has more credibility in this field than she does. And she has been extremely active on this Commission.

BUDGET REQUESTS

She told me yesterday afternoon the Commission was just an asterisk in the budget when she first became a member of it, and I am most pleased, incidentally, that the budget this year, when there is a great feeling of austerity here on the Hill, was $712,000 with nine personnel positions, and that the Commission is requesting $699,000 in 1981 with the same number of staff. It is not often we have a Commission or anybody else seeking $13,000 in reductions in their budget.

The White House Conference last fall was a great success, and Ms. Gell, you were the Director of that. I compliment you, because that was obviously an outstanding success, and I know Dr. Moore has given that a great deal of attention, but anyway, I'm so pleased she could be here today to give us her testimony.

Dr. Moore?

Dr. MOORE. Thank you, Senator. It is a great privilege for me to testify before my own senior Senator, and I had the great pleasure of course of working with him when I was the Chairman of the Library Commission, and he was a great friend of libraries.

I think those of you who are interested in libraries will be interested to know what the librarian in his five county regional library said about him when he was elected Governor. I didn't know Governor Bumpers, and I asked him something about him, and he said, "Well, you'll be interested in knowing that the Bumpers family is the best reading family in my five-county area," so we have a great friend.

PREPARED STATEMENT

Senator BUMPERS. Dr. Moore, your prepared statement will be inserted in the record at this point.

[The statement follows:]

Statement of Dr. Bessie Boehm Moore

Mr. Chairman, I should like to beg the indulgence of the Committee to make a statement reflecting my own perspective on the Commission. This perspective is conditioned by several factors. In the first place, I am now the only member of the Commission who has both served on the Commission since its inception and who also served on the Presidential National Advisory Commission on Libraries which in its final report, "Libraries at Large," recommended the establishment of a permanent National Commission on Libraries and Information Science. The other factors include: my 38 years of service on the Arkansas Library Commission, the last 29 of which I was chairman; long service as State Supervisor of Elementary Education, during which time, I was responsible for the development of school libraries; and finally, my service as a Supervisor of Schools in Jefferson County over 50 years ago, during which time, appalled by the paucity of books in the schools, I was impelled to do something about it, establishing in the process (with help, of course) the first county library in Arkansas.

I recall testifying at the hearings on the act which established the National Commission, when three alternatives were being considered for locating the Commission: (1) as a unit within the Department of Health, Education and Welfare; (2) as an arm of the Library of Congress; or (3) as an independent agency. At that time, I testified that if NCLIS were folded into another agency, there would be no point in establishing it in the first place, since it would become a creature of the agency, subject to all of the bureaucratic pressures that would entail and forced to shift its positions to conform to the different priorities of different administrations. I pointed out that only as a permanent, independent agency, reporting to both the Legislative and Executive Branches, could NCLIS function as a consistent, objective body recommending policy to both Branches and coordinating activities

in the library and information service area. When the enabling legislation (P.L. 91-345) for the Commission was enacted, it made the Commission an independent agency and specified dual reporting. Looking back over the last nine years, I am more than ever convinced that these were wise decisions. Because of our independent status, we could--and did on occasion--disagree with positions taken by various administrations and--less frequently--Congresses. Our ability and willingness to take independent positions convinced, not only the library sector, but state and local government agencies, the private sector and the Federal government as well, that we really were--and would continue to be--an objective voice on library and information service matters.

It is almost universally recognized that when a budget squeeze is on, the first activities to be cut are the libraries. While we cannot claim to have been very successful in preventing cuts in Federal programs for libraries, the Commission has been a presence in the Federal government, which has, we hope, helped to ameliorate these cuts and which has made itself felt in other ways helpful to library and information services. The library community feels that the Commission has been of inestimable value in improving awareness of the importance of library and information services to the Nation, and in promoting the improvement of library and information services throughout the country. As a state library commissioner, I can also tell you that the state and local library agencies value highly the leadership role of the Commission. The positions taken by NCLIS and the policies it recommends are carefully watched at the state and local levels and they treasure having at the National level a leadership and planning body to which they can look for guidance and advice.

The Commission's principal modus operandi has been to examine the issues and attempt to develop a consensus on solutions or approaches to solutions. Nor have the issues we have examined been confined to

means of obtaining additional library and information resources. We have spent much effort on finding ways to make better uses of the resources we already have. One of the principal products of these efforts is our Program Document, "Toward a National Program for Library and Information Services: Goals for Action," which I have here. This Program Document (which is just that: A program; not a plan) is in its entirety a consensus document. This consensus was developed: first, by holding hearings in all parts of the country before which people from all walks of life were invited to testify; second, by eliciting--soliciting--input from anybody and everybody who had something to say; and finally, by heeding all of the inputs, putting all of the pieces together, eliminating conflicts by compromise, and producing a document based on five assumptions and eight objectives (see Attachment 1), with the discussions required to make them intelligible. The validity of the consensus is attested by the fact that when the document was published in June 1975, it was endorsed, before the year was out, by every major library and information association, including the American Library Association, the Chief Officers of State Library Agencies, the American Society for Information Science, the Association of Research Libraries, and many others. Virtually all of the major stakeholders in the provision and use of library and information services have supported the principles expressed in this document.

Leaving aside the fact of consensus in the profession, there is compelling evidence that the Program Document addressed the needs of library users because virtually all of the resolutions passed by the delegates to the White House Conference, two-thirds of whom were nonlibrarians, deal with subjects discussed in the Program Document. It is, therefore, clear that we have been on the right tract, since the output of the White House Conference supports what we have been doing all along. As an example, NCLIS has long spoken up for a stronger position for library programs in the Federal establishment, so it required no re-orientation for us to support strongly the resolution of the

White House Conference calling for an Assistant Secretary for Library and Information Services in the new Department of Education.

Throughout its life, the Commission has been a voice of reason, of moderation at the National level, airing problems, promoting the development of equitable solutions, recommending rational policies, developing consensus. Again, as an example, it was the Conference on Resolution of Copyright Issues, co-sponsored by NCLIS and the Copyright Office, which laid the groundwork upon which the compromise on library photocopying embodied in the CONTU guidelines was built, and it was NCLIS which suggested the five-year review called for in Section 108(i) of the General Revision of the Copyright Act (P.L. 94-553) to ensure that the desired balancing of rights was achieved. While we have not always been able to achieve consensus, we have, at least, been able to ventilate the problems we have addressed and minimize the misunderstandings.

On the other hand, we are not living in the past. The White House Conference has produced 70 resolutions on a wide variety of subjects, which, while they may have been discussed in our Program Document, are frequently much more specific and carry stronger impetus. We are excited--even thrilled--by the challenge of implementing these recommendations and revising our Program Document to reflect the emphases of the White House Conference and provide a new agenda for the 80's. We are very conscious of the fact that, as the only Federal agency concerned solely with libraries and information science and with no operational responsibilities to distract us, the burden falls upon us to maintain the momentum engendered by the White House Conference and provide the leadership and long range planning for implementing the recommendations, not only at the Federal level, but throughout the country. To do this most effectively, we need an adequate financial base and the wholehearted support of both the Legislative and Executive Branches, as well as state and local governments and citizens throughout

the Nation. We are enlisting the support of citizens through the ad hoc committee of 114 White House Conference Delegates (two from each state and territory) we are convening later this year. If we can gain similarly enthusiastic support from the Congress and the Executive Branch, we have no doubt that state and local governments will join in the effort, and we will be in a position to really accomplish something in a reasonable time frame.

Recent events impel me to reiterate what I said in my testimony ten years ago. The Commission's independence, permanence, dual reporting and adequate funding are absolutely essential to its proper functioning, and the Commission's proper functioning is essential if the Nation is to move with reasonable speed toward the ideal of providing equal opportunity of access for all to our knowledge resources.

Mr. Chairman, I am in the unique position of having both served the Federal government, as consultant, Advisory Committee member, and reader in various agencies (in addition to my service to this Commission and its predecessor Advisory Commission) for nearly thirty years, and served the State of Arkansas, as a staff member of the State Board of Education and as a member and chairman of the State Library Commission (a policy making body) for an even longer time. Therefore, I can speak knowledgeably about Federal government services from the viewpoint of a provider as well as a receiver. Without denigrating the services of other agencies, I can tell you without qualification, that the National Commission is the most cost-effective agency I have ever encountered. For the small investment its budget represents (even at the full authorized level), the country reaps tremendous return. Since this Committee is responsible for recommending appropriations, I thought you might like to have the opinion of a person who is not a professional librarian, but who has chosen to work for libraries as a volunteer for more than half a century. Thank you for indulging me.

ATTACHMENT 1

The National Commission on Libraries and Information Science proposes a National Program for Library and Information Services based on five assumptions:

First, that the total library and information resource in the United States is a national resource which should be strengthened, organized and made available to the maximum degree possible in the public interest. This national resource is the cumulated and growing record of much of our nation's and, indeed, the world's total cultural experience—intellectual, social, technological, and spiritual.

Second, that all people of the United States have the right, according to their individual needs, to realistic and convenient access to this national resource for their personal enrichment and achievement, and thereby for the progress of society.

Third, that with the help of new technology and with national resolve, the disparate and discrete collections of recorded information in the United States can become, in due course, an integrated nationwide network.

Fourth, that the rights and interests of authors, publishers, and other providers of information be recognized in the national program in ways that maintain their economic and competitive viability.

Fifth, that legislation devised for the coherent development of library and information services will not undermine constitutionally-protected rights of personal privacy and intellectual freedom, and will preserve local, state, and regional autonomy.

Program Objectives

(1) Ensure that basic library and information services are adequate to meet the needs of all local communities.

(2) Provide adequate special services to special constituencies, including the unserved.

(3) Strengthen existing statewide resources and systems.

(4) Ensure basic and continuing education for personnel essential to the implementation of the national program.

(5) Coordinate existing Federal programs of library and information service.

(6) Encourage the private sector to become an active partner in the development of the national program.

(7) Establish a locus of Federal responsibility charged with implementing the national network and coordinating the national program under the policy guidance of the National Commission. This agency should have authority to make grants and contracts and to promote standards, but must be supportive and coordinative rather than authoritarian and regulatory.

(8) Plan, develop and implement a nationwide network of library and information service.

VALUE OF THE COMMISSION

Dr. MOORE. And I would like to say that from the early 1940's on, there hasn't been a single time when I have not been serving on some advisory committee or serving in some consultant capacity to the Federal Government on a number of things.

For example, I served a 5-year term as an advisor to the military department on women in the Armed Forces. I have read proposals in economics and environmental education and other topics for HEW. I have served, as I say, in these many capacities, and I have been able to look at the work of the various Federal agencies, not only from my viewpoint as a participant in some of their work but in the way that they related to the States and to the agencies in the States with which they were working.

And I want to say finally, Mr. Chairman, that of all the work that I've done in this area over the past 40 years, this is the most cost-effective group I've ever been with. The Nation is getting its money's worth, and at the end of 9 years I thought it appropriate to call attention to the value of the Commission to the committee before we present the budget proposal.

Thank you, Senator.

Senator BUMPERS. Thank you, Dr. Moore.

Charles, I hope you will excuse me. I'm really just filling in. My dear friend, Senator Schmitt, is now here.

Senator SCHMITT [presiding]. Now let's see. Do we have another statement?

I m sorry I was delayed.

Mr. BENTON. Thank you. That is an inspiring statement, and Bessie is sort of our grandmother, our Earth mother figure. We have many appellations for her, but we are proud of her continued association with the Commission as Vice Chairman, the only elected Vice Chairman that the Commission has had since its beginning. She has been elected as Vice Chairman every single year during the Commission's life and has played a most effective leadership role in that capacity.

Senator SCHMITT. If you wish to summarize your statement, the entire statement will be included in the record.

BUDGET REQUEST

Mr. BENTON. As was mentioned by Senator Bumpers, our request to your committee for fiscal year 1981 is for an amount of $699,000. The detailed justification for this figure has been submitted separately for your review, and I'm not going to belabor the specifics that have been laid out in some detail.

RELATION TO CORPORATION FOR PUBLIC BROADCASTING

As a permanent Federal agency for research and planning in the library and information services area, I think it's most fitting that we come before your committee right before the Corporation for Public Broadcasting's testimony because public libraries and public television both serve community education and information needs, and we con-

sider public libraries—one of our prime missions—to be helpful, especially as a result of this most recent White House Conference.

COOPERATION BETWEEN LIBRARIES AND PUBLIC BROADCASTING

Senator SCHMITT. Is there sufficient integration between the two efforts?

Mr. BENTON. There should be more.

Senator SCHMITT. Will you submit for our record suggestions you might have?

Mr. BENTON. That is an excellent point. We will give that careful consideration and get back to you. I have met personally with Mr. Fleming, in fact, within the past month to discuss common cause between the public library and public television arenas, and we would be very happy to submit that for your record.

Senator SCHMITT. If you could specifically address the question of how television can be made more interactive.

Mr. BENTON. That is a marvelous challenge, and we appreciate that question. And we will do that.

[The information follows:]

COOPERATION BETWEEN LIBRARIES AND PUBLIC BROADCASTING

There has been and there is a growing cooperation between libraries and public broadcasting. When I say there should be more, I am speaking to two frames of reference. The first is wider application of successful programs that have been and are going on, and the second is the establishment of new programs.

In the area of successful programs that should be continued and expanded, one of the exemplars is a project of New York State Library Agency, which is best described by the following excerpt from their report:

On February 14, 1979, New York State's nine public television stations premiered a new production of William Shakespeare's "Julius Caesar" to launch a national 6-year series that will include all 37 of Shakespeare's plays. The State's 715 public libraries, with leadership and support from the State education department, seized this opportunity to promote library materials and services both for education and for cultural entertainment. For 3 months the libraries mounted exhibits, distributed 115,000 copies of a Shakespeare broadside, and offered a variety of programs. The project succeeded in demonstrating that public libraries and public television can combine resources effectively to help each reach its goals. In their evaluations library staff and project planners agreed that the project was generally successful but needed more advance time to reach its full potential. Some library staff suggested other, more popular public television programs for future library tie-ins.

Another example is a project in Norfolk, Va., which provided tape copies of popular programs from public television for use in libraries as "video books." These barely touch on the existing programs which could—and should—be expanded, with the cooperation of the Corporation for Public Broadcasting (CPB).

In the area of new projects, CPB has two which it hopes to initiate this year. One of these is an attempt to arrange in advance for licensing off-the-air taping of programs from a major new series for a modest license fee. This would permit libraries—and other institutions—to make their own copies of the programs as they are broadcast, providing much broader distribution and access than could be achieved by simply duplicating and distributing tapes—and at lower cost for everyone. A second project in development, in conjunction with a planned public television experiment with a teletext-type system in the Washington area, aims to place television receivers equipped with the necessary decoders in many libraries and branches in the Washington metropolitan area—all, if possible—for use by library patrons to access the information provided by the system.

Another project, still in the preliminary planning stages in the library community would take the form of the popular call-in shows. A community library would assem-

ble from its collection a set of materials on a subject of high current interest, and the topic would be announced in advance. Questions would be accepted from viewers calling in and would be answered on screen by the library staff, using visual as well as textual materials. Such a program would serve the dual purpose of providing current information of high interest and acquainting the audience with some of the materials and services available from their local library. Still in the blue sky area is the possibility of using the channels devoted during the day to instructional television for schools—institutional television fixed service. Since these channels are not used by the schools during the evening hours, they would be available for use by libraries for a variety of public service functions, including adult education and cultural enrichment.

All of the foregoing surfaced in the course of 1 or 2 hours of discussion between staffs of the National Commission and the CPB. The interaction has begun and will be pursued diligently by both NCLIS and CPB.

PREPARED STATEMENT

Senator SCHMITT. Mr. Benton, your prepared statement will be inserted in the record at this point.

[The statement follows:]

Statement of Charles Benton

My name is Charles Benton, and I am Chairman of the National Commission on Libraries and Information Science. The Commission requests for Fiscal Year 1981 an appropriation of $699,000. This will provide for task forces, studies and other related activities, as well as for the costs of Commission meetings, necessary travel, and a permanent staff of nine people. The fact that this budget represents a decrease from the fiscal year 1980 can be accounted for by the fact that the FY 1980 figure includes a request for a supplemental to help defray the cost of back postage incurred in fiscal years 1977, 1978, and 1979, but not billed until FY 1980. Even so, the increase over fiscal year 1980, neglecting this one-time charge, is only $13,000 or less than 2%, whereas using the estimated inflation figure for 1980 from the President's Budget (page 31) of 10.4%, maintenance of services at the FY 1980 level would require an increase of $71,000, which would exceed our authorized level of $750,000 by some $7,000. Our appropriation request is, therefore, in real terms, nearly 8% below the FY 1980 figure.

As a result of the very successful White House Conference on Library and Information Services held in Washington, D.C. on November 15th through the 19th, 1979, fiscal year 1980 started with an explosion of activity for the Commission. The Conference (which, in terms of attendance, was the largest White House Conference ever held in one place) was packed with a variety of activities, as well as people.

These activities, in addition to the small working groups, larger theme sessions and plenary sessions at which the resolutions were formulated, discussed and passed, included: open hearings where all who wanted to could present testimony before the Commission for inclusion in the official Conference record; a joint House-Senate Congressional Hearing, with 11 members of the two Houses participating even though the House was not in session; and presentations by a number of high-level officials, including a speech by the President, in which he reaffirmed his support

for libraries. The Conference passed 15 of 17 priority resolutions and 10 of 32 petition resolutions. In a paper ballot vote on 49 lower priority resolutions, 45 additional resolutions were passed. Some of the key resolutions call for: an Assistant Secretary for Library and Information Services in the new Department of Education; a national information policy to maximize the provision of library and information services; support for the enactment of a National Library Act; a combined effort by all levels of government to identify and train the functionally illiterate; a program to eliminate barriers separating special groups (i.e. children, aged, minorities, handicapped, etc.) from library and information services; and a new Federal program for international training and free exchange of both personnel and materials.

Since the Conference, the Commission has moved rapidly to take advantage of the impetus provided by the Conference and determine the impact of its results on our efforts during the coming decade. We are already examining the resolutions vis-a-vis the priorities we must act on over the short term. We are in the process of assembling, as a tool to assist the President and the Congress in drafting a National Library and Information Services Act, a document which draws from the White House Conference resolutions and other sources the essential elements for such a proposed act. We are also now in the process of convening the ad hoc implementation committee called for by one resolution and consisting of two delegates (one lay and one library/information professional) from each state and territory to assist in implementation planning. If the State Library Agencies in the respective states and territories will fund the travel of their delegates, we can do this without putting an intolerable strain on our current budget. We expect to convene another meeting of this group in FY 1981.

At our last Commission meeting early this month, we reviewed a draft of the final report of the White House Conference, which will be submitted to the President in mid-March, as required by the White House

Conference legislation (P.L. 93-568). Because of the dual reporting clause in the NCLIS enabling legislation, this report will be transmitted to the Congress simultaneously with its submittal to the President. The President should forward the report, along with his recommendations, to the Congress in June. By the beginning of FY 1981, with the President's recommendations, our own analyses and the recommendations of the ad hoc implementation committee (noted above) in hand, we should have a well organized agenda for pursuing improved library and information services for the citizens of the nation.

Two other activities, which the Commission has been planning for sometime, which also respond directly to resolutions of the Conference, are the establishment of small planning groups to develop charges for task forces on international information exchange and on the library and information needs of cultural minorities. Plans call for these task forces to be operational during FY 1981.

Aside from the White House Conference, the single most important initiative of the last year was the convening of the Task Force on Public/Private Sector Relations. This 21-member task force comprises seven members representing government agencies, seven representing the academic and not-for-profit community, and seven representing the private, for-profit sector. The bringing together of this important and distinguished group reflects the increased emphasis of NCLIS on being a catalytic agent to increase understanding and cooperation among the various stakeholders in the library and information science community. The long standing tensions between the public and private sectors as to who should do what and at what price in the generation and dissemination of information and in the provision of information services has been exacerbated in the last decade by a number of factors. These include: diminishing availability of funds for the purchase of materials by libraries; the exponential growth in the volume of information; and the equally exponential

development rate of new technology. The Task Force seeks to identify a rationale for the types of library and information services that should be provided by each of the two sectors and to propose mechanisms for achieving an appropriate balance. The leadership of this critical task force has been outstanding and we expect significant results from it when it completes its work next year.

Other activities in which the Commission will be engaged during this year and next include:

- Working with the Department of the Interior on implementing the White House Conference resolution on an Indian Omnibus Library Bill. As you know, the Commission has been working for many years on improving library and information services for American Indians, and this carefully structured resolution provides both a framework and additional impetus for continuing action.
- Exploring with the U.S. Postal Service various common concerns of the library and postal communities, especially the resolution of the White House Conference which bear on this area. In cooperation with the Postmaster General, we have put together a small ad hoc committee for this purpose.
- Support of the study of library photocopying by the Copyright Office. This study is required as input to the five-year report required by Section 108(i) of the new Copyright Law (P.L. 94-553). The contract for this study is expected to be awarded early in fiscal year 1981.
- Continued meetings of the NCLIS Advisory Committee on a National Periodicals System in FY 1980 and FY 1981. This continuing activity also responds to one of the White House Conference resolutions.
- Continued meetings in FY 1980 and FY 1981 of the implementation committee of the NCLIS Task Force on the Role of School Library

Media Programs in National Networking. This is another continuing activity which also responds to White House Conference resolutions.

Mr. Chairman, it is imperative that the Nation not lose the momentum engendered by the White House Conference in its striving toward providing equal opportunity of access to library and information services for all. I cannot stress too strongly the importance of the National Commission as a strong, continuing, independent agency for the maintenance of that momentum. Without such an independent agency at the Federal level, it is doubtful that more than a scattered few of the resolutions would ever see implementation, and that would be a great loss to the Nation. The other agencies with responsibilities in this area have their own agendas, which may or may not be hospitable to the recommendations of the White House Conference. The National Commission, on the other hand, was established for and has the sole purpose of moving the Nation toward the ideal of equal opportunity of access for all to the knowledge resources of the nation. Rest assured that to the best of our ability with the limited resources available to us, we will continue to work with dedication toward the attainment of that ideal.

Since our budget justification, which we have submitted, contains detailed descriptions of the tasks before us, including a number which we have been forced by lack of resources to defer, I will not go into further detail at this time, to allow you to ask specific questions.

Mr. Chairman, I should like to make an additional point before we go to the questions. Within the next two weeks, we will be submitting to the Congress a request for two technical amendments to P.L. 91-345, our enabling legislation. The first of these will provide for Commissioners whose terms have expired to continue to serve with vote until their

successors have been appointed. The second will change our authorization of appropriations from a maximum of $750,000 per year to such sums as may be necessary. This authorization will be for a five-year period.

We thank the Committee for its careful consideration of our budget requests in the past and hope that your action on our fiscal year 1981 budget will be favorable.

WHITE HOUSE CONFERENCE PROGRAM BOOK

Mr. BENTON. I thought incidentally you might enjoy having a copy of the White House Conference program book.

Senator SCHMITT. Do you have one available for our record?

Mr. BENTON. I think we do.

[CLERK'S NOTE.—The book was submitted and inserted in the subcommittee files.]

IMPACT OF ASSISTANT SECRETARY ON THE COMMISSION

Senator SCHMITT. Well, thank you, sir, and we appreciate your testimony. It was brief and to the point. I'm amazed at how many people from New Mexico, as well as my relatives and my good friends, are involved in the library business.

This is a very important part of our whole educational effort. However, you talk about your independence. Aren't you concerned that with an Assistant Secretary for Library Services in the Department of Education that the Commission might disappear?

Mr. BENTON. Well, not only do we not feel threatened by an Assistant Secretary in the new Department; this is one of the leading recommendations of the White House Conference.

Of all of the resolutions that passed, the Commission has been working hardest on this one.

We have been working hardest on securing the implementation of that particular resolution. It's our belief that it is essential to have in the administration a person at the highest level possible to fight for the maintenance of the library information service budgets and programs, and with whom we can work to try to develop new programs that will meet the needs of the future.

So we not only do not feel in any way threatened by this; we embrace it and we support it strongly.

Bessie, do you have something to add on that?

Dr. MOORE. Well, I think I might add something to that. We have no aspirations, for example, to be an operating agency. When you are an operating agency, you are hemmed in by the present and you're so busy doing the present, that it's very difficult to plan for the future. And we wish to remain a small planning agency. We don't believe that there would ever be any conflict in this.

COMMISSION INDEPENDENCE

Senator SCHMITT. Aren't you hemmed in by OMB now?

Mr. BENTON. Not hemmed in. The word is threatened. [Laughter.]

Dr. MOORE. Of course this would not be the first time that I've answered this question. I think, Mr. Chairman, that no administration likes an independent commission. We have disagreed with various administrations, and of course, that doesn't make them very happy, usually.

But that independence helps us serve as a balance. And the Congress has insisted on keeping that independence and we hope that the Congress will feel that way in the future.

Senator SCHMITT. Well, I hope that they will also. I must say that I do have some concerns that if you are reporting through—well, you wouldn't be reporting, but there might be a tendency for OMB to look to the Assistant Secretary to recommend what you ought to be doing, rather than looking to you to recommend what you ought to be doing.

That is the reason I asked the question.

INFORMATION DIMENSION

Mr. BENTON. Yes; if I may, I have just one other point.

I think that there is a danger—that is a danger that we must guard against, if we are to maintain our dual reporting responsibility that we have both to the President, the administration, and the Congress.

There is one other point that I would like to make on this. We are not only the National Commission on Libraries, but the National Commission on Libraries and Information Science. We have an information dimension.

The whole notion of addressing issues in an information society as such is something that we are just beginning to focus on in a specific and direct way in our task force on public-private sector relations, which I referred to in my statement. This is one excellent vehicle for coming to grips with some of these questions.

Our responsibility goes way beyond education.

LONG-RANGE ROLE

Dr. MOORE. Let me just speak as a State library commissioner for a moment, Mr. Chairman.

You know that the Office of Education has an Office of Libraries and Learning Resources. They require States to submit 5-year plans. That has only been happening since 1970 under the Library Services and Construction Act.

Too many times, the planning that is required under that situation reflects the policy or the immediate goals of the current administration.

It sometimes frustrates the States considerably if they are not permitted to take a longer view. I think the commission can give leadership in helping to provide that longer view. We plan to revise our national program document based on developments since 1975, as well as the White House conference resolutions. All of these things are not going to happen overnight.

It will truly be an agenda for the 1980's and we feel like we will be better prepared than any department in the Secretary's office to lead the country in the long view.

Senator SCHMITT. Well, I think that this committee would agree with you. The concern among some of us is that OMB and the White House might have a much shorter attention span. If we set too much of the library policy being made within a department of the administration. You might be left out in the cold.

BUDGET REQUIREMENTS

Mr. Benton, last year you presented a budget which you described as a modest increase over the previous year. You also told the committee that you would be less modest in your request this year.

And you list in your justification several efforts which you have deferred for lack of resources.

How can you accomplish what you want to do with effectively less money and no increase in personnel, particularly taking inflation into account?

Also you have another drop from 1980 because of the supplementals.

Mr. BENTON. I'm delighted that you've asked that question.

Our original request was for our authorized limit of $750,000. The amount, as you know, that's in the President's budget is $699,000. And if we had the extra $50,000, which would bring us up to our authorized limit, though now we expect to have a lifted ceiling and perhaps can think more expansively in our planning next year as a result of that. If we had this extra $50,000, I think the two things we could do with this that would be most constructive are, No. 1, it would help accelerate the implementation committee process that Bessie mentioned with the two representatives from each State, especially the lay delegates who do not have an institutional base to support their travel and expenses.

And I think the continued involvement of the key leadership from the State level is absolutely essential if we are to march forward with the results and implementation from the White House conference.

So that's the first point.

The second point is that we need another staff person. The one we asked for in our original request, at a GS–13 level, was denied by the OMB. This person would work especially and strongly in the area of public information, concentrating on implementation of the White House conference results. This is most important, especially with the raised visibility of the Commission and expectations for its program that the White House conference generated.

So we hear you and we would like to have this additional flexibility of this modest amount, if it is possible.

WHITE HOUSE CONFERENCE IMPETUS

Senator SCHMITT. I'm afraid that the small business community is going to come away from their White House conference feeling they might as well not have gone. You don't have that same feeling, despite the budget situation?

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Mr. BENTON. No, sir; we are very excited about the potentials for change and progress flowing from the White House conference.

Senator SCHMITT. Is that because it has a momentum of its own, independent of the political atmosphere that sometimes surrounds White House conferences?

Dr. MOORE. I don't think that ours had a political atmosphere.

Senator SCHMITT. Well, it can have.

Dr. MOORE. I don't mean Democrat or Republican. I just mean an overall political thing.

Senator SCHMITT. But if it becomes political, as soon as you try to implement the recommendations you find it was all for naught. The question is do you feel that the conference itself served the purpose of giving some momentum to the library community that it didn't have before?

Mr. BENTON. Absolutely.

GRASSROOTS NATURE OF WHITE HOUSE CONFERENCE

Mr. TREZZA. One of the strong things it did, Senator, was to build from the grassroots level. There were 57 preconferences in all of the States and territories over a 2-year period. Those preconferences generated during the process so much action at the State level in terms of new money, in terms of important programs, that I have stated publicly that even if we never had the national conference, we had already achieved the goal and justified the money for the planning process.

The national conference was built on that base. As a result of the national conference, you've got ideas and resolutions, many of which do not require new money. They require reordering of priorities.

The Commission has tried to work with the states in that direction. We also have some legislative priorities which we're going to try to get the administration and the Congress to consider.

Sure, we're going to be hampered this next year because our money is much tighter than we had hoped for. There's no question about it.

But, like everyone else, we're going to have to look at our own role, do the best we can with what we can get and come back and fight for more money next year.

The reason we want to lift our authorization ceiling is that when we go to OMB, we can have a better chance of getting closer to what we request.

We were so close this year, they just felt that it was better to hold our figure.

We are looking forward to a much better year in the future. The present times are tough.

We are convinced that the White House conference was successful not only nationally, but for all of the States and localities.

WHITE HOUSE CONFERENCE FOLLOWUP IN STATES

Dr. MOORE. Mr. Chairman, could I add something there that I think might be relevant.

Shortly after the White House conference was over all of the States started planning followup activity.

We in Arkansas had ours last week. But within 2 weeks after the White House conference, I went to New Hampshire to theirs and I incidentally taped the delegates' and the alternates' report from that conference because it was absolutely wonderful.

Before the White House conference, we kept hearing that there was going to be a Western position and the old business about whether or not the sun States had a different agenda than the New England States and all this kind of thing.

There were Western caucuses and Eastern caucuses and some of the groups caucused after they got to the conference.

But the interesting thing that these White House conference delegates from New Hampshire said was, you know, those differences melted away when we all got together in Washington. We discovered that we have the same kinds of problems, although there are some differences in degree in the different areas and sometimes a little bit different in subject matter. We discovered that we were far better off and we could do better with networking and cooperation than ever before.

So I think that the leadership that the conference gave, and the kind that the Commission gives, provides a leadership role that is valuable for the whole country rather than just for one topic or subject matter.

BROAD EFFECTS OF WHITE HOUSE CONFERENCE

Mr. BENTON. Mr. Chairman, with your indulgence, perhaps the Director of the White House conference might have 30 seconds to a minute on this question you've just raised.

Marilyn, would you like to address this question?

Ms. GELL. Thank you. I am flooded with thoughts in answer to this. As you can tell, we are all very excited about the conference. It was, in the words of one of the Congressmen that attended, an electric conference. It was the democratic process, something that does not always characterize White House conferences, and represented, really, a microcosm of the country because we did have people from all walks of life, of every description that you can imagine.

The excitement and the difference of this conference I think derives from that. It was a situation in which people were talking about both the user or receiver of a service and the providers of the service at the same time.

The small business conference was not that kind of conference. It was a different kind of thing altogether.

But the fact that we had the users of library and information services as well as the providers together I think really contributed to its success.

In addition, I think that there is a general feeling that information issues will saturate the 1980's. The way people get and use information will clearly affect the way they function in society.

There is a growing recognition of that among the delegates to this conference, among society in general, and I think that will touch many, many people, and I think that that is the kind of momentum that was started and that will continue.

Mr. BENTON. If I may just make this last point, our role, of course, as a Commission, as we were discussing earlier, is to make recommendations to the President and to the Congress.

And the thrust of this effort of ours is to help present an outline to the administration, and of course to Congress, for a National Library and Information Services Act. Hopefully, it will give you the basis, with professional and public support, for a revised Library Services and Construction Act, which comes up for renewal in 1982.

This could be one very specific and solid contribution that might come out of the White House conference process.

Senator SCHMITT. The opportunities are there, but I think they're going to have a harder time getting the administration's attention.

QUESTIONS SUBMITTED FOR RESPONSES

We appreciate your testimony. There will be a few questions for the record. And particularly, we are interested in one a propos of your making due with less.

Thank you very much.

Mr. BENTON. Thank you so much.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

ADEQUACY OF BUDGET REQUEST

Question. Last year, you presented a budget which you described as a modest increase over the previous year. You also told the committee that you would be less modest in your request this year, and you list in your justification several efforts which you have deferred for lack of resources.

How can you accomplish what you want to do with effectively less money and no increase in personnel?

Answer. Obiously, Mr. Chairman, we cannot do the job we want to do without additional funds and personnel. As I said earlier, our original request was for our full authorized figure of $750,000, but only $699,000 was included in the President's budget. If we could get the additional $51,000, rest assured, we would put it to good use, as I described earlier, in accelerating the implementation committee process and improving our public information effort with a full-time staff person for that purpose.

RATIONALE FOR LESS THAN FULL FUNDING

Question. Do you have any idea what OMB's rationale was for denying your request for full authorized funding in the light of the additional responsibility you now have in implementing the recommendations of the White House conference?

Answer. During the budget discussions, the question arose as to the Commission's role as a continuing independent agency. The suggestion was made that it be reconstituted in the new Department of Education as an advisory committee to the Secretary. After further discussion it was decided that since the final report of the White House conference has not yet been delivered to the President and he will need time to consider what he wants to do, discussion of this matter will be delayed. In these discussions, it was determined that the budget figure would be the same as for fiscal year 1980 ($668,000), plus the amount ($31,000) necessary to cover fully the cost of the October 1979 civilian pay increase.

RENTAL COSTS

Question. Last year, the committee received information in its hearings on another agency, which indicated the Commission may be paying an excessive rental rate for its offices in downtown Washington. In your report on the committee's concern, you

indicated that the General Services Administration had assured you the rates were not excessive for downtown Washington.

Since the White House Conference on Library and Information Services with whom you share office space will be vacating their half of the office, have you considered moving to less expensive office space?

Answer. When the White House conference effort is completed (and that will be before the end of this fiscal year), the arrangement with the building owners is that all of the space now occupied by the White House conference staff over the last 2½ years will be vacated and released for other tenants. The Commission will continue to occupy the space it has been in since 1971. The rental rate is not excessive and the cost of any move would more than offset any minor saving in rental.

CORPORATION FOR PUBLIC BROADCASTING

STATEMENT OF ROBBEN W. FLEMING, PRESIDENT

ACCOMPANIED BY:
RONALD L. DAVIS, ACTING VICE PRESIDENT, MANAGEMENT AND ADMINISTRATION, TREASURER
LILLIE HERNDON, CHAIRMAN, CPB BOARD OF DIRECTORS
SHARON ROCKEFELLER, MEMBER, CPB BOARD OF DIRECTORS

PREPARED STATEMENT

Senator SCHMITT. The subcommittee will now turn to the Corporation for Public Broadcasting, if they will find their way to the table.

We want to welcome the Corporation for Public Broadcasting to our hearing today. President Robben W. Fleming is here to discuss the President's budget request and present the Corporation's recommendations for fiscal year 1980 supplemental and fiscal year 1983 advance appropriations.

Please proceed, Mr. Fleming, after you have introduced your colleagues. And you may also want to introduce members of the board of your Corporation who are with us.

And we will have your full statement inserted in the record at this point and you may summarize as you think appropriate.

[The statement follows:]

STATEMENT OF ROBBEN W. FLEMING

Mr. Chairman and Members of the Committee, I am pleased to come before you with an appropriation request for the Corporation for Public Broadcasting for Fiscal Year 1983.

We are requesting, as we have since passage of the 1975 Financing Act, an appropriation two years in advance of the President's budget year. This procedure provides lead time for CPB and public broadcasting to plan adequately for program services and other activities, and to allocate these funds. Fiscal Year 1983 is the third and final year in which funds are authorized under the Public Telecommunications Financing Act of 1978. The amount we are requesting for 1983 - $220 million - is the full amount authorized under the law. The President's budget request is $182 million. Appropriations already have been approved for 1981 and 1982. In 1981, $162 million was approved; for 1982, $172 million.

As you know, Federal funds are made available to the Corporation on a matching basis, with the Congress being authorized to appropriate one dollar for every two non-federal dollars raised by public broadcasting. Our estimates show that public broadcasting will have no trouble exceeding the match for the approved appropriations for 1981 and 1982 and matching the 1983 CPB request. Non-federal financial support -- particularly from non-federal, non-tax based sources such as private contributions and individual memberships -- continues to grow.

Mr. Chairman, in the introduction to our appropriation request, which you have before you, we have indicated that as part of the planning process mandated by the Public Telecommunications Financing Act of 1978, the Corporation has been reviewing all its budget policies. After lengthy consultation with members of the public telecommunications community, the Corporation now wishes to adjust the allocation of appropriated funds it is requesting in 1983, based on four key priorities:

- direct support to local stations
- program services
- extension of services
- new telecommunications services

Before summarizing the initiatives we propose to undertake in these priority areas, I would like to comment on the funding

situation in which CPB and public broadcasting find themselves. We already face the prospect of very small increases in Federal funding -- ten million dollars each year for 1981 and 1982. Based upon estimates of inflation used by the Office of Management and Budget, these annual funding increases of 5 to 5 1/2 percent will compensate for only about half of the projected rate of inflation. The result, Mr. Chairman, will be a real dollar decrease in the funding available to CPB and ultimately to the stations and other public telecommunications entities through 1982, at a time when the system is attempting to grow to meet the expectations and needs of the public. An appropriation in the amount requested by the President for 1983 would continue this decline.

However, inflation is not our principal case for increased funding. We are well aware that all publicly-financed activities are affected by inflation and must make some adjustments. Our request needs to be reviewed not only within the context of prevailing economic conditions, but more importantly with reference to the Corporation for Public Broadcasting's responsibilities under the Public Telecommunications Financing Act of 1978.

We can readily support and justify a need for substantially more than the $220 million authorized by law to meet the many needs which CPB has identified and which are specified as CPB responsibilities in the 1978 Act. Thus, in developing a budget plan based on the Corporation's 1983 request of $220 million, our task has been a difficult one: to accommodate CPB responsibilities for financing a wide range of public telecommunications services within the funding level authorized by the 1978 Act.

Given this funding picture, it is clear that the President's request for $182 million in 1983 is totally inadequate to meet the responsibilities which CPB has been assigned by the Congress. Appropriating the President's request would mean that public broadcasting would not only have to confront a further erosion of its financial base, but would find it exceedingly difficult or impossible to meet the challenges set forth by Congress in the Public Telecommunications Financing Act of 1978.

CPB Priorities for 1983

In developing our priorities for Fiscal Year 1983, we have been guided by our long-range planning efforts now underway.

We identified earlier the four key areas of expanded or new emphasis to which we believe CPB and public broadcasting must respond. These four areas have a common objective -- the delivery of high quality programs and services to as many of the American people as possible, in the most effective and efficient manner. In pursuing this objective, we will be building on a strong foundation -- the existing local public television and radio stations which are the backbone of the public broadcasting industry. I would like to take a few minutes now, Mr. Chairman, to highlight these four major areas of emphasis:

DIRECT STATION SUPPORT

Public television and radio stations are today reaching increasing numbers of people with a variety of services not otherwise available. The successes of these stations in serving their local communities over the past decade have been made possible in part by the direct support which the Corporation provides in the form of the unrestricted grants which we call Community Service Grants or CSG's. These grants currently comprise the major share of funds appropriated to and expended by CPB. Our commitment in 1983 to direct station support recognizes that radio and television stations continue to be the primary means by which a majority of the population receives local and national program services. The continued and strong support of stations is critical.

It is appropriate, therefore, to place our highest priority on support of public television and radio stations through the distribution of Community Service Grants, at levels which at least protect stations against inflation. The actual level of support which will be allocated for CSG's in Fiscal Year 1983 will vary, depending upon the amount of money spent on extension of services and exploitation of new technologies. We have, as shown in Table I which is attached to this testimony, identified an amount of money which would encompass all three of these efforts. However, we cannot identify in exact dollars how much will be allocated to each of these without further planning to find the best ways to work with the stations in exploiting the advantages of our new initiative in telecommunications services. Discussions on this matter will take place in the intervening period between now and the start of Fiscal Year 1983. It is essential that the best and most

efficient means of applying resources to this important new activity be completely thought out before committing the limited support available. Suffice it to say, we believe that creative arrangements can be devised to work with the stations so that CPB may effectively address its leadership responsibilities in the area of telecommunications services in ways that will benefit the industry and the American public.

PROGRAM SERVICES

The heart of public broadcasting has been, and will continue to be, program services of high quality and in sufficient quantity to respond to the needs and interests of a diverse public.

Most of our efforts this past year have been directed toward restructuring the Corporation's television program funding process and devising a way to increase the allocation of funds for direct support of program services. We have taken into consideration the concerns expressed in the 1978 Act which urged increased funding and greater insulation for programs. We believe we have been responsive to these concerns. Last August, acting on recommendations by CPB management, the Board established within CPB a separate Program Fund to plan for and distribute funds to support program production. As Director of the Fund, the Corporation hired Lewis Freedman, whose remarkable achievements include Peabody and Emmy Awards for programs such as Bicentennial Minutes and the Hollywood Television Theatre. Mr. Freedman has experience in both commercial and public television. While he receives his priorities on the use of funds from the Board, decisions as to individual programs are made by the Director and his staff with major input by expert review panels. The Board periodically reviews the performance of the Fund and holds the Director accountable. This arrangement, which began in January with the hiring of the Director, will, we believe, provide the insulation, accountability and most importantly, the results needed in the program area.

As an initial response to the almost universal consensus that CPB should allocate more funds to support program production, we have this year increased our allocation for program services, and given it a priority in our thinking about the Fiscal Year 1983 budget. These funds are intended to stimulate innovative

programs with wide appeal and support the creative producing talent with which this country is so amply provided.

At the time the plan was proposed, direct CPB support for program services totalled 18 to 19 percent of the budget. This year, through a revision in the way the national interconnection system is financed and through economies in other areas, that percentage is up to 24 percent. Flexibility in future years to increase the total further, however, is severely constrained by the slow growth in the appropriations in 1981 and 1982.

The needs for these increased funds are clear. Providing programs to meet the needs of the American public is, after all, the fundamental "product" public broadcasting offers. In public television program services, the needs in such areas as health, public affairs, children (and other instructional programs) and American drama are well known. Similarly, these areas and others must take into account the needs and aspirations of women and minorities.

As importantly, public radio continues to meet proven public needs through its program services. Support of programs such as All Things Considered, the Morning Edition, and expanded coverage of Congressional debates on issues of great moment to this country will continue to be essential. At the higher levels requested, increased funding for radio programs will make it possible to provide such services as a full-time news and information service, cultural programming, and programs for specialized audiences, including children, the elderly, women and minorities.

With increased funds, CPB Program Fund dollars can be used:

- to fund fully programs which, because of their subject matter, cost or intended audience, cannot draw significant outside underwriting;
- to supplement funds raised by local stations for projects beyond their local resources;
- to support certain local programs either as try outs before national exposure or as models for other local stations.

To meet fully these needs would require far more than could reasonably be provided even under our proposal for $220 million. Nevertheless, a start must be made. We propose to allocate $40

million to television program services and another $20 million to radio. By contrast, at the President's recommended level of $182 million, we could allocate only about $43 million for both television and radio. With the higher amounts, along with the support provided by the stations, private underwriters and others, CPB and public broadcasting will be able to mount a meaningful effort to provide quality programs of sufficient quantity and variety to make an impact upon the lives of the American public we seek to serve.

EXTENSION OF SERVICES

Public broadcasting's services are of little value to a public who cannot receive them. Indeed, the Congressional Declaration of Policy opening the Public Telecommunications Financing Act of 1978 states that it is appropriate for the Federal government to support a national policy which will most effectively make public telecommunications services available to all the citizens of the United States. After ten years of federal support through funding of the facilities program and assistance from the Corporation, public television services are now available to approximately 90 percent of the population. While the job of effectively reaching all of the American people is well under way in television, it is a long way from being completed in radio, coverage at present being approximately 65 percent.

We need, therefore, to extend public broadcast service to those areas of the country which cannot receive a public radio or television signal, and to those radio and television audiences that are presently underserved by existing public broadcasting services. In this regard, a high priority will be placed by CPB on the support of new stations, particularly when they are owned and controlled by women and minorities.

We believe that a major effort should be made to increase radio coverage substantially. Planning efforts have been under way, in conjunction with the National Telecommunications and Information Administration at the Department of Commerce, to determine how this objective of increased coverage can be most efficiently achieved. More detailed planning will also depend on action by the Federal Communications Commission on Docket 20735, which deals with ways to increase the availability of FM channels.

To make an impact at all, this effort will require funding over several years. Furthermore, it will require using a variety of technological means to extend services. These options include full-scale broadcast stations, and, where these are not possible, unattended transmitters and other non-broadcast technologies such as cable.

In order to begin to mount a major effort to expand coverage, we propose to allocate $7.4 million in 1983. This is double the allocation possible under the President's budget request.

NEW TELECOMMUNICATIONS SERVICES

To realize the full potential of public telecommunications, we must expand our thinking beyond traditional broadcasting. The availability of alternatives to over-the-air broadcasting - technologies like cable, videodisc, and direct broadcast satellites, for example - makes possible a whole new range of public telecommunications services. These technologies will allow us to tailor programs to those who need them, to make programs available whenever people want or are able to see and hear them, to make programs available to specialized audiences at different times of the day, on different days of the week. For example, specialized mini-cable systems or Instructional Television Fixed Service (ITFS) installations could wire up a small community in Appalachia; a public housing complex in lower Manhattan; an Indian reservation in Ramah, New Mexico; or even provide a mini-broadcast station in rural areas of the country presently unserved by conventional broadcast service.

They will also allow us to serve the handicapped, the institutionalized and other Americans who are under-privileged in other-than-economic ways. The use of radio SCA for the blind and closed captioning on television for the deaf are both examples of non-broadcast technology now being used in some communities, but needing additional financial support. View data, teletext and other televised uses of print data present other exciting possibilities which should be explored and exploited.

How can these new services best be developed? The Corporation believes that public television and radio stations must play a central role. Many public stations have begun to explore the uses of alternative technologies to expand the services they pro-

vide to the public. The Corporation has encouraged such exploitation by funding a variety of experiments and demonstration projects at stations, ranging from the delivery of instructional programs over multiple cable channels, to the use of multi-point distribution systems for adult business training, to the use of videodiscs for instruction.

There are several reasons why stations should play a key role in developing these new services. First, our broadcast system is based on "localism," since local stations are charged with the responsibility to determine the needs and interests of the communities they serve, they are in a unique position to develop services to meet these needs.

Second, the continued viability of stations may depend on their ability to play an important role in the delivery of new services.

Local public broadcasters, both radio and television, can exploit the flexibility of the new delivery systems and increase non-federal income at the same time. Local broadcasters, working with and through these new delivery systems, can carve out hitherto unknown sources of income -- income which is assured, steady, and reliable because it is based on important public services.

For those reasons, we believe it is important to commit resources to the development of new telecommunications services. In Fiscal Year 1983, our request anticipates allocating several million dollars to this activity. Our present thinking is that we will make these funds available in the form of direct support to public television and radio stations and other public telecommunications entities where the application of these technologies will result in new or complementary services. This could include such diverse activities as operational support to develop these services, the purchase of program rights for the presentation of existing programs for distribution through these non-traditional means, and the development of new program services designed to satisfy public needs which can only be met through the use of these technologies.

Public telecommunications has already demonstrated that it has a useful and important role to play in the new communications era. With this additional support we are requesting, we believe

we can fulfill the responsibility Congress has given to the Corporation to encourage the development of public telecommunications to its full potential. Mr. Chairman, this concludes my remarks on the 1983 request.

1980 Supplemental Appropriation

With your permission, Mr. Chairman, I would like at this time to mention briefly our request for a 1980 supplemental appropriation. Because of a presently unresolved legal question, the exact amount of our request will vary between $2.6 and $3.2 million. We will supply the exact figure by the end of March.

In 1978, the matching year for the 1980 appropriation, public broadcasting raised sufficient non-federal financial support to yield a federal match of at least $154.6 million -- above the $152 million appropriated, but within the $160 million authorized.

While the request is a small sum compared to the total Federal budget, this money is critical to public broadcasting. First, it demonstrates to public broadcasting audiences a firm and strong national commitment to continuing these services; and, it provides the base funding essential to all of public broadcasting's other funding efforts. Second, with small increases projected in 1981 and 1982, even this small amount will be helpful in recouping some of the loss incurred by rising costs.

We propose to distribute over half of this money to television and radio stations in the form of CSG's. This is the same proportion which was used in 1980 for the original appropriation. There are competing demands to be weighed in applying the balance of the amount. These include increased programming for both radio and television, as well as radio expansion.

Mr. Chairman, this concludes my remarks. I am prepared to try to answer any questions the Committee may have. Thank you.

CORPORATION FOR PUBLIC BROADCASTING
OBLIGATIONS BY PROGRAM
(in thousands)

	1982 Estimate*	1983 CPB Request $220M Estimate	1983 CPB Request Increase (Decrease)	1983 Pres. Budget $182M Estimate*	1983 Pres. Budget Increase (Decrease)
Distribution of Funds Among Public Telecom. Entities	$107,796	$136,242**	$28,446	$114,742	$ 6,946
Interconnection	11,200	11,200	0	11,200	0
Production & Acquisition	41,950	60,700	18,750	44,200	2,250
Program Related Research	1,112	1,307	195	1,307	195
Engineering Research	834	900	66	900	66
Corporate Direction & Administration	8,505	8,930	425	8,930	425
Reserved for Later Distribution	603	721	118	728	118
	$172,000	$220,000	$48,000	$182,000	$10,000

*Allocations for 1982 at $172 million and for 1983 at $182 million are "pro forma" allocations based upon 1980 budget allocations. These are subject to change at the time CPB adopts its operating budget for those periods.

**In accordance with the FY 1983 priorities cited in the body of the testimony, this item reflects and includes monies which may be expended through Community Service Grants, Training Grants, Expansion of Services to reach unserved audiences, and exploitation of the new technologies.

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INTRODUCTION OF ASSOCIATES

Mr. FLEMING. Thank you, Mr. Chairman.

On my left is the chairman of the board, Mrs. Herndon, and another member of the board, Sharon Rockefeller is here in the room.

I think there are no other board members here.

Senator SCHMITT. Ms. Rockefeller, would you like to join us at the table?

Mr. FLEMING. And at my right is Ron Davis, who is the vice president for finance.

Senator SCHMITT. Please proceed.

1983 BUDGET REQUEST

Mr. FLEMING. Senator, I will, if I might, summarize fairly briefly the content of our paper that I will leave with you for the record.

We are talking, of course, about the appropriations for fiscal year 1983 because of the forward funding nature of this industry. That is, as you understand, because of the necessity for funding things ahead of time for both the stations and for us.

1983 will be the final year in the 1978 Public Telecommunications Financing Act, and thereafter, there will have to be new legislation.

The figure which OMB has sent up to you is $182 million for fiscal year 1983 and the figure which we are seeking is $220 million figure, which is the one which is the authorization.

You will remember that the authorization flows out of the matching fund principle and, as far as we can project those matching figures, there seems to be no doubt but that they will in fact exceed the amount of the authorization through that period.

Senator SCHMITT. Do you have any specific data that would support that?

Mr. FLEMING. Yes; we do.

Senator SCHMITT. Would you submit that?

Mr. FLEMING. I would be glad to.

[The information follows:]

PROJECTION OF 1983 NFFS

Funds are matched based upon non-Federal financial support generated in the second preceding fiscal year. Thus, non-Federal financial support generated in fiscal year 1981 will determine the fiscal year 1983 Federal match. As can be seen from the table below, we estimate that non-Federal financial support will generate a Federal match in excess of $258 million, substantially above both the Presidential 1981 request and the authorized ceiling.

[In millions of dollars]

Year	Projected non-Federal support	Federal match generated	Federal appropriation
1979	428.6		
1980	469.1		
1981	516.5	214.3	162.0
1982		234.6	172.0
1983		258.3	182.0

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. Are you experiencing any difficulty in raising the matching funds?

Answer. No; public broadcasting has consistently raised more than enough in non-Federal financial support to match the Federal appropriation. Beginning with 1981, matching funds will be provided on a 1 to 2 basis. CPB anticipates that public broadcasting non-Federal financial support will exceed not only the amount appropriated, but the authorized ceiling as well.

Question. Who is basically responsible for raising these funds? Does the Corporation assist the stations in this process?

Answer. These funds are raised primarily by the local stations from a variety of sources including State and local authorities, private corporations, foundations, and individual subscribers and members. These funds are applied to general station support and for support of specific program productions.

The Corporation assists the stations through direct and indirect means. In television, stations report applying about 18 percent of their community service grants to fundraising and promotion efforts. In the case of radio, CPB provides direct financial and technical assistance to NPR and the stations aimed at increasing awareness and station membership—both of which are directly related to increasing contributions; radio stations also use part of their CSG's, provided by CPB, for fundraising purposes.

Question. Do the independent producers share in the responsibility for raising non-Federal matching funds?

Answer. Independent producers do share indirectly in the responsibility for raising non-Federal matching funds. Since CPB is most often only a partial funder of the program, an independent producer must seek additional support from outside sources such as foundations and corporations—whose support is includable for matching purposes.

1983 PRIORITIES

Mr. FLEMING. In setting up our pro forma budget material at an earlier date before we had time to refine it, we had simply projected the budget on a present basis. But with the material that I give you now shows the nature of the priorities.

Those priorities are four: Direct support to the stations; program services; extension of the services, particularly in radio, which only covers about 65 percent of the population at this point; and new telecommunications services.

If I may comment for just a minute on the funding of the CPB, the projected increases for the next 3 years, the present base being $152 million goes to $162 million in 1981 and $172 million in 1982. And then on the OMB mark, $182 million in 1983.

Those are about 5½-percent increases on the base and obviously would not, as inflation is running, even match that, which is one reason we are seeking more than the $182 million amount.

We recognize, of course, that everybody has the problem of inflation these days and that we can make no special plea on that.

However, the other factor which causes us to take the position seeking the larger amount is that the number of the duties which are imposed on us in the 1978 act really cannot be accomplished within the confines of the present incremental amounts because those are being eroded so rapidly by inflation.

If I may come back for a minute to those four areas of priorities which I just mentioned to you, the first would be direct station support.

BROADCAST STATIONS

We recognize that the heart of the system is the stations. However one might talk about different systems of transmitting programs, it will, for a number of years to come at least, be most heavily in straight broadcasting, although nonbroadcast techniques are increasingly interesting and we do want to talk about those.

Therefore, it is important to the whole system that we make a very high priority of supporting those stations through the community service grants as we do, in fact, right now.

The level of support which would be allocated to those so-called community service grants in fiscal year 1983 will vary, depending on the amount of money we spend on the extension of services and the exploitation of new technologies.

In our figures in table 1 at the very end of our remarks, you will see a figure which includes two or three things. If you're interested in looking at that, it is the last page which shows a figure in the second column of $136,242,000. It is footnoted by the double asterisk and it says that it includes money for community service grants, training grants, expansion of services, and the exploitation of the new technologies.

The reason we have not tried to assign exact numbers to each of those is because, we're talking about a period 3 years ahead and it is difficult to project exact figures.

I will speak a little more about that as we go along.

DIRECT PROGRAM SUPPORT

The critical point is that we do recognize the necessity of the whole station system. Now, as to program services, which is another of the four priority areas, we have taken into consideration two problems as we now try to work it out and to give emphasis to programing.

One of the criticisms has always been whether programing was sufficiently insulated in terms of the political process. The second has been whether we have held aside enough money which could be dispensed directly by CPB to assure diverse and high quality of programing. There have been suggestions in the past that the figure ought to be targeted somewhere around 25 percent of the CPB appropriation.

In the years just before this year, though, it was about 18 or 19 percent. In 1980 we raised that to a little over 24 percent. We believe we have solved the insulation problem by establishing within the Corporation a program fund, naming to it a new director, Lewis Friedman, who has had a distinguished career in both public and commercial television, and was the creator of the Bicentennial Minutes, the Hollywood Television Theatre, and so forth.

We think that we have now answered both of those problems reasonably well. The problem in programing, and the reason for the absolute necessity of our putting more money into programing, is that prices are rising very fast, and the difficulty in developing or acquiring program-

ing means that our present dollars don't buy nearly as much programing as they once did.

As you know, we do not produce programing. We fund it. And we see very great needs in areas such as health, public affairs, children's programing, American drama, and a number of those areas. So we are anxious to put in as much as we can.

On the radio side, programing also is greatly enhanced these days. You may hear, as I do, "All Things Considered" in the evening and perhaps the "Morning Edition" as you come to work. Those programs and many others such as the Panama Canal debates have turned out to be great assets to the system.

If we were able to put in more funds, we could fund other programs, some of which have subject matter which is not going to be put on commercial television, some of which are directed at audiences who are not mass audiences, but nevertheless audiences who ought to be reached by public broadcasting systems, and some of which simply can't draw much outside funding.

And typically, as I'm sure you know, in our funding we tend to be paying for a part of the overall package. You may remember that actually, in the total financing of public broadcasting, we only provide about a third of the money. Much of it is raised from other sources—State and local funds, private gifts, and so forth. So that there is a serious need in those various areas.

EXTENSION OF SERVICES

The third priority was the extension of services. Right now public television can reach about 90 percent of the population. Public radio reaches about 65 percent. We see the need, particularly in the radio area, therefore, for extending that coverage of the population.

We think there are a number of ways to do this, not all of which are in the direct broadcast category. But we do not have in the present budget, and we cannot really fund, an expansion of the system.

Now, I want to talk more about how that relates to NTIA a little bit later. But if we were able to achieve the objective of the higher budget figure, that is the $220 million as marked, we would double the amount of money for expansion which we will be able to assign if we are at the $182 million figure.

You may remember also that the FCC right now in one of its dockets is considering increasing the availability of FM channels. If they take that action, it will make possible the establishment a number of stations or other types of operations. Our options in this respect might be everything from full-scale broadcast stations to unattended transmitters or other nonbroadcast kinds of techniques.

NEW TELECOMMUNICATIONS SERVICES

Last in priorities is the new telecommunications services, in which we put cable, videodisc, direct home to satellite kinds of broadcasting. There are a whole range of possibilities. You could have specialized mini-cable systems. If you used the instructional television fixed services

installations, you could wire up small communities in various parts of the country, deliver discrete services to various audiences.

It would allow also the exploitation of these media for institutionalized populations and the handicapped. There is the radio SCA system, which calls for a special receiver, but which could bring programs to the blind, which are not available under the present kind of system.

There is captioning for the deaf, with which we have done a lot of experimenting. There is view data, teletext, and all of these other developments which I'm sure, given your interest in this area, you are probably more familiar with than I am, as a matter of fact.

In all of these, we think the Corporation would find stations playing a central role. If you look at the kind of experiments we have been doing in these areas, you will see they are almost always with stations. And a good many stations now are exploiting those nonbroadcast techniques.

If you look at the total income reported by radio and television stations, it shows that in 1978, the most recent reporting period we have, the stations reported over $19 million in nonbroadcast income. This is a possible source of revenue which could augment the support which comes from broadcast sources and the Federal contribution.

We think also that the continued viability of those stations is contingent upon their becoming more in the nature of telecommunications centers than just broadcast centers, though we recognize that for some time to come broadcasting will be the key.

So that our intentions in fiscal year 1983, if we had the full appropriation, would be to put several million dollars into the exploitation of that new technology. We would expect that probably the bulk of that would go through the stations.

1980 SUPPLEMENTAL BUDGET REQUEST

Now, that summarizes my general testimony, Mr. Chairman. I have only a final comment to make upon the supplemental. Given the nature of the matching fund process, we now know that within the authorization for the year 1980 there would be, should the Congress choose to appropriate that money, somewhere between $2.6 and $3.2 million. That is a small amount, given the kinds of money you're dealing with. But it is an important amount in our kind of system. The exact figure we can give you at the end of this month.

There is an unresolved legal problem with the level of the supplemental request. Whatever amount we received, we would take the same share of the supplemental as of the whole budget and distribute it in the form of community service grants. The balance of it, which would be relatively small at that level, we would divide in terms of the most critical problems we had at that time.

So we are hopeful there might be a supplemental which would be helpful in solving some of our current problems.

Mr. Chairman, that concludes my remarks and I would be glad to respond to any questions you have.

EFFECT OF FAILURE TO RECEIVE 1980 SUPPLEMENTAL REQUEST

Senator SCHMITT. Once you have resolved the legal questions, and you make your presentation, would you also provide an analysis of the impact if there is no supplemental?

Mr. FLEMING. We would be glad to.

[The information follows:]

Although a relatively small sum, these funds can provide an added amount of discretionary income to both CPB and the stations. The stations will receive almost 60 percent of the total in the form of community service grants—the bulk of which would be applied to program services. The remainder would be applied by CPB to programing (both radio and television) and to radio expansion.

Failure to receive the supplemental will mean that opportunities, at both the local level and at CPB, to support some additional programing and other high-priority activities will be lost.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. You are asking for up to $3.2 million additional for fiscal year 1980 and $38 million addition for fiscal year 1983. How will you allocate those funds?

Answer. With regard to the up to $3.2 million requested for 1980, we propose to distribute over half of this money to television and radio stations in the form of community service grants. This is the same proportion which was used in 1980 for the original appropriation. The balance of the amount would be applied to increased programing for both radio and television, with some share likely going to radio expansion.

Of the $38 million additional requested for 1983, the CPB Board has generally discussed assigning these funds in the following manner: $8 million would be allocated for community service grants; $3.5 million for expansion of radio services to reach unserved audiences; $10 million for the exploitation of new technologies; and $17.5 million will be directed to radio and television programing.

Question. On page 13, you indicate there is an unresolved legal question as to the exact amount of your supplemental request. What is this unresolved legal issue?

Answer. Within the limits of its authorization ceiling for fiscal year 1978, 1979 and 1980, the funds available to CPB are disbursed by the Treasury upon certification by CPB of 40 percent of the total amount of non-Federal financial support received by public broadcasting entities (47 U.S.C. 396(k)(1)(B), (k)(2)(A)). "Non-Federal financial support" is a term defined extensively in 47 U.S.C. 397(9).

In the course of auditing certain stations pursuant to 47 U.S.C. 396(1)(3)(D), CPB questioned whether certain funds reported by the stations as NFFS in fact satisfied the terms of the statutory definition. If they did, the amount of the supplemental appropriation requested would be greater than if they did not. This is the legal issue referred to.

Question. Did you obtain a legal opinion on this question from your general counsel? If so, please provide it for the record.

Answer. In the course of the audits referred to, the CPB audit staff conferred with general counsel in the context of specific fact situations and relied on counsel's advice in making final audit determinations. Counsel did not render a blanket legal opinion on the general subject of what does or does not qualify as NFFS.

Question. If you have an opinion from your general counsel, why can't you provide the figure before the end of March?

Answer. While the closing of certain of these audits was still pending, the CPB Board of Directors, on February 21, 1980, instructed the President of CPB to seek outside counsel's opinion on the interpretation of the definition of NFFS. Until that opinion is rendered, CPB is not in a position to make a final certification. It is not yet certain when outside counsel will complete the opinion.

Question. How big is your general counsel's staff?

Answer. There are four attorneys on staff and one attrorney consultant.

Question. Why is it necessary to retain outside counsel when you presumably have attorneys who are well acquainted with the law and public broadcasting practices?

Answer. Below is a copy of the Board resolution setting forth the reasons for seeking outside counsel.

RESOLUTION, BOARD OF DIRECTORS, CORPORATION FOR PUBLIC BROADCASTING

In Favor: Herndon, Cowan, Friedlander, Gammino, Kelley, Nolan, Rockefeller, Roll, Sorensen.

Abstaining: Dougan, Rivera.

Whereas, CPB is committed to do everything feasible to maximize the level of financial support legally available for public telecommunications; and

Whereas, eminent legal counsel have advanced somewhat contradictory opinions about precisely which sources of station revenue can properly qualify as non-Federal financial support.

Now, therefore, be it resolved that, 1. The President shall obtain, as expeditiously as possible, an outside legal opinion by expert counsel, to be selected after consultation with the Board and with the CPB General Counsel, as to the most generous definition of NFFS permitted by law; 2. Based upon that opinion, and upon the advice of the CPB General Counsel, the President shall inform the Board of any and all action that CPB can legally take to maximize allowable NFFS; and 3. The President is authorized to expend the moneys necessary to obtain the advice of outside counsel.

Question. It is my understanding that some former sources of income are not now being counted in the matching Federal funds formula, Is this the case? What effect, if any, will this have on the stations?

Answer. Given current and projected Federal appropriation levels as well as the reduction in the matching formula from 2.5 to 1.0 to 2.0 to 1.0, there is no impact on the total amount of Federal funds received by the Public Broadcasting system as a result of CPB's improved clarification and enforcement of NFFS calculations. However, individual stations may receive a larger/smaller share of the fixed amount of Federal funds which are distributed via community service grants (CSG's) based on the composition of their non-Federal income. Since CSG's are calculated primarily on the basis of the NFFS each station obtains relative to the total NFFS of the entire system, a reduction in one stations's NFFS/CSG results in a corresponding recalculation/ increase in other stations' CSG's.

COMPETITION BETWEEN PUBLIC AND COMMERCIAL BROADCASTING

Senator SCHMITT. There has been some concern expressed that the Corporation is encouraging public broadcasting to move into competition with the existing commercial systems and the new commercial systems that may soon be available, providing diverse services to diverse communities. Do you share that concern?

Mr. FLEMING. Well, it doesn't seem to me likely that public broadcasting will ever be a competitor to commercial broadcasting in any significant sense.

Senator SCHMITT. Well, I think most of us would agree with that. But if you try to be, you may undercut some.

Mr. FLEMING. The stations are obviously interested in raising money, in any way they can—in fact, they are encouraged to do that through the matching principle. If you look at the principal resources of the money which they now raise, it comes most heavily from States and from other public institutions.

For instance, a State educational system may heavily subsidize a public broadcasting station in order to use its channels or its tie with a cable system, in order to put instructional programs on during the normal school hours of the day. If you look at the stations, for instance, which are making some of the largest amounts in terms of revenue with

which they can augment the financing of the station and use for matching funds, you will see that is the source of it.

It seems to me that the kinds of programing which public broadcasting is most likely to be doing doesn't really lend itself to a competition with the commercial people, who have to be interested in a mass audience.

Senator SCHMITT. Well, the concerns I expressed are still there, that you may, in your emphasis on programing and supporting national programing, neglect one of the principal functions, and that is the encouragement of local programing which is unique, which does not compete in a technical sense with the normal provisions of commercial broadcast or cable or video cassette.

Mr. FLEMING. It is conceivable, but if you were to see, for instance—and we would be glad to send down to you, because it is a public document, one of the papers that we have with respect to some of the program fund director's thoughts about the kind of programing he thinks ought to be done. I think you would find a surprising amount of it ties into local affairs.

LOCAL AND NATIONAL PROGRAM SERVICES

Senator SCHMITT. We would like to have that information.

But your statement indicates that you would like to emphasize more the new technologies in the programing areas, and there is concern that this means there's going to be a decreased support of local programing of various kinds.

Mr. FLEMING. This is one of those things that perhaps is not very well understood, Senator. We always end up talking about this in our own discussions. If you look at the television CSG's, those community service grants, and you then look at the reports on how these stations use that money, you will see that they report that they use 60 to 66 percent of it on programing.

It is essentially programing which they do, of course, at the local level. And that is a very big amount of the total money.

You must also remember that the stations produce—since we don't produce any programing, the stations produce a very high percentage of the programing which we help to fund. So that in fact by far the largest amount of the Federal money that is appropriated and goes into programing, goes into it at the local level.

Senator SCHMITT. There tends to be a filtering process there with respect to what is deemed to be national programing, or have national programing potential. A group of university-operated stations in New Mexico, for example, would not ordinarily be producing programs that at this time would be considered of national program potential, although I think that for all smaller local stations there is a much greater potential for programs of national or regional interest than is realized today.

Mr. FLEMING. If I could just give you one example, the Philadelphia station, for instance, in this Presidential year felt that there ought to be a series on the nature of the American Presidency. They conceived the idea. They worked out the format for it. They got a substantial amount

of the funding for it and then came to us and said: Would you give us a portion of that funding to produce that series.

Now, because it is a national election year and because everybody is interested in the Presidency, I am sure that show was widely shown around the country. But it was conceived, heavily funded, and produced at the Philadelphia station. They picked a topic they knew to be of interest to a great many people, and I think that ties into your last remark.

Senator SCHMITT. Well, let me give you an alternative example. A New Mexico station some months ago did an in-depth program on the Santa Fe Prison and the conditions and other problems there. But it was not recognized as being of value until there was a riot at the prison. So I say that there is probably a potential that could be served beyond that.

And as we both picked isolated examples, I feel confident that they are examples of a broader situation.

QUESTIONS SUBMITTED FOR RESPONSES

I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. Language contained in the conference report accompanying the 1978 act indicated a minimum goal of 25 percent of CPB's funds for program funding. What have you done to meet that goal? How does your fiscal year 1983 request address this? What problems have you encountered in assigning at least 25 percent of your funds to this priority area?

Answer. In fiscal 1980, CPB was able to increase the amount of money it allocates for the direct support of national programing from approximately 18 to 24 percent of the budget. We will be able to do this primarily because of two factors: (1) The relatively large increase in the appropriation from 1979 to 1980; and (2) by changing the method of financing of the national interconnection which resulted in a share of the cost being shifted to the stations.

For fiscal year 1983 at the $220 million level requested by CPB, the Corporation is prepared to allocate $60 million or 27 percent of the appropriation to programing. At the lower figure requested by the President, on top of the small increases in the appropriation in 1981 and 1982, CPB would not be able to increase the share of the appropriation to programing beyond the 24 percent which it now allocates.

Question. Taking into account the many new responsibilities CPB must operate under in the 1978 act, where does CPB support of programing belong on your list of priorities?

Answer. As we have mentioned in our testimony, we consider programing to be one of the CPB's top priorities. When it comes right down to it, public broadcasting is known by the public through its program services. It is vital, therefore, to provide substantial resources to this area in order to assure that the stations have sufficient quantities of high quality programing so that they may serve the needs and interests of their local communities. CPB is prepared to place approximately $60 million in fiscal year 1983 in this high-priority area at the $220 million appropriations level, compared to the $43 million which CPB could allocate to programing under the $182 million level requested by the administration. I would like to bring your attention, for purposes of comparison, that the three commercial television networks will spend a combined total of $40 million for each week of prime time programing this coming spring.

Question. What actions has CPB taken to cut through the redtape involved in program funding that has plagued this activity in the past?

Answer. As you may know, by resolution of the CPB Board, we have restructured the Corporation into the program fund, and management unit. The program fund has been created both to provide for greater insulation in the selection of programs, and as well to increase the efficiency of program funding operations. Since the program fund came into being effective January 1, 1980, it is too soon for us to state unequivocally that all the redtape associated with this area in the past will fall by the way. The new director of the program fund, Lewis Freedman, is still in the process of staffing up and determining the general procedures that will govern the operations of the fund, which will include the use of expert review panels as required under the 1978 act. However, one of the goals of the CPB Board and management is for the program fund to carry out its responsibilities in such a way as to minimize the redtape and regularize the funding procedures so that all applicants for CPB program moneys will know beforehand how the process works.

Question. How much money does CPB-qualified stations spend on local programing?

Answer. Our present method of collecting data does not enable us to provide information on a stations expenditure for local programing. Instead, it provides information on the overall expenditures on programing and production for individ ıal stations.

In fiscal year 1978, public televisions spent $165 million or 49 percent of the total direct operating expenditures, on programing and production. During the same period, CPB-qualified public radio stations expended $21.6 million or 47 percent of their direct operating expenditure. It should also be noted that, in 1978, public television stations produced some 30,500 hours of local programing.

Question. How is your new program fund working? How does it arrive at its decisions?

Answer. The program fund is presently in the process of setting its goals, priorities, and procedures, and assembling a staff. We hope to have completed this work by the end of March or early April. At that time we will begin to deal with program proposals.

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Question. What provision is there for station input and participation in CPB programing decisions?

Answer. Station input and participation in CPB program funding decisions occurs at a number of points throughout this process, including: Station program manager surveys, regional program seminars, semiannual station conferences, and a variety of other formal and informal mechanisms. Further, station input will be a factor in the program funding process as a result of station representation on expert review panels.

Question. What is the status of implementing the mandate for program proposal evaluation panels? What effort is being made by CPB to comply with conference report language to draw upon talent from all regions of the country?

Answer. The program fund is currently in the process of setting up panels for proposal evaluation and it is our intention to have the program fund's expert review panels representation from various segments of the country, including geographic regions. We are also currently in the process of hiring the coordinator of proposals and panels, and one of the first assignments of this person will be to assemble potential panelists who, of course, will represent the various regions.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY

Senator SCHMITT. The 1978 act imposes several new requirements on the CPB and recipients of its funds in the areas of financial management and accountability. Could you describe what these are briefly and what the CPB is doing about them?

Mr. FLEMING. Yes; if you don't mind, I will ask Mr. Davis to do that, since he is the man who directly administers that and works with it.

Senator SCHMITT. Let me say, mainly because of my own tendencies to ask too many questions and make too many comments, let's all try to be brief.

Mr. DAVIS. I shall try to be very brief, Senator.

The financial management requirements and accountability requirements in the act primarily relate to the congressional directive that CPB develop a set of accounting principles which shall be used uniformly by all public telecommunications entities, taking into consideration the diversities in the system and developing a set of audit standards which may then be applied to each station each year by independent audits to verify the accuracy of their financial dealings. Those are the primary areas of accountability.

We have since this spring been working very diligently on developing those accounting principles. In November we were in a position to send out to all stations in the system a so-called exposure draft. We are at this point trying to reconcile some of the problems we have found in the stations responding to this draft, between the desire to establish a system that is relatively uniform, while at the same time recognizing that there are different kinds of licensees with different kinds of accounting systems and different kinds of problems.

We think we are fairly close to having those issues resolved and hope to have a set of principles out to the stations some time in the next month. We have already scheduled a meeting in Memphis to go over with them in depth what those principles may be.

The auditing standards will follow on naturally from those accounting principles. We haven't really dealt with the auditing standards yet, and cannot until we finalize the principles. Then we will know what to do on the audit picture.

STATIONS LICENSED TO STATE OR LOCAL GOVERNMENTS

Senator SCHMITT. Is one of the principal areas of concern the stations licensed to the State or local government?

Mr. DAVIS. That is a principal area of concern, along with college and university stations.

Senator SCHMITT. Are you going to be able to accept an ongoing accounting scheme or do you think the States or universities will accept your scheme, so they don't have to go through several different ones?

Mr. DAVIS. We are trying to come to some sort of accommodation that represents a standard of general uniformity, while at the same time accommodating the key problems that they see. Frankly, it's easier to do the colleges and universities than it is with the State licensees for State and local governments, because the present systems the State and local governments may be using to account for their activities generally have no uniformity.

If we are to implement some sort of regularized system, there is no doubt that they are going to have to make some changes. We were trying to do it in a way that minimizes the changes they have to make while still meeting the congressional mandate.

Mr. FLEMING. We went over this as late as yesterday afternoon, Senator, not in connection with this hearing, as a matter of fact, but simply because we are in the process of doing it. It seems to me if we are able to utilize the position that we are now at, that it is probably going to be relatively satisfactory. It's not going to be perfectly satisfactory, because you have really got three different sets of groups.

There are communities which, as I understand it, have little uniformity really in how they handle this thing. And there are States and local governments which have some, but by no means 100 percent, uniformity. And then you've got colleges and universities which control about or operate about 60 percent of the radio stations and 30 percent of the television stations. They may be at the two-thirds level, relatively uniform on their present system, but not wholly.

So there is no way you can devise what is called a uniform system, even when you make variations which the present state is prepared to do, which will result in anything that could be labeled uniform. It is a very hard problem, but I think it is going to be resolved fairly satisfactorily.

AUDITING ACTIVITIES

Senator SCHMITT. In the meantime, you're using the existing auditing procedures at CPB, is that correct? And presumably you have modified those or improved them to take into account the past questions?

Mr. DAVIS. We have been concentrating very heavily on our own audit procedures, on trying to audit a high level of the non-Federal financial support and report it, and also to audit many small stations that have never before been audited.

I would point out that when the congressional provisions are put into effect for uniform accounting and auditing, which should be fiscal year 1981, then each station will be annually audited by an independent auditor.

FUTURE AUDITS

Senator SCHMITT. How often do you think you are going to be able to audit recipients of CPB funds in the future?

Mr. DAVIS. Assuming we have a system in which the overall activities of the station are audited by independent auditors, we would then concentrate primarily on auditing the program production operations that we finance. In other words, we are not looking at the overall station anymore. That is being done, under the congressional mandate, by independent auditors.

Senator SCHMITT. Do you do a spot check?

Mr. DAVIS. We will have to, initially, do some spot checks to see how well the independents are really doing their audits. There's no doubt about it. But over time, we would phase into more of a——

Senator SCHMITT. Completely out of that?

Mr. DAVIS. I would think we would never get totally out of it, but assuming that the independent audit profession does a good job, it would be a random spot check.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Question. Regarding the uniform accounting principles called for under the 1978 act, I have heard it could cost stations upwards of $10,000 to implement these new principles. Is this so?

Answer. Some stations will, for the first time, have to pay increased sums to comply with the various financial management requirements of the 1978 Financing Act, which requires full accounting of all station funds and an annual audit by an independent accountant.

It is possible that the wording of the accounting principles as developed by CPB will result in still additional sums being spent, but it is not clear how much more—nor will it be for the same for all stations. Much depends on the licensee type, the size of the budget, the extent of existing financial reporting procedures and the complexity of the station's activities.

Because the final document on uniform accounting principles has been modified to allow some optional treatments for college and university and State and local government licensees, we feel that the potential economic burden on the stations has been greatly reduced.

Question. In the 1978 Financing Act a cap of 5 percent was placed on CPB's administrative expenses. How are you doing in reducing administrative costs?

Answer. The provision which places a cap of 5 percent on CPB's administrative expenses goes into effect in fiscal year 1981. To prepare for that eventuality, CPB has already reduced its administrative expenses in 1980 in an attempt to avoid any severe disruptures in 1981. We have already abolished 20 positions and reduced overall expenses to 5.1 percent of our current budget.

Even with these efforts, we do anticipate problems in conforming with the limitation. Many of the activities which we perform are not administrative in the sense of being part of the costs of doing business—normally called overhead. They are support activities directly related to our mission. For example, our activities in the area of equal opportunity and upward mobility for women and minorities throughout public broadcasting are currently classified as "administrative expenses," subject to the 5 percent. Likewise much of the technical assistance undertaken to improve financial management and accountability through the system—including seminars, developing audit standards, etc.—are counted as administrative expenses. These, and similar activities are sure to continue and increase in future years. Unless this provision is modified in some manner, we will have a very difficult time conforming to the law without some drastic budget cuts.

QUESTIONS SUBMITTED BY SENATOR SCHMITT

Question. In past years there have been questions as to the adequacy of CPB's auditing activities. Can you describe your present audit programs and address your efforts in implementing the new audit standards requirement contained in the 1978 act?

Answer. The Corporation has budgeted for a lean, but adequate audit staff of six auditors in 1980 and has added $150,000 for the performance of external audits by independent accounting firms under contract with CPB. The auditing budget and staffing arrangements have been developed in response to the need to hold down CPB administrative costs. We hope—but are by no means sure—that the mix of staff audits and contracted audits may produce a more cost-effective approach to CPB's audit responsibilities. We are looking forward to changes in the way that station audits are performed, pursuant to the new requirement contained in the 1978 act that stations undergo annual, independent audits. During the next few years, it is possible that much of the CSG and non-Federal financial support (NFFS) audit workload will shift towards the independent auditors, operating under specific CPB audit standards.

The establishment of CPB audit standards, as called for under the 1978 act, will directly follow implementation of the uniform accounting principles developed by CPB as required by the act. Transition to this new type of auditing system will, of course, require a new CPB audit effort to develop standards, provide technical assistance to independent auditors in the interpretation of these standards, and evaluate the performance of these auditors. The following represent the basic elements of CPB's fiscal year 1980 audit program:

We plan to utilize a more selective approach in conducting station CSG/NFFS audits. These audits include minority training grants and women's training grants where

applicable. Our primary emphasis for 1980 will be the auditing of stations which have never previously been audited and larger stations whose NFFS represent a relatively high percentage of total system NFFS.

We plan to significantly increase program production audits over recent years. In addition to increasing the number of productions audited, we also plan to select production audits on the basis of relative materiality of CPB funding. The goal is to provide audit coverage for the largest possible amount of CPB funds.

We plan to continue execution of the internal CPB audit program as previously approved by the CPB Board.

We plan to utilize the previously referred to fiscal year 1980 funds, available for contracting with independent auditing firms, primarily in the more labor intensive audits of PBS and NPR interconnection agreements and other significant contracts. The CPB Auditing Department will monitor the conduct of these audits, but outside contracting will enable the limited CPB staff to fully execute the other primary elements of the audit program.

Question. Also in the 1978 act there are several requirements imposed on licensees as a condition for receipt of CPB funds, for example open Board meetings and financial records and community advisory boards. Again, explain what CPB has done to implement these requirements.

Answer. In attempting to comply with the requirements in the 1978 act with respect to open meetings, open records and committee advisory boards, CPB has accomplished the following:

(a) Shortly after the signing of the 1978 act, CPB prepared and distributed to the stations a series of interpretative papers on three provisions in the law: Open meetings, open financial records, and community advisory boards. They address the minimum requirements which stations must meet in order to be in compliance with the law. CPB urges the stations, however, to go beyond the letter of the law and establish procedures which meet the spirit as well. The responsibility to develop the mechanisms rests with the stations.

(b) CPB has published a brochure dealing with community advisory boards. This brochure discusses the role, composition, and general operating guidelines which stations might follow in establishing the community advisory board.

(c) CPB modified its contract documents to include compliance provisions government all aspects of the law as amended. Recipients of CPB contract and grant funds must sign a document with this clause in it.

(d) As part of its annual survey of public broadcasting stations, CPB requires its station (and a licensee representative) to certify that it is in compliance with these provisions. It also surveys the stations on the makeup of its board of directors and advisory boards, as well as its procedures.

1983 FINANCIAL REQUIREMENTS

Senator SCHMITT. Considering your priorities and taking inflation into account, what size appropriation would it take to support your present activities?

Mr. FLEMING. For fiscal year 1983 it would take a budget of $207 million. If you then tried to support the additional things that we hope to do in our priority list, in addition, it would go up as high as $232 million.

Senator SCHMITT. You mean that would be new telecommunications services and the increase——

Mr. FLEMING. Given your premise, of carrying exactly as they are now, yes, that would amount to the $207 million figure.

Senator SCHMITT. Now, if you have to drop to $182 million, that means that you will be dropping some of the activities you currently have?

Mr. FLEMING. In the area of technology we now have a very small investment simply because we don't have enough money to be able to

do more, without decreasing support for other things. If we were not in such a period of high inflation, that might give us a possibility to do more.

But given the fact that the money in all areas erodes so rapidly, that is very hard to do. We have a very small investment in that now.

Senator SCHMITT. Would you be able to maintain the level of service grants, community service grants?

Mr. FLEMING. At the $182 million figure, we would maintain them against inflation. In terms of protection of new stations, it has to go up to $207 million to completely protect them, if you are talking about current percentages of the total budget. That is, you protect for inflation and growth in the number of stations, which always gives you a problem, every year.

Either you have to take more stations out of the same pool of money or add to the pool. At $182 million, we will protect against inflation.

IMPACT OF PRESIDENT'S 1983 REQUEST

Mr. DAVIS. Might I correct that? At $182 million we could not protect against inflation and the growth of stations. That is a $10 million increase.

Senator SCHMITT. What other activities would you cut out at $182 million? What other CPB activities? Would programing essentially stop?

Mr. FLEMING. The nature of the budget is such that our heavy commitments are in programing and in community service grants. The other items in the budget include the interconnection cost; a 5.1-percent administrative cost; and there is some cost for research and training.

Those amounts are so small that they really can't make significant shifts in any of those. That leaves, then, two major categories. Either some cuts in programing could be made, ignoring then the intent expressed in the 1978 act that we ought to build that fund as we have, in fact, done this last year. Or there would have to make some kind of a shift in the CSG's.

Senator SCHMITT. And the services like translators, they come out of that?

Mr. FLEMING. They come out of a separate amount, that is $3.2 million, and it's mostly in radio. That is mostly in improvement as against brand new stations. That would mean that there wouldn't be a great increase in stations.

That is why we said at the $220 million figure we would double that $3.2 million and run it up by $7.4 million.

Senator SCHMITT. Now, if you were going to protect against inflation, and provide for a continued growth, without any other changes, the budget figure would be $207 million?

Mr. FLEMING. Right.

Senator SCHMITT. If you were going to increase your programing activity and your new technology activities, you would do that out of the $13 million out of the $220 million?

Mr. FLEMING. Yes.

Senator SCHMITT. But without a change in the amount and the dollars available to the industry——

Mr. FLEMING. Well, that question has never really been decided by the board. That is why table 1, as you look at that $136 million figure, includes two or three things. The board has not, at this point, made the decision as to exactly what it would put in these activities.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. In what ways would the President's proposed budget of $182 million help or hinder CPB's ability to deal with the major issues and future activities that you have identified through your long-range planning efforts?

Answer. At the President's proposed budget of $182 million, CPB would have virtually no flexibility to deal with the major issues and future activities which we have identified as part of our long-range planning efforts. With a $10 million increase over 1982, on top of annual increments of $10 million in 1981 and 1982, CPB and public broadcasting would barely be treading water in terms of being able to maintain the level of services which we are currently providing in 1980. On that basis, CPB's first priority would have to be to maintain the existing level of services to the extent possible given the appropriation levels. We would anticipate virtually no discretionary funds available to respond to the needs which we have identified as part of our planning efforts.

Question. Do you feel that the $182 million figure is sufficient to meet the additional responsibilities given to CPB under the 1978 act, and the future activities that your long-range plan anticipates will be needed in fiscal year 1983?

Answer. The President's budget figure would not be sufficient to meet the responsibilities given to us under the 1978 act. To be specific:

In programing, we would not be able to meet the goal emphasized in the 1978 act of increasing CPB direct support of programing above the current percentage for 1980. In addition, CPB's efforts in the children's programing area could be seriously diminished.

For support of local stations we would only be able to allocate sufficient money for a 3-percent increase in the average television station community service grant.

For new telecommunications services we would be able to allocate hardly any funds beyond the limited research and development money which we are currently providing.

In the area of extension of services, we would only be able to provide relatively small amounts as we have in the past to increase the coverage of public radio.

Another goal, increased support of various minority and women's activities, could be seriously hampered.

Question. What would it take to continue your present and new activities and account for anticipated growth and inflation?

Answer. Based on the very conservative rates of inflation we estimate that about $207 million would be required to maintain CPB's current level of service to the industry in 1983. Given the realities of a much higher inflation rate, CPB's basic requirements rise to nearer the full authorization level.

Question. Given the many competing priorities for Federal support, and the emergence of new communications technologies which offer a wide variety of program services, should the Federal Government continue to invest in your industry on the same basis it has done in the past?

Answer. We believe that broadcasting and public broadcasting in particular will continue to be the dominant method for distributing public telecommunications services in the 1980's. The major thrust of our request before you today is to build on the services and capacities which presently exist in the local public television and radio stations. We see these emerging technologies as presenting an opportunity for public broadcasting to deliver its services to an increasing and everwidening audience.

The major ingredient which is lacking is money. Our proposal before you today would allow for the first time an adequate sum of money to be dedicated to exploiting these new technologies to meet a public good. Experience in the past has shown that

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there is a potential for new sources of revenue when these technologies are applied in a beneficial manner to the community. CPB funded technologies in several cases have resulted in new revenue being received by the stations for the services they provide using these new technologies.

Question. What changes would you think could be made that would justify a continued Federal investment in public telecommunications?

Answer. We believe that if the Federal Government were to provide sufficient resources to fully exploit these new technologies we have discussed today, public broadcasting would be able to generate additional revenue on its own to justify such an investment on the part of the Federal Government. At present, without a substantial effort on the part of CPB, 92 stations have earned $19.5 million in revenue from a variety of nonbroadcast services they provide to local school boards, governments, and the like. An investment by the Government in this area of public telecommunications as well as the other priority areas which CPB has identified in its 1983 submission would, we believe, be highly cost effective by extending services to new audiences and underserved audiences without the huge capital investment associated with building broadcast stations.

COMMUNITY SERVICE GRANTS

Senator SCHMITT. The current percent, as I understand it, for CSG's is something like 52 percent; is that right?

Mr. FLEMING. No; the statutory percentage below which it shall not fall is 50 percent at the time the appropriation reaches $162 million—which is 1981. The actual percentage at this time is 58.2 percent. Now——

Senator SCHMITT. That is TV and radio?

Mr. FLEMING. It is 58.2-percent TV and radio, of which TV gets 50 percent, which means that 8.2 percent goes to radio.

The CPB Board has not decided how will it divide the money among these priorities if the appropriation is $182 million in the future. They have not done that simply because this is 3 years in the future and it is very difficult to tell what one would think is the best way to do it at that time.

If inflation, for instance, should continue to run at a very high level and those increases are 5½ percent a year, it could have a drastic effect on how we decided to allocate funds.

Senator SCHMITT. What is the average community service grant for the radio and television stations, respectively? Is there such a thing?

Mr. FLEMING. Yes; the current average in 1980 for television CSG's would be $463,000. I should say to you, Senator, that averages here are not very meaningful. And in radio it is $62,500.

Senator SCHMITT. And would that stay roughly the same, plus inflation, at the $220 million level?

Mr. FLEMING. At the $220 million level, the TV CSG would go to $510,000 or even higher than that. The radio CSG would go to $90,800. You would get variations at that point, depending on how you outlay it.

Senator SCHMITT. But you are mandated to stay above 50 percent?

Mr. FLEMING. Yes; there is a sliding scale. This year it happens to be 45 percent for direct station support for both radio and television and it goes to 50 percent when we get to the $160 million level. At our current appropriation of $152 million, we are, however, passing through 58.2 percent.

Senator SCHMITT. But are you indicating—that is, is your guess, even though the board has not acted, that that percentage would stay somewhat higher than 50?

Mr. FLEMING. I think it would stay higher than 50 and I say this without knowing what the board is going to do, obviously. Within the range of possibilities I've not heard any figure discussed which would be less than 50 percent.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. Would you submit for the record the list of fiscal year 1980 community service grants to each station, and whatever projections you might have at $180 and $220 million for fiscal year 1983?

Answer. Individual CSG amounts depend upon the number of stations receiving community service grants, the total amount available for CSG's, and the individual stations' non-Federal financial support which is part of the formula for determining the amount each station receives. Therefore, we are unable to project individual CSG amounts for future years. We have provided the fiscal year 1980 CSG amounts for each station.

[CLERK'S NOTE.—List is in subcommittee files.]

Question. How do you determine how much funding goes to station community service grants?

Answer. The 1978 Financing Act requires that no less than 50 percent of CPB's appropriation at $160 million be passed through both TV and radio licensees; however, in the case of television these amounts have been pegged to a percentage of the Federal appropriation—currently at 50 percent.

In the case of radio, the amount for community service grants is arrived at after consultations between CPB and radio representatives. In general the amount reflects both growth in the appropriation and newly qualified stations. At present, about 8 percent of the appropriation is allocated to radio CSG's.

Question. Provide figures and the rate of increase of CSG's from 1971 to present and the percent comparison to the appropriation for each year.

Answer.

Total amounts awards to CSG's—1971–80

[in millions]

	TV CSG's	Rate of increase percent	Percent of appropriation	Radio CSG's	Rate of increase percent	Percent of appropriation
Fiscal year:						
1971	$2.6	.....	11.3	$1.0	.....	4.3
1972	5.0	48	14.3	1.5	50	4.3
1973	5.0	.....	14.3	1.9	27	5.4
1974	15.1	202	30.2	2.9	53	5.8
1975	25.5	69	41.1	3.8	31	6.1
1976	46.5	82	48.4	.8*	(79)*	.8
1977	51.6	11	50.0	7.1	787	6.9
1978	59.8	16	50.0	8.6	21	7.2
1979	60.1	.5	50.0	9.1	6	7.6
1980	76.0	26	50.0	12.5	37	8.2

*$4.5 million allocated for Radio CSG's was contributed by the stations to the financing of the radio satellite interconnection system.

Question. How do you provide accountability for the allocation of the so-called community service grants (CSG's) the stations receive annually?

Answer. Both television and radio stations are required to submit several reports of the proposed and actual allocation of the community service grant. CPB staff reviews these reports and future eligibility is conditioned upon the receipt of these reports. Any

changes in the applications of these funds must be approved by CPB and of course, CPB's continuing audit activity provides another element of accountability. The Corporation also publishes statistics on the use of community service grants.

Question. How do radio and television stations qualify for such grants. Do they have to meet certain criteria? If so, what eligibility criteria do you set for both radio and television?

Answer. In the case of television, all stations on the air are eligible to receive community service grants. In the case of radio, there are five basic criteria which stations must meet in order to qualify. They are:

(1) A staffing of at least five full-time professionals;

(2) A broadcasting schedule of 18 hours a day, 365 days a year;

(3) At least 3,000 watts with a tower height of 300 feet;

(4) An annual operating budget of at least $85,000; and

(5) A daily program service which provides educational benefits for the general audience.

PRIORITY OF LOCAL PROGRAM SERVICES

Senator SCHMITT. As you can tell from my question, I am a great believer in local programing, and I think that is one area where we will always have a strong position relative to what the commercial groups would do. And I would hope, and I suspect many on the committee and the Congress would hope, that that effort would never be jeopardized, even though we have given you direction to proceed in other areas.

Mr. FLEMING. The problem, Senator, is that if you look at the budget over a period of time you will see that mathematically, that percentage of CSG's will increase every year because of the addition of stations, if you preserve it in this way. That means that where it is 58.2 percent now, in 1 or 2 years it will be 60 percent—1 or 2 years from that it will be higher than that, and so forth.

That produces a rigidity in the budget which becomes extremely difficult to deal with in terms of the other objectives which Congress states in the act. That gives us a very serious problem because the act does say we will undertake these other missions and it has shown particular interest in the new technology.

Senator SCHMITT. But I don't think there is anything incompatible with viewing the total mandate by Congress as an integrated whole.

Mr. FLEMING. There isn't necessarily, certainly. There is, in some areas, conceivably. For instance, suppose you want to do significant work in direct satellite to home broadcast, but that is not likely to be a major portion of it.

Senator SCHMITT. The problem is that you may be running into direct competition with commercial provision of the same services.

Mr. FLEMING. We could. We will see that you get a list of the kinds of things we are experimenting with now in the technology field. Almost all of those, not 100 percent, but almost all of those are with and through the stations. It's reasonable to suppose that would continue to happen, because they have an interest in that, too, and they are in fact working very hard in some of these areas now.

INTERACTIVE USES OF PUBLIC TELEVISION

Senator SCHMITT. What about interactive television? That's a phrase I use for television that excites the imagination as well as the eyeball. The critical element is that the child, rather than just sitting there—or the adult, rather than just sitting there and watching it and observing it, is interacting with it, as we have to with radio and we have to with books.

Mr. FLEMING. Well, as you know, there has been the Qube experiment in Columbus, where they have been working on interaction. Very often in American higher education you have an instruction with a two-way audio along with the video, so that students at a remote point in the regular class hour, as televised to them, can connect with the instructor.

Senator SCHMITT. I'm not as concerned about that as I am with the very young, particularly preschool. Is this an area where you all are going to try to—when you talk about programing, are you going to be in new technologies——

Mr. FLEMING. One of our difficulties in programing is in the education area, because we do not, within our present programing scale of moneys, have very much money to put into that.

Senator SCHMITT. Shouldn't you maybe reorder your priorities? Again, this is an area where you can be at the leading edge. And commercial people may eventually pick it up, depending upon how well you do.

Mr. FLEMING. Well, there are several ways to look at that. If we put every dollar we draw in the Federal appropriation into education in this country, given the enormous amounts of money spent on education, it would be a drop in the bucket.

Senator SCHMITT. But it may be the most significant drop. It may color the whole solution.

Mr. FLEMING. Well, clearly, there are things that are being done now in many of the public broadcasting stations in instruction, but by and large, we're not paying for it.

Senator SCHMITT. I'm not talking about instruction. It is an attitude. When we talk about educational television, we talk about instructional television. It can be instructional, but it is really something that is a whole new dimension in the use of television. In fact, I personally believe it is one of the ultimate potentials of television—to bring it to where our books have been, radio has been, personal conversation has been, but it is not there now.

And it may be causing damage within the intellectual development of young people. That is really dangerous in the long term.

Mr. FLEMING. You see it used some in public affairs, with an interactive show. You see it, of course, nightly, on the McNeil-Lehrer Show, in the sense that there are people at remote places.

Senator SCHMITT. But you're not interacting with your audience. It is the audience that has to think imaginatively.

QUALITATIVE TELEVISION

Ms. ROCKEFELLER. I was just going to say, we spoke about this at our hearings, which I remember far better than I think you would. Coinci-

dentally my brother has invented a box called the Vox Box, which talks back to the television set. There are 10 buttons which you can press: Funny, believable, intelligent, credible, the ultimate being, zap—and it can be used for advertising. When you've seen Mr. Whipple far too often, you can zap him right off. It is hooked to a computer. He is up to 200 homes in Seattle. Then he can sit there and read line by line whether it is playing Carter's energy speech, Sesame Street—the 3-year-olds that we're trying to reach—and tell whether it is effecting them at all.

It is called qualitative television. If we don't have many people watching us or listening to us—which we were getting back to before—at least we should know what impact we're having on them, if we are touching their lives at all, if we are changing their lives, affecting their lives.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. Do you see the role of education changing with respect to CPB support?

Answer. The role of education within CPB continues to grow in importance and stature. Among other activities in this past year, we have cofunded with 35 State agencies and Canadian provinces, a major series designed for in-school use to improve study and reasoning skills of 5th and 6th grade pupils and are negotiating the funding of three other ITV projects. Through CPB's negotiations, teachers and faculty will be able to record off-air the CTW science series and the Carl Sagan/KCET series about the universe, Cosmos, for use in the classroom. At the same time, our funds helped to create and make available teacher guides for The Shakespeare Plays and the creation of a college-level course built around the plays. We have provided funding to NPR for the development of a short series dealing with alternative energy sources to be used as a basis for communitywide discussion groups located at most of the Nation's community and junior colleges. With the National Center for Education Statistics, we have conducted and reported the Nation's first study of television use by all colleges and universities and will continue the extensive research program.

We expect to continue a significant role in the support of television and radio programing for children at home and at school. We remain mindful that the needs of education are enormous, in contrast with the limited funds available from CPB. CPB must therefore continue to act in a way to maximize education support when financing instructional projects. That the educational community is increasingly supportive of the use of public television and radio and desirous of expanding that use is increasingly evident, and welcomed by CPB.

Question. What can you tell us about the Annenberg Fund for Higher Education?

Answer. Mr. Annenberg explored with us the idea of giving to the Corporation for Public Broadcasting $150 million (10 million a year over a 15-year period) for the creation of television and radio courses to be offered by institutions of higher education so that it would become possible to obtain a college degree through the media. The grant is restricted to the above purpose.

At present the Annenberg proposal is before the Internal Revenue Service for a ruling about certain tax matters. Once an IRS ruling is made, there will, if it is favorable, be an intensive planning period and discussions with Mr. Annenberg.

Question. Would the purpose for which this funding is intended remain a priority even if the Annenberg funding does not materialize? Or is the Annenberg funding an add-on which would not otherwise be funded?

Answer. The amount of money which the Annenberg funding provides clearly would enable CPB to do a great deal more in support of college-level use of television and radio for instruction than it can without those funds. Clearly, without that funding we would be unable to devote a similar amount of resources per year to that one activity

under our current budgetary constraints. It must be recognized, however, that even with Annenberg funding, some aspects (expecially production of high quality courses) will require further cofinancing within CPB and with outside agencies, foundations, and corporations. Even Mr. Annenberg's generous gift is not enough to meet all the needs for these materials within higher education.

Without Annenberg funding, CPB intends to continue at the current level, a vigorous research, print material support, and system capacity building effort to enable stations and colleges and other providers of adult education to work better together in a variety of ways.

STATION USE OF COMMUNITY SERVICE GRANTS

Senator SCHMITT. Well, I think all of this illustrates there's a great deal you can do without competing with commercial stations.

Do you have for our record—we will have a number of questions for the record—but a summary breakdown on how stations are using, in general, their CSG's?

Mr. FLEMING. Yes; we will be glad to submit that.

[The information follows:]

An analysis of fiscal year 1979 television and radio station application of CSG funds appears below:

	Percent
Television:	
Programing and production	67
Development and promotion	18
Station upgrade and administration	7
Capital	8
Total	100
Radio:	
Personnel	63
Program services	8
Equipment	7
Support services	22
Total	100

SUPPORT OF PUBLIC TELECOMMUNICATIONS ENTITIES

Senator SCHMITT. Give us some idea of where the emphasis tends to be, and if there are regional differences in that emphasis, that would be useful.

In view of the 1978 act emphasis on telecommunications services, are you supporting any other entities besides public broadcast stations?

Mr. FLEMING. Yes; but quite modestly. I think we would best serve your purpose if we simply gave you a list of those.

Senator SCHMITT. What is it, 1 or 2 percent of your budget? You can supply that.

[The information follows:]

A list of the entities receiving support in fiscal year 1980 is below:

NEW TECHNOLOGIES

Entity:	*Value of grant*
Mass. ETV	$34,400
Agency for Instr. Television	19,500
Tri-County Regional Library of Fulton, County, GA	33,400
SECA	98,000
Total	185,300

TRAINING

Entity:	
Children Television Projects	8,087
International Instructional Television Cooperative Inc	10,000
Pacific Program Services	14,402
Community Information Network Inc	18,021
Alabama A&M Telecommunications Center	16,011
Connecticut Public Radio	8,632
Radio Bilingual	13,774
Rainbow TV Works	15,533
Stout Teleproduction	15,070
Children TV International	9,449
Children Television Projects	10,822
Minnesota Public Radio	31,418
Pacific National News	12,191
Total	183,410
Grand Total	368,710

INCOME POTENTIAL OF NEW TELECOMMUNICATIONS SERVICES

Mr. FLEMING. It is quite small.

Senator SCHMITT. Some of these questions would cause you to try to judge some of your board's actions, in terms of priorities that the board will set for 1983. Now, you indicate, and I also believe, that local broadcasters can carve out or develop new sources of income.

Can you give me some examples of some of these new sources that you might anticipate, particularly ones that may have proven to be successful already?

Mr. FLEMING. Well, the ones that our figures would show to be most successful tend to be where another governmental body or a State is financing the use of the system for some other purpose.

For example, if you have one channel in your station and you can supplement that by the use of tying in cables, a cable system, or you can tie in with videotapes, or you can tie in with video disks.

One reason that most people think that live public broadcasting for use in instruction has not been as widely accepted as people originally thought it might, is because if it is live, it has to be done at a fixed time with a fixed kind of program, whereas a teacher may prefer to use it at a quite different time on a videotape or on a video disk, and to use only a segment of it. The marvel of the video disk is in the capacity to control it, to look at any unit of it which you want to look at, and do it, literally, in seconds. This gives it a fantastic potential in terms of usage. For instance, I was looking at a video disk made in the State of Nebraska. It is essentially an instructional record, but as you watch, you see a fantastic potential there for teaching children in a school system.

You can stop it and look at it at any point. You can see it, motion by motion by motion. Literally, you can hold it to see exactly what the position is. You can hear the instruction on it. You can go over it again. A school with such equipment could use the disc indefinitely and supply things which otherwise a school simply would never have.

The same technique is available for all kinds of possibilities, so that the station, as it becomes more of a telecommunications center, will

have the capacity to sell tapes for these purposes, to tie into cables with support from some other element of the State system, and so forth. There are great potential sources of revenue there.

Senator SCHMITT. Any others that come to mind?

Mr. FLEMING. Well, I think principally of cable, videotape, video disk.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question: You indicate local broadcasters can carve out new sources of income, can you give me examples of these new sources of income?
Answer:

CPB ACTIVITIES IN THE NEW TECHNOLOGIES

Station	Medium	Service	Revenues Produced
KSPS, Spokane, Wash.	Cable	Programming to teachers and students.	$866,000
Nebraska ETV	Cable	Public affairs programming and alphanumeric data to statewide audiences.	10,000
WGTE, Toledo, Ohio	Cable	Public affairs programming, i.e. local government.	300,000
KCET, L.A., Calif.	Cable	Local government programming.	
KPTS, Wichita, Kansas	Cable and other means of alternate delivery.	A study to determine user needs and costs of meeting those needs.	
KCTS, Seattle, Wash.	Cable of ITFS circuits.	To free up a boradcast channel for in-home and allow alternate means to serve schools, etc.	
WSJK, Knoxville, Tenn.	Cable & ITFS	Expand service to K-12 and adult learners.	100,000
Channel 2, Miami, Fl.	Examining ITFS, Cable, Cassettes & Videodisc.	To improve service to public and institutions.	
KPBS, San Diego, Calif.	Cable, ITFS, Radio SCA, Closed Circuit.	To improve service to public and institutions.	50,000
Channel 14, Atlanta Georgia	Cable	Two way communication with various public institutions.	
KRMA, Denver, Colo.	MDS & ITFS	Provide training to commercial businesses & libraries.	
WHA, Madison, Wis.	Cable in conjunction with satellite.	Establish teleconferencing facility.	
Nebraska	Videodisc	Application of Videodisc technology for programming	125,000
WETA, Washington, DC	Teletext	new non-broadcast services	pending

Question: On page 11 you indicate CPB has funded a series of esperiments and demonstrations in new technologies at the stations. Please supply a list for the record.

CPB ACTIVITIES IN THE NEW TECHNOLOGIES

CPB believes that the broadcasting industry, both commercial and public, is now on the dawn of a new era in the way television programming is delivered to the nation. With this in mind, the Corporation set about to build a set of models demonstrating what the new technologies could mean to stations. Stations were selected from different parts of the nation, different licensee orientation and different utilizations of technology. It was hoped that with this mix, any public telecommunication entity could see new roles for itself in the new communication environment developing in its community. Those models are described below.

Station KSPS in Spokane, Washington using a grant from CPB is using the city's cable television system to serve Junior and Senior High School students and teachers by providing programming on seven cable channels. KSPS's role began during the franchising process when it headed a consortium of educational institutions

with CPB's assistance. Such pioneering efforts have paid off handsomely.

The Nebraska ETV system operates a statewide public television network. Its flagship station KUON-TV in Lincoln is now involved in the local cable system operating a channel which it hopes to feed throughout the state to supplement its over-the-air service. NETV expects to provide live coverage of the State legislature, public hearings, news conferences, an alphanumeric data service and bulletin board around the state, University of Nebraska accredited instruction courses, repeats of prime time programs and special education and public television programs designed expressly for statewide cable audiences.

Not all of CPB grantees in the utilization of the new technologies are public television stations. Some, like Massachusetts ETV, are agencies of the State Department of Education. Under a grant from CPB, Massachusetts ETV is developing non-broadcast strategies for the distribution of its statewide educational programming. The high cost of air time and lack of scheduling flexibility are forcing the Agency to re-examine its future. That future will utilize the new technologies to blend a statewide service expanding from the present in-school K-12 to serving universities, junior colleges, libraries, community centers, adult centers, hospitals and prisons.

Another non-licensee grantee of CPB's program in the new technologies is the Agency for Instructional Television. AIT under CPB's support is examining the provision of ITV services to schools using small format video distribution. The low-cost cassettes (VHS and BETAMAX) which are increasingly making their way into the home, could provide an inexpensive means for making programming available to schools providing the ultimate flexibility in scheduling. Inherent in this process, AIT has designed affordable kits around these video cassettes providing teachers with the help they need to effectively utilize this new form of video instruction.

Station WGTE in Toledo, Ohio has set its goals on getting government services onto the cable. Using the local cable system, the station has become the coordinator for public affairs and with its cameras in the city council chambers has brought "sunshine" to the city.

Another use of cable for local government service has been undertaken by KCET in Los Angeles, CA. In a city where it is especially difficult for citizens to take advantage of city services, using a grant from CPB, the station has undertaken a survey of the information needs of the public, made arrangements with local cable systems for the use of channels for the delivery of this information, and is in the process of negotiating the city's support of this activity.

In the nation's heartland, station KPTS in Wichita, Kansas is now examing the utilization of alternate means of program delivery including cable television in Wichita and the surrounding areas, teleconferencing, two-way applications of television and ITFS. KPTS has set about to carefully plan its future in the State of Kansas through examining each option for distribution and the factors controlling each option. The station has developed a hypothetical alternative dedicated channel for cable; cost estimates for operating such a service, survey results justifying viewer demands for a separate service; and possible avenues of support. Also examined were the interconnection of various state cable systems, operating government channels, shared channels and taped delayed channels. In this process, the station contacted higher education institutions, medical institutions, vocational schools, social service agencies, commercial organizations with in-house training programs, and other potential users of such services, looking for both users and support.

The goal of station KCTS, Seattle, WA in its CPB project was to develop a second distribution channel to the city. Such a second channel would free-up the broadcast channel for in-home use and allow the cable or ITFS circuits to serve schools and other institutions to which the station seeks to provide services. Working with 18

separate entities and 48 cable systems, the station is moving closer to working out practical arrangements for providing for, and paying for a second service in Seattle.

WSJK in Knoxville, Tennessee is now seeking to expand its service to K-12 and to adult learning systems, by using Knoxville's cable television system and the available ITFS channels. The planning now in progress seeks long-term financial support for these activities, as well as secure relationships with operators and owners of distribution systems. Knoxville's obstacles to the development of such a service are enormous including the proliferation of different cable systems, the complexity of city-state relationships, the high level of unemployment in the area, underfunded local schools and additional characteristics of the Appalachian area.

Channel 2, Miami, FL is seeking under a CPB grant to improve its services to the public and its institutions through becoming a telecommunication center and delivering additional services through ITFS, cable, cassettes and videodiscs. It hopes to make all such services self-supporting through fees from the cable system, Florida legislative grants and user fees.

Station KPBS now serves some 2,000,000 persons. Its goal is to become a total public telecommunication center for the San Diego, CA area. Using CPB funds it has established an office of specialized services, which through the local cable system, three ITFS channels, a radio SCA, on-campus closed circuit and an excellent over-the-air broadcast channel will seek out and coordinate the areas of public telecommunications.

A number of experiments are now in the funding process including the Tri-County Regional Library of Fulton County, Georgia which is not a public television entity. This community organization now serves the northwest corner of Georgia which is out of reach of over-the-air public television. Operating Channel 10 on three local cable systems, the Library is able to provide a full day's programming to the residents of three rural counties. The full development of this channel may mean that no over-the-air facility would be needed in the area even though a frequency is available.

Other CPB projects now in the review process involve stations in Atlanta, Denver and Madison, Wisconsin. Channel 14 in Atlanta, GA is seeking to expand its role into a general media center serving some 21 colleges, six hospitals and other telecommunications centers. The station is planning to engage in the cable franchising processes so that at a minimum, every school will be two-way wired, all government buildings will be cabled, all government administration will be two-way, with hospitals and correctional institutions also taken into account.

Denver CO's KRMA proposes to establish a consortium of telecommunication entities and concentrate on training through new distribution techniques including MDS and ITFS to commercial businesses and libraries, and cable.

Madison, WI's WHA is ready to begin using Madison's two cable systems in conjunction with their satellite terminal and providing new and different services to their constituency. They plan to establish a teleconferencing facility and coordinate within the Madison area education and public service telecommunication.

CPB provided multi-year funding for the Columbia, South Carolina/SECA experiment with the Communications Technology Satellite whereby fifteen public television stations exchanged educational and instructional programming through a high-powered experimental satellite (preceding PBS national interconnection). Originations from the Columbia, South Carolina system were fed to other SECA members as a variety of distribution methods were tested. CPB is now investigating how those original terminals might be modified to allow stations to interconnect to the Appalachian Regional Satellite network.

PRIVATE CONTRIBUTIONS TO PUBLIC BROADCASTING

Senator SCHMITT. How about commercial advertising—not advertising per se, but getting your name on public broadcasting, has that contributed to the production of the program?

Mr. FLEMING. I do not have any trouble, personally, with the question, if it is simply said, "This program was financed by A, B, and C." If that were extended into the normal type of advertising one sees on a commercial system, it would give me some problems. I think one of the advantages of the public system is that it has no commercials.

Senator SCHMITT. Have you seen any increase in interest by business organizations to contribute to public broadcasting as the quality of the programing has gone up?

Mr. FLEMING. I think I am correct in saying that the business contribution has been relatively stable, that it is not going up very sharply.

Senator SCHMITT. Would you anticipate that it could? Or have you pretty well tapped that market?

Mr. FLEMING. Well, no; I would think it might go up. We have figures which we can give you that will show the sources of all of the income, it will show you how much comes from corporate groups and how much comes from other sources. My memory is that those figures are relatively stable on the corporate front.

In 1977 it was 8.3 percent; in 1978, 8.9 percent. I believe that is the last one that we have. Frankly, I don't know what to expect on that. I think there is a great potential there.

Senator SCHMITT. How would you translate that into dollars? Percent of your total funding?

Mr. DAVIS. If I may, for example——

Senator SCHMITT. Does that keep up with inflation?

Mr. DAVIS. I can't figure the percentage in my head, but just to give you an example, the total income to the system that we have reported for 1978 was $552 million. Of that, business and industry contributed $49 million.

Ms. HERNDON. Senator, could we say, though, that in that year, 1978, the funds are increasing from those people in the local communities who give money to public broadcasting?

That is where the increase was in 1978. Their dollars increased because they obviously enjoyed the programing and they believe in the service.

I think that that is very important. That is a figure that has increased and it increased in 1978.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. Can you tell me how much of the non-Federal funding comes from TV and how much from radio efforts?

Answer. Public broadcasting raised $391.6 million from non-Federal sources during fiscal year 1978. Of this amount, $336.3 million or 85.9 percent was raised by the

television system and the remaining $55.3 million or 14.1 percent by the radio system. It shall be pointed out that radio did not receive Federal support until 1971, while TV has had Ford Foundation financial assistance amounting to almost $300 million since the mid-1950's and facilities program funding since 1963. Therefore, radio's fundraising ability has been late in development; however within the past few years radio's non-Federal share of income has grown at a faster rate than TV.

Question. Please provide a breakdown of non-Federal financial support you received for 1979 by category such as corporations, foundations, States, etc.

Answer. The latest certified data available is for 1978. That information is detailed below:

Non-Federal financial support of public broadcasting systems by sources fiscal year 1978
[In millions of dollars]

Income sources:	Fiscal year 1978*	Percent
State and local tax sources	218	55.6
Subscribers and auctions	75	19.2
Business and industry	49	12.5
Foundation	17	4.3
All other sources	32	8.2
Total non-Federal financial support	391	100

*Includable nonbroadcast income added. Preliminary figure.

Question. What efforts, if any, are you making toward raising non-Federal support for the Corporation?

Answer. In the past, CPB had a development office which attempted to raise non-Federal support for CPB activities, primarily program underwriting. Frankly, these efforts were not very successful and were often duplicative of efforts being undertaken by PBS and various stations.

We have provided for a development function in the current operating budget. As of this time, however, we have not hired any individuals to begin fundraising efforts. We hope to do so in the next couple of months. Our efforts in that area may very well include raising money for other than program underwriting—for example, support of our minority and women's training program, our research efforts, and similar kinds of activities.

Question. Do you have an active development office?

Answer. The Corporation's fiscal year 1980 budget provides funds for the startup of a development office. It is anticipated that CPB will begin staffing in April or May of this year.

PROGRAM DECISIONMAKING PROCESS

Senator SCHMITT. What is the role of PBS in the program decisionmaking process?

Mr. FLEMING. You are talking, I take it, about the program funds which we administer. The local stations, of course, make their own decisions.

Senator SCHMITT. I understand.

Mr. FLEMING. PBS is consulted because we obviously have a mutual interest in trying to get the program financed.

For the most part, none of the people who participate in the funding support the whole program.

There are always pieces being put together. Therefore, there is a dialog that goes on all the time.

Under our rules the program funding decision ultimately gets made by the program director. But there is a process of consultation.

Senator SCHMITT. It has been alleged that there has been an effective veto by PBS over the funds by CPB.

Mr. FLEMING. CPB has never produced programs and it has always been understood that the stations make the ultimate decision as to whether they will show programs that are made.

It has not, I believe, happened in my relatively short time, that a program which we have funded has not been shown.

I do not remember such an instance. There are, I believe in the past, some examples of that.

Ms. HERNDON. If you would like to speak to the past history, I have been on this board about 5 years. There was a partnership agreement which simply set up the procedure on the funding of a series in which we would be placing dollars in the hope that the stations would use it throughout the country.

We would consult with PBS and, if there was a disagreement about whether or not that would be the program, then there was a procedure to determine whether or not it would be funded. It would have gone to the presidents of PBS and CPB for discussion. If they didn't resolve it, then it would have gone to the chairmen of the boards.

That never happened. There was no time when a funding problem was kicked upstairs for a decision.

Senator SCHMITT. If you funded the program that PBS was not particularly interested in, first of all, would you do that in anticipation of using an outlet other than PBS?

Mr. FLEMING. Well, it is conceivable. Actually, I think that is a problem which is considerably overrated in the sense of the probability of that happening because programing is in short supply. There is such a great need for programs that while there can be differences of opinion, there isn't a great likelihood that a quality program is going to be completely overlooked.

PBS PROGRAMING SCHEDULE

Senator SCHMITT. Do you think the present PBS programing practice, which has a fixed program schedule for certain hours for all television stations, violate in any way the 1978 act, which assures the stations that they can carry programs at times convenient to them and their local community?

Mr. FLEMING. I don't think so because, as I understand the system, the stations have the opportunity to opt in or out of that. Those that choose to opt out can do so and do do so.

Those that choose to opt in can do so, and they do.

The choice preserves the local station's right to do whatever they want with it.

Senator SCHMITT. Is there any restriction on their recording of the material provided at a specific time?

Ms. HERNDON. Senator, I believe that it depends upon the rights which have been secured for a particular program. Some of the programs may be shown within a 7-day period, depending upon the rights.

It depends upon the rights that have been secured for a particular program.

This carriage that you're speaking about is only 8 hours during the entire week. I know that I happen to come from a state that feeds to cable and they could not carry the schedule from 8 to 10. I think they carry it from 9 to 11.

So they varied it somewhat in the State from which I come.

Senator SCHMITT. Does nationwide advertising of the PBS schedule encourage stations to take programs at certain times, whether or not it might be of benefit to their viewers?

Mr. FLEMING. Well, it may encourage it. It seems to me that goes back to the whole matching fund concept on which the financing of public broadcasting has been based.

I would assume stations may feel some incentive to schedule on that basis because they realize it is likely to maximize their audience if they do so. If they maximize their audience, they are more likely to enhance their contribution potential.

They may have some incentive to do that, but it doesn't seem to me they are coerced into doing it.

This is sort of a cost-benefit analysis they make station by station.

PUBLIC RADIO PROGRAM SUPPORT

Senator SCHMITT. Does NPR receive funds from you for programing?

Mr. FLEMING. Yes.

Senator SCHMITT. And this arrangement would continue as far as you are concerned?

Mr. FLEMING. NPR receives and produces programs with a certain amount of the money. Some of it goes through a CSG. Some of it they program with.

As I understand it, when that practice originated the amounts of money going into radio were quite small as against television.

Of course, by comparison with television, the cost differential is very great.

There was no great concern, apparently, on anybody's part at that time.

As these amounts grow, the question gets raised, of course, shouldn't there be a program fund for radio as we now have in television?

We have talked about it and we must certainly have further conversations about it. In my view, at least, we don't necessarily have to do everything the same way in radio as in television. They are quite different types of media.

A television half-hour program is likely to be a single unit program. If you take two of radio's most popular shows—for instance, All Things Considered or Morning Edition—stations can opt in and out of them and do, on few minute intervals. They may decide they want a 5-minute segment because it is quite separate from the rest of the programing.

You can't do that in a normal television program.

It is a different kind of programing problem in radio.

Senator SCHMITT. So you would consider that an item for discussion amongst the board?

Mr. FLEMING. It is not one which the board has finally resolved.

EXTENSION OF SERVICES

Senator SCHMITT. Isn't the NTIA responsible for administering the

telecommunications facilities program, which is responsible for providing financial assistance for expanding existing coverage and providing new coverage?

Mr. FLEMING. Yes.

Senator SCHMITT. Is the CPB proposing to expend the $7.4 million in 1983 for this purpose?

Mr. FLEMING. The money which we have used is almost wholly in radio. We have no program in television, except in the interest of trying to further their minority and women's cause.

The board has set aside in this year's budget about $300,000, which we have said we would use as sort of last resort money with a station which seemed to be just about able to get on the air if it had a small injection of funds.

We have made a grant, for instance, to a Texas station in that connection. For the most part, that money gets used in radio. It is most heavily in the improvement of stations and is not in facilities in the same sense.

The money may help a radio station to qualify, since a station must employ five people to do so. It might be used to help them finance the addition of two people to the staff so that after 2 years they could pay them from station funds.

As we view it, there is not really an overlap with the facilities program.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

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QUESTIONS SUBMITTED BY SENATOR HOLLINGS

Question: I understand that "extension of services" is one of your top priorities. The '78 Act emphasized programming and new telecommunications services as where the bulk of funds should be allocated. Hence, what is NTIA's role in station construction through the facilities program? What role do you think CPB should play, if any, in facilities support?
Answer: NTIA's role in station construction is the primary federal role and responsibility under the 1978 Act. NTIA's funds are largely reserved for new station construction and expansion, both aimed at improving public broadcasting coverage of the nation. CPB acts in an advisory role to NTIA in this respect and assists NTIA in making its decisions through CPB's direct contacts with stations. CPB also makes unrestricted Community Service Grants to stations which may be used for facilities if the station so desires. Both NTIA and CPB agree that "extension of services" may not be limited to station construction in the traditional sense. Thus both the Corporation and NTIA are involved in some experiments which apply new communication technologies towards the provision of new services.

Question: I commend your new initiative in telecommunications services; it should provide needed leadership in this area. Since there are many rural communities throughout the U.S. that have no public broadcast service, particularly television, how would your plan of new telecommunications services address this problem?
Answer: A number of years ago, CPB experimented in rural America with a new concept in broadcasting, the mini-tv station. CPB is now preparing to carry out a program which would encourage the building of these stations to serve rural areas. As such, the Corporation contracted with the Public Service Satellite Consortium to undertake the task of assembling qualified communities in Montana and Wyoming and assisting those communities in applying to the Public Telecommunication Facilities Program of NTIA for construction funds for mini-tv stations and satellite earth terminals. Those applications for eleven stations are now pending at NTIA. In addition, CPB is now in the process of funding one telecommunication entity to provide service to its community over cable where no over-the-air public television signal exists. In radio, CPB's role is much more active. The Corporation actively attempts to assist communities and cities in starting stations in areas not presently served. In addition, recognizing the greatest barrier to future station construction as the availability of frequency spectrum, CPB has filed at the FCC a detailed Table of Assignments for the Educational FM band which could lead to a high degree of national service if the frequencies were activated.

(The following information is provided in response to questions submitted by the Subcommittee to be answered for the record)

Question: Can you describe how the $7.4 million "to extend services" will be spent? How does this relate to the activities of the Public Television Facilities Program?
Answer: These funds relate to CPB's radio expansion program and will attempt to get stations started in the market areas.

Question: What sort of new technology 'entities' would you contemplate funding? At what $ levels? What purposes are those entities intended to serve?
Answer: The new telecommunication entities which we contemplate providing support for would be those non-profit entities which have the potential of providing either a new first service to an area using non-broadcast means or an entity

which would provide a service to an area already served, but focusing in on an unserved minority interest.

Question: What do you think is the most appropriate way to support the extension of public radio stations to a substantial portion of our population? What alternatives do we have to extend these services and at what cost?
Answer: One of the objectives of our long range planning for the public radio system was to examine feasible options or extending public radio service to at least 90 percent of the population. We believe this can best be accomplished through full service public radio stations in larger markets -- or where institutions can support such stations; and alternative delivery systems in other areas. These delivery systems including unattended transmitter, translators, satellite stations, cable, direct satellite-to-home broadcast and other methodology.

We have projections of the costs required to support the development of full service stations. We estimate it would cost approximately $38 million to add 138 new stations over the five year period of fiscal 1983 to fiscal 1987. That would increase coverage to just over 80 percent of the population. We estimate that about 90 of these 138 new stations would be first service projects with roughly 45 located in the top 135 population areas currently without public radio.

It should be noted that minority and women station ownership and control will be given a high priority.

Question: There have been reports that CPB is considering limiting its support of new radio stations to only those with primary service areas of 200,000 people or more. Would you please comment on this. Is there any limitation for the bottom number exceptable in a primary service. If so, please state what it is and how you feel it will affect the Congressional mandate for equitable geographical distribution.
Answer: The CPB Expansion project is designed to extend public radio service to as yet unserved audiences. Indeed, one of its priorities is to assist stations in the less populated rural areas of the country.

CPB does not have any set limitation regarding the size of service area it will support. However, two recent independent research papers show that a full service public radio station is not likely to be able to raise sufficient community support to be financially acceptable in areas of less than 200,000. The exception to this would be a station licensed to an institution willing to absorb the major costs of operation. In areas of less than 200,000, program services could be provided by alternative delivery methods such as cable systems, translators, unattended transmitters, or other new technology.

During the most recent Expansion Grant rounds, CPB has funded projects in some less populous, rural areas, including one in an area of southwest Kansas, a bilingual station serving the farming communities of Washington State's Yakima Valley, and a project in Marinton, West Virginia, which will provide the only mass communications service to that Appalachian area. The Expansion Grant program in 1980 awarded 14 planning and qualification assistance grants, 5 of which are to minority applicants.

Question: You indicate that radio covers only 65 percent of the population and that television covers 90 percent. Do you have any estimate as to the expenditure that would be required to bring radio coverage up to 90 percent? Where would it be best to locate this program?

Answer: We estimate that approximately $38 million would be needed over the five year period from FY83 to FY87, for funding of 138 new radio stations. These 138 new projects would increase public radio coverage to just over 80 percent of the population.

In addition, we estimate that about 100 of the new projects would require facilities funding, averaging $175,000 per project for a five year total of $18.2 million. Additionally, funding would be needed for the alternative delivery systems -- translators and unattended transmitters for example -- which would be required to provide service to reach the 90 percent population goal. The most efficient and effective way to administer these programs in a coordinated fashion is to have those funds administered by one institution which would be either CPB or NTIA.

ACCESS TO SATELLITE INTERCONNECTION SYSTEM

Senator SCHMITT. During consideration in the 1978 act, there was considerable discussion about the advantage of distributing programs via satellite for both radio and television.

Also related to that question was the issue of who controlled access to the satellite, particularly excess capacity.

How have these questions been addressed in view of the requirements established in 1978?

Mr. FLEMING. The act, of course, requires that the managers control the access. PBS has a transponder allocation committee composed of station managers. They make the rules and recommendations for this.

PBS then administers the access to the transponder through the medium of those rules.

If there is excess time, under the law that excess time must be made available to others. There are a number of examples in this past year of groups having acquired excess time from PBS on the transponder for program distribution.

I am not aware of any problems at this point in time with respect to getting access to the excess capacity. It seems to have worked out quite well.

5-YEAR PLAN

Senator SCHMITT. How is your 5-year plan coming?

Mr. FLEMING. The first phase of it just came before the board at this last meeting. Mrs. Rockefeller has been the chairman.

We expect in the next few months to be able to have the first reports available and to be made public.

Senator SCHMITT. Have you found any major problems in implementing this planned activity?

Mr. FLEMING. Just a few thousand. [Laughter.]

I would make just this comment about it. The first time through in any major planning effort there are bound to be all kinds of problems.

Also, in a system as decentralized as this one in which you nevertheless wish to involve people, you have problems in how you will get that involvement so there is meaningful input. Sharon, who has dealt with the day-to-day problems of it, I'm sure could add to that, but I would see those as two major overall problems in doing it the first time.

QUESTIONS SUBMITTED FOR RESPONSES

Senator Schmitt. I have some questions which I will submit for responses in the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question: How many radio and television stations are on air and what are your projections for 1983?
Answer: The information requested is provided below:

Fiscal Year	No. of TV Stations	No. of Radio Stations
1980	274	200
1981	279	209
1982	287	220
1983	295	239

Question: The law requires that CPB submit a five year plan on the development of public telecommunications services. Tell us what efforts you have undertaken in developing such a plan and when it will be submitted.
Answer: A new position of Vice President for Planning and Research was created early in 1979 to bring together CPB's research and planning activities. A new Department of Planning and Analysis was subsequently established to give CPB an analytic capability in support of its planning responsibilities. A programming Goals and Policies Task Force with members from several offices in CPB worked throughout the summer months to gather background data and analyses in support of the 5-Year Plan's development and the establishment of the Program Fund. The Task Force reviewed legislative and Board history relative to television program funding, analyzed past CPB funding practices especially in comparison with those of other funders of television programming, and reviewed and summarized the results of research on the public television audience.

An ad hoc committee of the Board was established late in the year to assume responsibility for guiding the 5-Year Planning effort. This committee is now in the process of working with interested parties in the public telecommunications industry and the CPB staff to develop the first 5-Year Plan for the industry.

The committee has just completed the first phase of the plan - as indicated in the testimony, the work in this phase served as the basis for the Board's establishing the priorities discussed in the testimony. The first phase concentrated on how CPB would allocate resources in 1983; the next steps, therefore, will be to go beyond 1983; and to broaden the focus beyond CPB to the entire industry.

We anticipate that the next major document will be available in July. It should be pointed out, however, that CPB is committed to the process of planning, and that we view that process as a continuing one.

Question: Could you give us some idea of the major problems or issues you have encountered in this planning activity?

Answer: As part of the planning process, we have prepared lists of issues that must be addressed. I would be happy to furnish these to the Committee if you would like to see them. Probably the major problem we have encountered in the planning process is the fact that the demands on CPB resources simply exceed those available. As indicated in the testimony, the FY'83 requirements that have been identified total at least $300 million.

Some of the other major issues are:

-- How should CPB allocate its resources between television and radio?
-- What should priorities be for funding of programming by CPB?
-- What role should CPB play in encouraging the development of non-broadcast technologies?
-- What trade-off should be made between geographic expansion of radio coverage and improving existing radio services?

The planning process itself is complicated by the decentralized nature of public telecommunications. We are working with many different "interested parties", and these parties do not always share a common viewpoint on important issues. We have been attempting, and will continue to attempt, to reach a consensus on these issues, but we recognize that the diversity of views and interests may not always be reconcilable.

Question: Please provide the Subcommittee with a list of those you consulted.
Answer: The following organizations have participated in CPB's planning activities:

Interregional Council on Public Television Policy
University of Utah, KUED
101 Music Hall
Salt Lake City, Utah 84112

Public Broadcasting Service
475 L'Enfant Plaza, SW
Washington, D.C. 20024

Assoc. for Public Broadcasting
475 L'Enfant Plaza, SW
Washington, D.C. 20024

National Association of Educational Broadcasters
1346 Connecticut Avenue, NW
Washington, D.C. 20036

Appalachian Community Service Network
Appalachian Regional Commission
1666 Connecticut Avenue, NW
Washington, D.C. 20235

Association of Independent Video and Filmmakers, Inc.
99 Prince Street
New York, New York

National Telecommunications and Information Administration
1325 G. Street, NW
Washington, D.C. 20036

National Public Radio
2025 M Street, NW
Washington, D.C. 20036

National Federation of Community Broadcasters
1000 11th Street, NW
Washington, D.C. 20001

CPB's Ad Hoc Committee on the 5-Year Plan

L. Geoffrey Cowan, Esq.
Center for Law in the Public Interest
10203 Santa Monica Blvd.
Los Angeles, Cal. 90067

Mrs. Diana Lady Dougan
4300 Parkview Drive
Salt Lake City, Utah 84117

Mrs. Lillie Herndon (ex officio)
P.O. Box 6213
Columbia, S. C. 29260

Dr. Michael R. Kelley
George Mason University
3623 Parklane Road
Fairfax, Virginia 22030

Mrs. Sharon Rockefeller (chair)
Governor's Mansion
Charleston, W. Va. 25311

Mr. Charles W. Roll, Jr.
2797 Main Street
Lawrenceville, N.J. 08648

Advisory Core Group

Mr. Bruce Christensen
Interregional Council on Public Television Policy
University of Utah, KUED
101 Music Hall
Salt Lake City, Utah 84112

Mr. Ron DeVillier
Public Broadcasting Service
475 L'Enfant Plaza, SW
Washington, DC 20024

Mr. Peter Fannon
Acting Director
Asso. for Public Broadcasting
475 L'Enfant Plaza, SW
Washington, DC 20036

Mr. Jim Fellows
President
National Association of Educational Broadcasters
1346 Connecticut Avenue, NW
Washington, DC 20036

Mr. Alan Jacobs
Association of Independent Video and Filmmakers, Inc.
99 Prince Street
New York, NY 10012

Mr. William Lucas
Mr. Brooks Leffler
National Telecommunications and Information Administration
1325 G Street, NW
Washington, DC 20005

Mr. Yusef Mgeni
Sabathani Community Center, Inc.
3801 First Avenue South
Minneapolis, MN 55408

Ms. Mary Lynn Moody
Convention Director & Corporate Secretary
National Association of Educational Broadcasters
1346 Connecticut Avenue NW
Washington, DC 20036

Ms. Walda Roseman
National Public Radio
2025 M Street, NW
Washington, DC 20036

Mr. Thomas J. Thomas
President
National Federation of Community Broadcasters
1000 11th Street, NW
Washington, DC 20001

CPB STAFF

Dr. Maxine Rockoff
Vice President, Planning and Research

Mr. John Dimling
Director, Planning & Analysis

(The following information is provided in response to questions submitted by Senator Hollings to be answered for the record)

Question: Do you believe that local stations are sufficiently independent as contemplated in the legislation? What should be the role of CPB to the licensees in the future?
Answer: The stations retain, and fiercely maintain, the independence contemplated by the statute and by their FCC licenses. They have autonomy in determining the use of their funds, both those received from CPB and funds obtained independent of CPB, subject, of course, to the restrictions of their licenses, state and local laws, federal tax laws and the requirements of the Public Telecommunications Financing Act of 1978. They have autonomy in determining the choice of programs to be aired and the schedule under which they will be aired. They are, of course, accountable to the public they serve and to the FCC for meeting the conditions of their licenses. They must also conform to the requirements of the 1978 Act in order to receive funds from CPB. We do not view this accountability as lessening their independence, however.

The relationship of CPB to the stations is essentially defined in the 1978 Act. It is to make programming available through its production grants [47 USC 396 (k) (3) (B)], provide leadership in the use of nonbroadcast technologies [47 USC 396 (g) (2) (G)], furnish financial support and other assistance to licensees [47 USC 396 (g) (1), 396 (k) (3) (A)], arrange for the interconnection of stations [47 USC 396 (h)], and monitor station compliance with specific requirements of the 1978 [47 USC 396 (k) (4) (5) (9); 396 (l) (3) (B); 398 (g) (3)].

PLANNING PRIORITIES

Ms. ROCKEFELLER. The Corporation, historically, has done very little long-range planning. So when you start to plan, you realize how many decisions have been postponed in the past. To come up with these four priorities which we present to you today has taken a good deal of work and a good deal of toughness, I think, in setting those priorities.

We believe in all four of those priorities.

To implement them, and we certainly mean to, we just simply need more money.

I sit on the West Virginia Educational Broadcast Authority and sometimes when I'm sitting at the Corporation, I wonder whether my hats can change.

In fact, what I do in Washington when I go home this afternoon is going to cause trouble in West Virginia.

And I'm just as concerned about the West Virginia stations as you are about the New Mexico stations.

Senator SCHMITT. You're not implying that there's a conflict of interest?

Ms. ROCKEFELLER. If we cut CSG's, there's a potential for some conflict.

The point is we are all loathe to reduce any amount of funding which goes to the stations. Yet, on the other hand, we want to make sure that we are filling the gaps in the national programing schedule and that we are giving to the American consumers the kind of public broadcasting which they need and want because that is all they care about. They don't care about CPB, PBS, whatever.

They just care about what they see on the screen.

That means we have to put more and more money into programing. We have to extend our services. It's only fair if all of the Americans pay for this service.

Senator SCHMITT. If I may interrupt.

It also means that you have to insure that the local stations stay on the air.

Ms. ROCKEFELLER. That's right. That is called operational support. Once they are on the air, they have got something to show.

We have to extend the services and we have to get into the cutting edge of the new technologies if we intend to be part of the future.

We have to do all of those things.

Congress has told us to do many more things, while at the same time leveling off our funding. We really are very hard pressed, obviously, to see how we can accomplish that at $10 million a year increments.

That is why we cannot settle for $182 million. We must have more. We certainly intend to do all that we can to make sure that is true.

Senator SCHMITT. Well, let's hope that the administration hears you as well as I.

Ms. ROCKEFELLER. They obviously didn't.

Senator SCHMITT. So the buck passes over to Congress.

Ms. ROCKEFELLER. That's right. Here we sit.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. I think we had better move on. We will have a significant number of questions for the record, and I hope that they won't cause you too much difficulty.

And Senator Hollings has some questions which we will be submitting for him, and I will also have a few questions for myself.

Mr. FLEMING. Thank you very much, sir.

Senator SCHMITT. Thank you. I enjoyed it. And good luck to you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question: What are the present salaries of the Board Members of the Corporation for Public Broadcasting? What benefits, in addition to salary, does each receive? Please provide the Committee with a breakdown of the ten highest paid jobs at the Corporation. Also list the title for each position and the benefits that are provided, in addition to salary, for each.
Answer: Board Members do not receive a salary. They receive compensation at the rate of $100 for each day of service to the Corporation. In addition, they are reimbursed fro travel expenses incurred on behalf of the Corporation. All expenses are reimbursed in conformance with GSA travel regulations for government officials.

The teh highest paid positions at the Corporation and the benefits associated with each follows:

Position	Salary
President	$70,000
Director, Program Fund	63,000
General Counsel	60,000
V.P.-Treasurer	58,000
V.P.-Comptroller	55,000
V.P.-Research	55,000
V.P.-Telecommunications	55,000

Benefits:

1. 20% match of salary contributed to retirement annuity
2. Free parking
3. Life insurance valued at 2 times annual salary
4. Health insurance - self only coverage
5. Travel and disability

Staff:

Deputy General Counsel	$56,710
Director-Television Activities	56,100
Director-Planning and Analysis	52,232

Benefits:

1. 10% match of salary contributed to retirement annuity
2. Life insurance valued at 2 times annual salary not to exceed $100,000
3. Health insurance - self only coverage
4. Travel and disability insurance coverage

Question: What increase did other staff receive during these years? (1977-1978, 1978-79, 1979-80)
Answer: Salary increases awarded to staff averaged 7 percent in each of the above periods.

Question: Under the 1978 Act, HEW is required to issue rules and regulations for equal employment opportunity by recipients of CPB funds. What is the status of that?
Answer: HEW published for comment proposed regulations on December 21, 1979. [44 F.R. 75676]. The deadline for comment has been extended to April 1, 1980.

Question: What are you doing at CPB to encourage minority and women's ownership of public radio and television stations?

Answer: CPB is providing $80,000 to the National Federation of Community Broadcasters (NFCB) to conduct Minority Ownership Workshops. These will be small group sessions in order to give the needed individual attention. NFCB will involve NTIA in this effort.

CPB co-hosted, with NTIA, a conference which focused on efforts to increase participation of women in control/ownership of broadcasting facilities. CPB's share was $7,200.

Question: How much support do you currently provide for this purpose?
Answer: For FY80, CPB Radio Activities Department has had a funding goal of four minority/women applicants out of ten. Two Black, two Hispanic, and one Native American radio stations were funded under the Radio Expansion Program Rounds in March, 1980. The total amount budgeted for these new starts is $313,000. In addition, over $60,000 was committed in the last fiscal year for on-going support of two minority stations.

For FY80, the Radio Activities Department has funded through Community Service Grants (CSG's) eight radio stations for a total of $309,222. These stations include WVSP-FM in Warrenton, North Carolina; KEYA-FM in Belcourt, North Dakota; KBBF-FM in Santa Rose, California; WEAA-FM in Baltimore, Maryland; KTDB-FM in Ramah, New Mexico; WCSU-FM in Wilberforce, Ohio; KYUK-AM in Bethel, Alaska; and KOTZ-AM in Kotzebue, Alaska.

On the television side, CPB has set aside $200,000 for minority/women ownership. During this fiscal year, we anticipate a proposal from WHMM, the Howard University station. Out of the $200,000, CPB Board approved a grant award for $120,000 to KZLN-TV to cover operational costs for the first minority-controlled community-based effort in public broadcasting history currently taking place in the Texas Southern Valley. This effort is under the Texas Consumer Education and Communications Development Committee, Inc. located in Alamo, Texas.

For FY80, the Television Activities Department has funded through Community Service Grants (CSG's) eight television stations for a total of $1,767,572. These stations include KYUK in Bethel, Alaska; KGTF in Agana, Guam; WETV in Atlanta, Georgia; KHET in Honolulu, Hawaii and KMEB in Wailuku, Hawaii (one licensee, two transmitters); WIPM in Mayaguez, Puerto Rico and WIPR in San Juan, Puerto Rico (one licensee, two transmitters); and WTJX in St. Thomas, Virgin Islands.

Question: How much do you intend to provide for this important activity out of your fiscal 1983 request?
Answer: The afore-mentioned activities are approximate in FY80 with a total CPB budget of $152 million. Assuming full authorization in FY83 of $220 million, we would expect some increase in the minority/women's ownership project but we do not anticipate becoming a major fundor in this area.

U.S. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

STATEMENT OF TIMOTHY F. CLEARY, CHAIRMAN

ACCOMPANIED BY:
HARRIET E. MILLER, EXECUTIVE DIRECTOR
LARRY A. HOSS, DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT AND ADMINISTRATION
ROBERT C. GOMBAR, GENERAL COUNSEL

INTRODUCTION OF ASSOCIATES

Senator SCHMITT. The subcommittee will now move to the Occupational Safety and Health Review Commission.

The chairman of the Commission, Mr. Timothy F. Cleary—it's good to see you. And if you would introduce the others at the table for the record, so I can make sure I know who they are.

Mr. CLEARY. This is Harriet Miller, our Executive Director, Larry Hoss, the Director of Finance and Administration, and Robert C. Gombar who is the General Counsel to the Commission.

Senator SCHMITT. If you would proceed with your testimony and, if necessary, summarize.

PREPARED STATEMENT

Your prepared statement will be inserted in the record at this point.

[The statement follows:]

STATEMENT OF TIMOTHY F. CLEARY

Mr. Chairman, I appreciate this opportunity to present for your consideration the fiscal year 1981 appropriation request in the amount of $8,020,000 for the Occupational Safety and Health Review Commission. This request represents an increase of $470,000 and no additional positions from the resource levels approved by the Congress for fiscal year 1980.

The details of the changes in funding requirements are provided in the submission before you. However, I would like to highlight the significant parts of our submission.

The workload of the Commission continues to increase. The Commission received 6,938 new cases in fiscal year 1979. This volume of cases represents approximately 12 percent of all OSHA inspections and is an increase of 2½ percent and 1,400 cases above the levels for fiscal year 1978. Current expectations are that the Commission will receive between 7,200 and 7,800 new cases in fiscal year 1980 and 1981.

The productivity of the Commission's administrative law judges continues to increase in a very positive manner. The average annual productivity of the administrative law judge increased from approximately 80 cases per ALJ in fiscal year 1978 to an average of 98 cases per ALJ in fiscal year 1979.

Simplified proceedings for less complex cases before the ALJ's will be implemented on March 1, 1980. It is hoped that these proceedings will result in a reduction of the time between assignment of cases and ALJ decisions; increase the productivity of ALJ's and reduce the costs of litigation to the parties. A guide on simplified proceedings will be published and made available to all interested parties during fiscal year 1980.

The Commission underwent a significant reorganization on August 6, 1979, involving the staffs of the Commissioners and the Office of the General Counsel. The reorga-

nization assigns the primary responsibility for production of cases before the Commissioners to the Office of the General Counsel rather than the Commissioners' staffs. This reorganization was necessary to eliminate a triplication of work among each of the Commissioner's staffs. Data from the first six months of the reorganization indicate an increase in production of approximately 17 percent. The Commission's case production goal for fiscal year 1981 is 20 cases per month.

The Commission has continued its program of conducting 1-day seminars around the country to explain its role under the OSHA Act. The attendance at these seminars has drawn from a wide group of trade associations, employers, employees, unions, small business people, and consumer groups.

It is anticipated that the workload of the Commission will continue to increase in fiscal years 1980 and 1981. However, it is my belief that the reorganized Commission review and administrative law judge staffs will be able to absorb and process the anticipated increases.

Mr. Chairman, I remain committed to the goal of the Occupational Safety and Health Act. I believe that it is among the most advanced pieces of remedial legislation enacted by the Congress of the United States. My staff and I are now ready to answer any questions you and the subcommittee may have.

SIMPLIFIED PROCEEDINGS

Mr. CLEARY. Mr. Chairman, I would point with some pride to the last paragraph on the first page of the prepared statement, which has to do with the implementation of what you might say is a favorite project of mine, the implementation of a simplified procedure which will become effective on March 1.

It has long been my goal to cut as much as possible the legal requirements of Commission proceedings.

We have a settlement rate of approximately 89 percent of the cases, some 7,000, that we receive annually. Of course, no one knows why most cases settle. We can only guess with some degree of accuracy. But the popular support for simplified proceedings lead me to believe that sometimes employers and employees withdraw their contest or settle some cases because they are somewhat overwhelmed by the time and legal expense of the legal procedures facing them.

The simplified proceedings should reduce in some degree both time and expense by providing a less complicated procedure leading to a day in court. We have prepared a guide for distribution to the public and to interested parties which will set forth in some detail how the simplified procedures may be utilized.

Senator SCHMITT. Was that developed in consultation with the people that would be affected by it?

Mr. CLEARY. Yes; it had been introduced once before back in 1973. It had much support, but lay dormant for several years.

When the Commission got a third member aboard approximately 1½ years ago, I proposed it once more. The proposal was unanimously agreed upon.

I should point out that simplified procedures will not be available in every type of proceeding. There are some cases, notably the health cases, which would not lend themselves to that kind of a simplified procedure.

I should point out also that some of our cases primarily in the health area and the general duty clause violations cases would rival any case you would find in any State or Federal court for complexity. They run the full gamut of discovery procedures, expert witnesses, et cetera.

We have trade secret problems, warrant problems, et cetera, as I'm sure you are aware.

So the simplified proceedings would not be available to the more difficult cases. But we do expect that a very great majority of the cases could utilize the simplified procedures.

Senator SCHMITT. Does that complete your statement?

Mr. CLEARY. Yes, Mr. Chairman.

FEEDBACK

Senator SCHMITT. Do you have an opportunity to feed back to the administration from the Occupational Safety and Health Administration suggestions where you have found the regulations, the administration of which you are concerned with, that they either should be changed, modified or future types of regulations could benefit from the experience you have had?

What kind of interaction is there?

Mr. CLEARY. We are, without question, a unique entity in the executive branch of the Government. We are a quasicourt. Our sole function is adjudicatory in nature.

It is in our decisional processes that we provide feedback to the parties, including the Secretary. There have been a number of decisions in the past—the *Van Raalt* case, and so forth, in which a di minimus concept was developed for technical violations of the standards that had very little relationship to safety or health.

In my mind these cases were a signal to the Secretary of Labor who later modified his enforcement policies concerning purely technical violations, so that in the future they would not be the subject of an enforcement proceeding.

We maintain the position of any adjudicatory body. The main thrust of our interrelationships are in the adjudicatory process.

RECOMMENDATIONS TO CONGRESS

Senator SCHMITT. Would you have any recommendation as to how Congress, through its oversight functions of OSHA, could benefit from your experience as an adjudicatory body?

Mr. CLEARY. Well, I would like to give that some thought, Mr. Chairman.

Senator SCHMITT. I wish you would because you are out there probably more than any other group seeing the results of the regulations that have been put forward and the actual impact of the law and enabling legislation.

And without some kind of a summary view of what those results are, it's often very difficult for the Congress to know whether the problems that they hear about are general problems and should be treated as general problems with new legislation——

Mr. CLEARY. I would expect, Mr. Chairman, that although, there has been no real study of some 89 percent of the cases that are settled. In some instances, OSHA, on the advice of counsel withdraws charges because they, for one reason or another, don't believe that they could

prosecute the contested charges to the degree necessary to sustain the burden of proof.

Without a complex study of the settlements, which would include going back to the parties for information we now lack, this is the best we can do at this time.

COMMISSION'S PROGRAM TO EDUCATE THE PUBLIC

Senator SCHMITT. In your formal statement you indicate that you are conducting 1-day seminars around the country to explain the role of the review commission under the OSHA enabling legislation. Could you elaborate upon that? For example, how many seminars will be given, and what has been the position of public and labor?

Mr. CLEARY. We have conducted four seminars, the most recent of which was held 4 days ago in Atlanta, Ga. Other seminars have been conducted in Philadelphia, Pa., Dallas, Tex., and Chicago, Ill., in that order.

Senator SCHMITT. Say those again?

Mr. CLEARY. Philadelphia, Dallas, Chicago, and Atlanta. We are going to Boston in April and we are considering future sites.

Senator SCHMITT. Could we get you out West?

Mr. CLEARY. Yes; we have Denver under consideration. And, in fact, interestingly enough, what I have been trying to do since I was designated chairman is to make the public aware of the Commission.

Senator SCHMITT. I am glad I came to this hearing. I was not aware of the Commission myself.

Mr. CLEARY. At least you didn't ask us what part of the Labor Department we were in. [Laughter.]

Senator SCHMITT. Well, I am a quick study. [Laughter.]

Mr. CLEARY. There is a need to make the public more aware of the Commission. When I was giving a lecture at a well-known university, there were signs saying, "Welcome Chairman of the Occupational Safety and Health Review Commission," and the president of the student bar association got up to introduce me, and explained how his father was a textile manufacturer and would be very interested in knowing how the act was administered and how it is enforced. He thereupon introduced me as the Administrator of the Occupational Safety and Health Administration.

Before one gets the full title of the agency out, they say, "Oh, yes, we know OSHA." In any event, I then have to go into a long explanation.

This disturbed me, so I set about creating various ways of educating the public. The seminars are one of those ways. They have proved very effective. Many participants at the Commission's seminars have indicated that they are by far the best OSHA seminars they have ever attended. Of course, the best part about them is that they were free.

Senator SCHMITT. Does OSHA charge for their seminars?

Mr. CLEARY. I don't know but I doubt it.

We draw from a wide range of groups, trade associations, labor organizations, the public sector, and even OSHA itself. Based upon the responses, the only negative comment that has come to my attention is that we don't do more of them to better educate the public.

OUTREACH SEMINARS

Also, we have taken the Commission to the people, through the procedure of conducting oral arguments outside the Washington, D.C., area and we have held several of those. We have held one in Pittsburgh, involving the University of Pittsburgh, as to whether or not OSHA had jurisdiction over Pittsburgh University.

We also conducted an oral argument in Albuquerque, N. Mex., as to whether or not OSHA had jurisdiction over a sawmill operated on a Navaho reservation by the Navaho Tribe.

We have attempted to improve our service to the public through oral argument, our seminars, and our publications. Early in my chairmanship, I updated and reissued a guide to Commission procedures for use by laymen to get a better understanding on how they may present their cases before the Commission. It is a layman's guide. I believe a layman could read it in half an hour, and proceed confidently from there.

We have been very cognizant of the fact of the need to reach out to small employer groups, small labor organizations, affected employees that don't have the wherewithal, whether financially or legally, to present their cases before the Commission.

We are doing everything possible to simplify our proceedings, as I said in my earlier remarks, and also to educate the public. However, in spite of all our efforts, there is still the general misunderstanding of what the Commission is all about.

Senator SCHMITT. Would it help if we changed your name?

Mr. CLEARY. Yes; it would, quite frankly.

Senator SCHMITT. Have you made that recommendation?

Mr. CLEARY. I have not made it to anyone, but I have talked about it. That is an excellent question.

Senator SCHMITT. What would you like to be called?

Mr. CLEARY. Well, I think something like the "Court for Safety and Health."

Senator SCHMITT. Well, if you would like to expand upon that for the record, we would appreciate it.

[The information follows:]

It is not recommended that any change be made in the statute to alter the name of the Review Commission. As I have indicated, there is confusion of identity between the Review Commission and the Department of Labor as it concerns OSHA. However, I am uncertain whether this confusion of identity is any worse than it is for the National Labor Relations Board and the Department of Labor concerning labor relations issues or indeed between the Mine Safety and Health Review Commission and the Department of Labor on mine safety and health issues. We shall continue our search for a suitable acronym for the Commission.

IMPROVEMENT OF OSHA

Senator SCHMITT. Have you delved into the issue of OSHA's jurisdiction relative to the situations where they have agreements, operating agreements, with State occupational safety and health agencies?

Mr. CLEARY. No; we have not.

Senator SCHMITT. We have had some problems in New Mexico, where the agreement exists, but then there seems to be a feeling on the

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part of the Federal Government that they can come in still on top of what the State government is doing. And it has caused a terrible problem.

Mr. CLEARY. They do have the right, under section 18, of cojurisdiction, but I have been under the impression that the Federal OSHA, once the State plan has been implemented, would withdraw. But that is not to say that OSHA does not enforce some standards, in the maritime industry, for example, even though a State plan is in existence.

Senator SCHMITT. Well, that was our impression, and all of a sudden, they weren't doing that. And I think that has been worked out, but I was just wondering whether you had delved into that.

Mr. CLEARY. No; that is not a function of the Commission.

Senator SCHMITT. Now, you have said that the act is among the most advanced pieces of remedial legislation enacted by the Congress, but we still hear complaints and horror stories, although I think there have been some improvements in the last year or so.

From your experience with these seminars around the country, do you find the horror stories are ending? Or will we continue to hear them for years in the future?

Mr. CLEARY. Generally, I have not heard the complaints about the split toilet seats and the Jiffy Johns in the farm fields and that sort of thing, lately. I would say this, that everytime I have spoken about the Review Commission and explained what we are about and what we are trying to do, that people have approached me and told me that they now had a different perspective about OSHA.

I have not hesitated to talk about that sort of thing. There have been those kinds of enforcement actions that invite second guessing. However, that is not to criticize the people, the enforcers of those standards, at that time and place.

ENFORCEMENT ACTIVITIES

My usual comment publicly is that it is true that there have been enforcement actions like that, but I recite some of the cases—and I have been with the Commission since it started—that have come across my desk. I cite specifically the *Lockheed Shipbuilding Construction* case, which was one of the first cases on the Commission's docket in which 22 workers were killed, and another explosion up in Port Huron where 24 workers were killed.

Certainly, all of us are aware of the grain elevator explosions. Many may have forgotten the *Sinapp and Texas Eastern* case, on Staten Island, where 39 workers were killed in a conflagration, an oil tank explosion, and fire. Those are the things that I talk about. I comment that there isn't a day you can't pick up a newspaper, for example, and read about another worker killed in a trench cave in.

There are people being killed on the job, and I would rather see the emphasis on that sort of thing, rather than on the so-called nitpicking violations that are before us although with less frequency.

To get back to the initial part of your question—there has certainly been a reduction before us of complaints about OSHA of this kind. I don't see that kind of complaint as much as I did in the past. As you know, whenever you have any law enforced, there will be some people

who complain. We have all heard the old story: "It's not the money; it is the principle of the thing." When you are hitting someone in their pocketbook, whether it's a traffic ticket or whatever it is, they are not going to be happy about it. Even the best of us don't like to pay that $20 to the traffic court. And I say the same thing about OSHA.

Is there room for improvement? I am sure there is room for improvement. I have a background in law enforcement, and when I have an opportunity to speak to compliance officers, I tell them that they are no different from any policeman who is enforcing criminal statutes. A policeman or compliance officer has to learn to use his head. He has to use good judgment. He has to stop and think about a citation that he is giving. He should ask, "What kind of an impact is this going to have on OSHA?" These are the things I try to get across to them.

SAFETY PROGRAMS AND STANDARDS

When I speak before employer groups, I talk about safety programs and how important they are. When I speak to labor organizations, I seek to impress upon them the need to comply with the standards even though there are no penalty requirements in the act for employees who fail to comply with the OSHA standards. Occupational safety and health is not a one-way street.

Senator SCHMITT. Do you think there should be?

Mr. CLEARY. The point that I make in talking about the Commission's view of safety programs is that the employer is primarily responsible for safety in the workplace. If the employer is going to come in and plead unpreventable employee misconduct, which is one of the defenses we see most frequently, there are certain requirements that he is going to have to establish in order to prove that he has that defense. Not only must he have a good program, but that program must be fully implemented and it must be conveyed to the workers through safety meetings, and the employer must back that program up with whatever disciplinary measures are appropriate. If it comes to dismissing or otherwise disciplining an employee who doesn't comply with the act, so be it. I don't think any labor organization would disagree with that.

Senator SCHMITT. There are examples where the labor union has agreed that employees should be dismissed?

Mr. CLEARY. I don't know that I could document it, but I have attended many labor conferences, and have heard various persons in labor say that if employees don't comply with the act, they ought to be disciplined. My admonition to them is that otherwise they do a tremendous disservice to those in the labor movement that fought so long and hard to have the act passed.

To get back to the question, I don't know that it is necessary to provide for penalties in the act. There are other measures available to the employer. I think we all saw the newspapers today with the *Norfolk Shipbuilding & Drydock Co.* case, in which there are proposed penalties of $787,000. I am not inferring that that was because of employee misconduct, but the point I am trying to make is that if I am an employer and I am going to get hit with a $1,000 penalty or whatever, I am going to make darned sure my employees do what they're supposed to do.

OSHA IN COLLECTIVE BARGAINING

Senator SCHMITT. There have been some suggestions that OSHA, by its structure, can be used to intervene in the collective-bargaining process. Do you agree with that?

Mr. CLEARY. Well, if I read——

Senator SCHMITT. On the side of labor. That is, if something cannot be handled through collective bargaining, there is a tendency to suddenly find that it is being handled through OSHA. Do you run across examples of that?

Mr. CLEARY. I know that criticism has been made. There have been very few cases that I have seen. I have heard the complaint made, but I have seen very few cases come across my desk where that was a complaint or a basis of a defense. We have seen some cases where an employer will defend by saying he is being harassed, they couldn't get this in the collective-bargaining agreement so they're attempting to do it some other way. I haven't seen that much of it.

In the final analysis, what the Commission has to be concerned with is, "Was there, in fact, a violation or wasn't there?"

SUPREME COURT DECISION IN WHIRLPOOL CASE

You are aware of the recent Supreme Court decision in the *Whirlpool* case. There were two conflicting views from two separate circuit courts of appeals. The issue involved in both of these cases was that employees refused to work under what they in good faith believed to be hazardous working conditions. In the one case, the *Daniel* case, the fifth circuit said that to permit employees to do this would fly in the face of the act; whereas in *Whirlpool* in the sixth circuit, the court held that the employee had a right to walk off the worksite, there was no need for him to jeopardize his life.

The Supreme Court has this past week unanimously held that an employee did have the right to refuse to work when there is a good faith belief of dangerous and immediate working conditions. In this case the court left open the question of whether an employer should have to pay the employee for the time that he refused to work.

There are many possible instances where there is an issue of which is the more appropriate forum, OSHA or the National Labor Relations Board under section 502 of the National Labor Relations Act. There is interplay.

Senator SCHMITT. In that *Whirlpool* decision, I believe the decision takes note of an OSHA citation, where it required the immediate vacating of the hazard involved. The court states that nearly 5 years elapsed before filing the action led to the citation; the OSHA Review Commission affirmed the citation.

Mr. CLEARY. Yes; I am fully familiar with that.

Senator SCHMITT. Do you care to comment on that?

Mr. CLEARY. Well, there were extenuating circumstances, in that there were a number of requests for continuance and the filing of briefs by the Labor Department. There were a number of extensions obtained in that case obtained by the Secretary of Labor because of the fact that

they were litigating the case itself in the district court and in the circuit court of appeals. And the proceedings in our Commission were stayed pending the outcome of the circuit court of appeals decision. This is an unusual procedure.

[The information follows:]

While this case was before the Commission for what may seem to some as a long period of time, the court was somewhat misleading in giving the impression that it took the Commission nearly 5 years to act on the case. Let me give you a brief background on the case. The original judge's decision was directed for review by the Commission in mid-August of 1975. After granting an extension of time, the briefs of the parties were filed with the Commission at the end of October of that year. In March of 1977, 1 year and 7 months after the case was brought before the full Commission for review, we issued a decision remanding the case to the judge. The judge had vacated the citation concluding that a specific standard rather than the general duty clause should have been used as the basis for the citation. We reversed and remanded the case for the judge's ruling on the merits of the general duty clause citation. The judge issued his decision on remand late in June of 1977. The case was directed for review by the Commission in July 1977. After granting three extensions of time, the briefs of the parties were filed at the end of 1977. In May of 1979, 1 year and 11 months after the case was brought back before the full Commission, we issued a decision. It is this second decision that was appealed to the sixth circuit. In total the case was before the full Commission on review for approximately 3 years and 6 months. This is a long period of time, to be sure, but it was an unusually difficult case with extenuating circumstances.

Senator SCHMITT. Do you tend to operate independently?

Mr. CLEARY. We do operate independently. Given the fact that in that case the Secretary of Labor had requested the stay and there was no opposition to the stay by the employers, as I recall, the pending of the outcome of the circuit court decision resulted in the case sitting on the back burner during that period of time.

So, there is some explanation for the 5 years. However, you will also notice in my prepared text that we have reorganized the Commission, specifically with that type of situation in mind. We reorganized the staff of the Commission so that we could better approach the backlog of cases that we have.

CASE BACKLOG AND COMMISSION REORGANIZATION

Senator SCHMITT. Could you quantify or approximately quantify the effect of that reorganization in terms of the time needed to handle the cases, as you see it?

Mr. CLEARY. Well, initially, when we reorganized, we aimed at disposing 15 cases a month. And we hope, through this budget request, to raise that to 20 or more cases a month.

Now, as I indicated in my prepared text, we have increased our productivity some 17 percent. We are certainly going to improve that. There is no question in my mind. If I had to make a judgment right now as to whether or not the reorganization has worked, that I could say, "Yes, it has worked and it has worked well and it is going to work better."

Senator SCHMITT. What is your backlog?

Mr. CLEARY. The backlog presently is somewhere in the vicinity of 400 cases.

Senator SCHMITT. And you hope you get to about 20 a month?

Mr. CLEARY. Yes.

Senator SCHMITT. Now, is that new cases and old?

Mr. CLEARY. New and old cases.

Senator SCHMITT. So there is a significant amount of time involved?

Mr. CLEARY. The Commission's backlog is as it is for one reason—and it is by no way an apology—but at one point in time we had a backlog of over 900 cases. One former member saw fit to direct every judge's decision for review. It inundated us, and we are still feeling the effects of that.

If you were to go through our prepared statement, you would see at one point in time there was a transition quarter between 1976 and 1977, when we had an 806-case backlog, and that is by no way an apology for our failure to dispose of more cases. It is just one of the factors that led to the backlog as it exists today.

Senator SCHMITT. Could you supply for the record some more detail on the age of the cases and how long have they been before the Commission?

Mr. CLEARY. Do you want that now?

Senator SCHMITT. No, for the record.

[The information follows:]

The age of the cases before the full Commission at the present time is as follows: Cases with the Commission for a period of over 3 years number approximately 173 and represent approximately 43 percent of the full Commission's backlog. Greater than 2-year cases number approximately 278 and represent 70 percent of the backlog. Greater than 1-year-old cases number approximately 370 and represent approximately 93 percent of the Commission's backlog.

COMMISSION TRAVEL

Senator SCHMITT. Do you have a travel policy? You said you are traveling a lot, it sounds like.

Mr. CLEARY. No; not quite as often as it may sound. But, yes; we have a travel policy.

Senator SCHMITT. But you are trying to have an outreach?

Mr. CLEARY. Yes; I believe there is a need for educating public and interested persons, certainly within bounds. I by no means like traveling that much myself. I would have to say that staff of the Commission travel only when necessary.

Senator SCHMITT. What is the process within the Commission to review travel? At whose place is the responsibility for the approval of travel?

Mr. CLEARY. Well, I approve the travel for the members and the administrative staff. The approval for the travel of the judge is, of course, handled through the chief judge's office.

Senator SCHMITT. Are you aware that the General Accounting Office has recommended that the Chief Executive Officer of the Railroad Retirement Board should authorize and approve all first-class travel for that agency, including Board members and their personal staffs in order to control cost, and if so, is that roughly the procedure you follow?

Mr. CLEARY. By all means, we do not travel first class.

Mr. Hoss might be able to respond to that question. I know I personally have, since the mandate on travel came out from the President—I

myself have traveled first class twice, and that was because there were no coach seats available.

Mr. Hoss. We could provide that information for the record, because we are required to submit quarterly reports to the GSA on first-class travel. That has been very, very minimal.

[The information follows:]

Most of the Commission's travel is performed by the administrative law judges for the purpose of holding hearings and prehearing conferences as required by the APA (site of hearing must be set in consideration of convenience to the parties). All other travel requires prior approval of the chairman including all travel by first class. During the past 2 fiscal years, the Commission has been able to decrease its total travel budget by approximately $50,000.

Senator SCHMITT. And approved only if coach is not available? Or is there any other circumstance?

Mr. Hoss. Only if coach is not available or if we have someone on official business who for medical reasons is unable to travel coach. We have one ALJ who must travel first class.

SIMPLIFIED PROCEEDINGS

Senator SCHMITT. OK, back to the cases. Given a new case, what do you anticipate under the procedure now in effect—the accelerated procedure—to be the time required for processing?

Mr. CLEARY. I don't know that we have established an exact time frame. I think what this will depend on is an analysis as we go along. We certainly will eliminate the 20-day period for the Secretary to file a complaint. We will eliminate the 15-day period for the employer to answer—the notice of contest will be his response. There are various restrictions on what procedures may be utilized. The judges will call an informal conference to frame the issues and to narrow them and reduce or eliminate the differences between the parties. Failing any ability to settle the issues, then the hearing will go on immediately after the informal conference.

We are also experimenting with a settlement calendar whereby cases are put on a special calendar.

Senator SCHMITT. If you think that a settlement is possible?

Mr. CLEARY. If we think a settlement is possible, and we are awaiting the outcome of that experiment also. We have also asked for public comment.

Senator SCHMITT. What do you think you're looking at, though, the order of a year on the average?

Mr. CLEARY. Our experience in fiscal year 1979, indicates that settlement cases were disposed of on an average of 103 days. It required in the vicinity of 222 days for cases that went to hearing. We are certainly hoping to improve those figures.

I started to say something earlier, Mr. Chairman. We really don't know what to anticipate with the simplified proceedings. It may well be that of the 89 percent of the cases that settled that under the new procedures that many of those employers or employees would want to have their day in court. It may well be that we may dramatically increase our caseload. Only time will tell.

It may be like a lot of other experiences we all have in life where when something new comes into effect, everybody rushes to it.

Senator SCHMITT. Do you make any attempt to compare your operational activities with the Mine Safety and Health Review Commission?

Mr. CLEARY. Yes; if I may say so, they of course have the advantage of starting out new. We didn't. We were in existence some 7 years when the Mine Safety and Health Review Commission came into existence, but they started out directly with a central decision writing staff which is what we now have in the General Counsel's office. Of course, they are in a better position to respond to what their experience has been. We do look at them to see just how, especially under their central section, they are succeeding. I have every reason to believe that it is very successful.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. Well, thank you.

We will have a few more questions for the record.

We appreciate your testimony and appreciate your being here.

Mr. CLEARY. Thank you very much, Mr. Chairman. It's been a pleasure being here.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTION: IN YOUR STATEMENT YOU SAY THAT YOU BELIEVE OSHA . . ." IS AMONG THE MOST ADVANCED PIECES OF REMEDIAL LEGISLATION ENACTED BY THE CONGRESS. . ."

NOW WE STILL HEAR COMPLAINTS AND HOROR STORIES HERE ABOUT OSHA FROM OUT CONSTITUENTS.

FROM YOUR EXPERIENCE WITH SEMINARS AROUNT THE COUNTRY DO YOU FIND THE HORROR STORIES ARE ENDING OR WILL BE CONTINUE TO HEAR THEM FOR YEARS INTO THE FUTURE?

ANSWER : From my experience in seminars and also in examining cases I believe that there has been a "greening" or maturity in the OSHA program. As suggested in my testimony the Commission has contributed to this maturity by evolving a meaningful de minimis concept in OSHA cases. The Commission's solutions to applying OSHA in multiple exmployer situations has also received wide acceptance by the courts and by the public generally. It is fair to say that to the extent that a "horror story" is descriptive of inept administration and enforcement the major problems of the early years of OSHA have now been solved. To the extent that a "horror story" may describe dangerous working conditions to employees an examination of the cases indicates that there is a quiet daily effort to deal with such dangerous working conditions as exposure to phosegene gas, risks of electrocution, exposure to carbon monoxide, dangers of fire and explosion, fall hazards, and a variety of machine guarding problems.

TRAVEL POLICY

QUESTION: DO YOU HAVE A TRAVEL POLICY?

WHO REVIEWS FIRST CLASS TRAVEL?

THE GENERAL ACCOUNTING OFFICE HAS RECOMMENDED THAT THE CHIEF EXECUTIVE OFFICER OF THE RAILROAD RETIREMENT BOARD SHOULD AUTHORIZED AND APPROVE ALL FIRST CLASS TRAVEL FOR THAT AGENCY INCLUDING BOARD MEMBERS AND THEIR PERSONAL STAFFS IN ORDER TO CONTROL COSTS.

DO YOU PLAN TO IMPLEMENT A SIMILAR PROCEDURE?

ANSWER : The policy of the Commission in regard to travel is that only necessary travel by Commission staff is performed. The Administrative Law Judges conduct approximately 78% of all Commission travel in the performance of their duties. All travel by the ALJ's is carefully reviewed and monitored by the Chief Administrative Law Judge.

Hearings requiring travel by the ALJ's are scheduled, to the extent possible, to allow for several cases to be heard at the same location or as part of the same trip. Efforts are also made to assign cases to the Regional Office closest to the hearing location. Actions such as these have resulted in a decrease in the travel costs of the ALJ's by approximately $50,000 during the past two fiscal years.

Travel by all other Commission staff must be approved by the Chairman prior to taking place. Only essential travel is performed. The regulation in regard to travel set forth in FPMR 101-7 require all first class travel to be approved in advance by the Chairman of the Commission. First class travel is not authorized unless no other seating is available (very infrequent) or unless the traveler because of health reasons is unable to travel in coach class.

SEMINAR

QUESTION: IN YOUR OPENING STATEMENT YOU INDICATE YOU ARE CONDUCTING ONE-DAY SEMINARS AROUND THE COUNTRY TO EXPLAIN THE RULE OF THE REVIEW COMMISSION UNDER THE OSHA ACT.

WOULD YOU CARE TO ELABORATE ON THAT ---

HOW MANY SEMINARS HAVE YOU GIVEN?

WHAT HAS BEEN THE PUBLIC RESPONSE?

ANSWER : To date the Commission has given four one-day seminars concerning its procedures and the rights of employers and employees alike. The public response has been very favorable. The attendance has been high. Comments that we have received suggest that the program has been well received and if there is a criticism it is that we should do more seminars or expand their length.

QUESTION: COMPARE THE ESTIMATED LENGTH OF TIME REQUIRED TO ADJUDICATE A CASE UNDER THE OLD AND NEW OSH REVIEW COMMISSION PROCEDURES?

ANSWER : The length of time required to adjudicate a case under the Commission's new simplified procedures should be reduced materially by two circumstances. First, the elimination of pleadings and secondly, the elimination or sharp reduction in discovery. Our experience suggests that the elimination of pleadings alone may reduce the overall case processing period by 70 days or more. This is because under the Regular procedures the parties more often than not request enlargements

of time to file complaints and answers. Concerning discovery a reasonable estimate of the time saved would be six months or more. This would mean that in case that are fully adjudicated before an administrative law judge, under the new procedures the time from the notice of contest to the decision of the Judge should be in the range of six months or 180 days. This compares with an average of 334 days under the regular procedures.

QUESTION: HOW LONG IS YOUR CASE BACKLOG NOW, AND HOW LONG DO YOU ESTIMATE IT WILL TAKE TO ELIMINATE THE BACKLOG?

ANSWER : There are presently 400 cases now pending before the full Commission As to how long it will take to eliminate the backlog, the Commission Members have already agreed to a reorganization of the decision-writing process which should permit the preparation of approximately 20 decisions a month. The Commission is also exploring other methods of approaching its backlog in order to make full use of its discretionary power to review cases. This includes an examination of not only the cases presently before the full Commission, but also the type of cases that should be ordered for review before the full Commission. While it is uncertain that the backlog will be totally eliminated, we do expect to reduce the backlog to 310 cases in fiscal year 81.

QUESTION: WHAT IS THE REASON FOR THE DRAMATIC INCREASE IN CASELOAD IN 1979 OVER 1978? (In 1978 9.68 percent of all cases were contested. In 1979 the figure jumped to 14.6 percent.)

ANSWER : My observations suggests that the increase was due in large measure to a more sophisticated bar and to better informed employers and employees generally concerning their rights under the Act. For example, most employers realize that once a contest is filed there is no requirement to abate the cited hazard during the pendency of the litigation. This is an important tactical consideration in any contest where the abatement of a cited hazard could result in the incurrence of major costs. I do not believe that the increase in the caseload is attributable to any major shift in enforcement policies by OSHA itself. The OSH Review Commission is very serious in developing an efficient simplified procedure. The procedure is experimental and it is expected that improvements can be made at the end of the one-year trial period. We have asked the assistance of the American Bar Association's Labor Law OSHA Committee in monitoring the experience

under the new procedure. That Committee has agreed to record its experiences and to give the Commission the benefit of its recommendations at the end of the year.

QUESTION: WHAT IS THE CASELOAD FOR THE OCCUPATIONAL SAFETY AND HEALTH ACT REVIEW COMMISSION? (HOW MANY CASES ARE CURRENTLY PENDING?)
WHAT IS THE CURRENT PROCESSING TIME FOR A CASE FILED WITH THE OSH REVIEW COMMISSION?
HOW MANY NEW CASES A YEAR ARE FILED WITH THE OSH REVIEW COMMISSION
IS THERE ANY DIFFERENCE IN THE EFFICIENCY OF PROCESSING BETWEEN THE OSH REVIEW COMMISSION AND THE MSH REVIEW COMMISSION?
IF THE RESPECTIVE FIGURES FOR THE OSH REVIEW COMMISSION AND THE MESH REVIEW COMMISSION ARE COMPARED, IT CAN BE DETERMINED WHETHER OR NOT THERE IS AN APPARENT DIFFERENCE IN EFFICIENCY IN PROCESSING BETWEEN THE TWO AGENCIES. IF THERE IS, YOU MIGHT WANT TO ASK THE LESS EFFICIENT ORGANIZATION TO MAKE RECOMMENDATIONS FOR A NEW PROCEDURE THAT WILL ENABLE IT TO PROCESS CASES FASTER.

ANSWER : There are 400 cases currently pending before the Commission. Concerning current processing time for cases, there are several average times to consider. In the cases that have resulted in settlement or other disposition without hearing, the average time from the notice of contest to a final order has been about 229 days. When full hearings have been held the time from the notice of contest to the decision of the Judge has averaged about 334 days. When the decision of the Judge has been reviewed by the full Commission the time from the order to review until the decision of the Commission is issued has averaged about 711 days.

There were 6,938 new cases filed with the Review Commission during the past year.

The structure of decisional process of the OSH Review Commission and the MSH Review Commission are substantially the same. That is, there is reliance upon a central decision-making arm of the full Commission in each case. It is very difficult if not impossible to say whether the efficiency of one Commission is greater than the other because of the statutory differences and differences in the types of cases that come before the two Commissions. It should be observed, however, that the range of cases coming before the OSH Review Commission is extremely great. It covers virtually the full spectrum of American industry except for cases within the jurisdiction of the MSH Review Commission and to a lesser degree in the Department of Transportation and one or two other agencies.

FEDERAL MINE SAFETY HEALTH AND REVIEW COMMISSION

STATEMENT OF RICHARD V. BACKLEY, COMMISSIONER AND ACTING CHAIRMAN

ACCOMPANIED BY:
FRANK F. JESTRAB, COMMISSIONER
JAMES A. BRODERICK, CHIEF ADMINISTRATIVE LAW JUDGE
RICHARD L'HEUREUX

PREPARED STATEMENT

Senator SCHMITT. We will now hear from the Federal Mine Safety and Health Review Commission. The lead witness is Commissioner Richard V. Backley, who is the Acting Chairman. If you would introduce your colleagues for the record, you may submit your full statement for the record, if that is necessary, and summarize as appropriate.

[The statement follows:]

STATEMENT OF RICHARD V. BACKLEY

Mr. Chairman, it is a pleasure to appear before you and the Committee to present justification for our fiscal year 1981 budget request in the amount of $4,680,000.

As you are aware, Jerome Waldie, the former Chairman of the Commission, who appeared before you last year, has been requested by President Carter to direct the two year White House Conference on Aging and is no longer with us. A fifth commissioner has not yet been appointed and the Chairmanship of the Commission is being rotated on a monthly basis among the four present Commissioners.

The budget request is for $90,000 less than our fiscal year 1980 request. This reduced request, I believe, more accurately reflects our needs and is based on the past year's experience, which, in fact, was the first full year of the Commission's existence. However, it does allow us to increase our staff by 6 full time permanent positions, including 3 Administrative Law Judges and three other permanent positions. Additionally, we seek to add three other than permanent positions for legal clerks working in the General Counsel's office, primarily engaged in research. The increased personnel are being requested to assure that we can meet our projected workload increase. Also, we are asking for funding to open a second regional office, and if we do so, we will have the personnel required for staffing.

Based on our past history and on MSHA's projections, we anticipate that our workload will increase from the 4,766 cases received in 1979 to about 5,800 cases in 1981. We will closely monitor the geographic location from which the cases arise to determine whether a second regional office should be established so we may better serve the public interest. If opening such an office is deemed necessary, it will be based on that interest, and on the saving of Commission travel time and related costs.

Projected obligations are divided between our two program areas: Commission Review ($1,848,000) and Administrative Law Judge Activities ($2,832,000).

The Administrative Law Judges (ALJs) conduct hearings and issue decisions in contested cases initiated by the Secretary of Labor, mine operators and miners. They also are required by the Act to evaluate and approve settlement agreements. We presently have two Administrative Law Judge offices: one in Falls Church, Virginia and one in Denver, Colorado.

The Denver office was opened in October 1979 and has a complement of four Administrative Law Judges and support staff.

Our Administrative Law Judge productivity remains at a very high level. With 14 Administrative Law Judges on board in 1979, they disposed of 2,840 cases. Their overall per ALJ productivity of all types of cases was more than 200 dispositions each. In 1980, we have 18 Administrative Law Judges and are awaiting OPM authorization to hire four more. We expect to dispose of 4,455 cases, which again is a disposition rate of more than 200 per Judge. For 1981, we are asking funds to hire three more, to bring our staff to 25. We are aiming to dispose of 6,335 cases during FY 1981.

The Commissioner functions are to review Administrative Law Judge decisions, rule on Petitions for Discretionary Review and issue decisions to affirm, modify or vacate decisions directed for review. Our projections are that we will increase Commission dispositions from the 219 issued in 1979 to about 350 in 1981.

We are continuing to operate with a small personal staff for each Commissioner. We will continue to use the General Counsel's office to prepare draft decisions for the Commission's consideration; we believe this is the most effective utilization of personnel as opposed to larger personal staffs for each Commissioner.

Significant changes in our budget request, as indicated on page 5 "Obligations by Object," are reflections of a more realistic approach toward outlays, again, based on past experience. The largest increase, $120,000, represents our estimate of increased costs primarily for court reporting services in conjunction with Administrative Law Judge activities. The increased Standard Level User Charges of $68,000 recognize additional

rental expenditures for a new regional office and absorption of costs for our new office in Falls Church, Virginia. A net increase of only $75,000 in personnel cost for 9 positions is accounted for by recognizing a lapse rate of about 50% for the projected new Administrative Law Judges and their staff.

Supplies and materials have been reduced by $124,000 to an anticipated expenditure of only $76,000 which we feel is reasonable.

Thank you for the opportunity to present this statement. I'll be pleased to respond to questions from the Committee.

INTRODUCTION OF ASSOCIATES

Mr. BACKLEY. To my right is Commissioner Jestrab and to my immediate left is the Chief Administrative Law Judge of the agency, James Broderick, and to his left is Dick L'Heureux, a member of the staff who has been very helpful in preparing the budget.

As you probably have read in my opening statement, we are not only without a permanent chairman, but we are without a permanent executive director. And I believe copies of my statement have been sent to you.

Senator SCHMITT. They have, and you may either read or summarize.

Mr. BACKLEY. I think the statement does speak for itself, and we are requesting $90,000 less than we did previously because of a more realistic approach, and I think primarily because 1979 was our first full year in business.

Truly, as Chairman Cleary of the OSHARC indicated, we are a new agency. Prior to our formation, established by the Congress of the United States, the appellate function was conducted by the Interior Board of Mine Operations Appeals.

CASELOAD

I couldn't help but overhear some of the chairman's questions to Chairman Cleary, and I would like to point to several things that I consider very important so far as our function is concerned. We, too, are an adjudicatory body, separate from the Department of Labor. In 1979, we disposed of 2,840 cases. This was—when I say "we," I'd better make myself clear.

We have two functions. We have the administrative law judge function, and we have the commission appellate function. The administrative law judges disposed of 2,840 cases.

The Commission itself—and these are cases that are appealed from administrative law judge decisions to us and upon which we granted review—we disposed of 219 cases. We inherited approximately 207 cases from the old Board of Mine Operations Appeals.

I might add that we have tried and attempted to keep a short time lag, if you will. I'm a former ALJ, and I've filled out enough forms to

know Senator Ribicoff's and others' interest as to how long it takes to dispose of a case once it's filed and it is approximately 13 months, Senator, from the time a case is filed until it is disposed of by the full Commission.

If the party does not seek review before the full Commission and allows the administrative law judge's decision to become final, then it is approximately 6.9 months from the time of filing.

I think everything else is in my statement, and I would be glad to answer any questions you have.

ROLE OF COMMISSIONS

Senator SCHMITT. You know we out in New Mexico, coming from a mining State with both OSHA and the Mine Safety and Health Administration, come under a great deal of public scrutiny—probably more awareness of the two Administrations than some other parts of the country. And there is a feeling that the Administrations, as I indicated earlier, do at times show a bias. That is a feeling, of course, on the part of the employers.

It is very hard to sort that out. Obviously, they're two conflicting sets of interests that are conflicting as far back in history as we can measure. And I was wondering, do you see any indication of the Administration, the Mine Safety and Health Administration, acting in a way that is really antithetical to the processes?

Mr. BACKLEY. At this time, I don't, Senator. Let me preface my remark by saying, up until 1977 when Congress passed the act that we're now living with, the metal mining industry, if you will for want of a better definition, was subject to the Federal Metal and Non-Metallic Mine Safety Act of 1966. And under the 1966 act, most of the standards were what were described as "advisory standards." There were no civil penalties attached to the violations. There were withdrawal orders, but they were only under extreme circumstances.

I do have a little background in this area. I was with the Department of the Interior and sort of a chief trial attorney from about 1970 to 1975, and I was involved, for example, in the Sunshine Mine disaster. And I had an opportunity, I think firsthand, to observe the relationship of the Administration as represented by the inspectors with the mine operators.

My feeling is that there is a good developing relationship between the Mine Safety and Health Administration and the metal mining industry. This is just my own personal observation, but I believe this is a fair description of the situation in most cases. I have a feeling that in many respects the metal/nonmetal operator, having lived under the 1966 act, which for the most part certainly did not have the teeth of the 1977 act, finds itself in the same position which we experienced when the 1969 act was passed, that the coal mine operators felt that they were being treated unfairly.

In that regard, we have spent time in making ourselves and our functions known to the mining industry. Our judges and our commissioners have spoken at various associations such as the Sand and Gravel Association. We also have opened a Denver office. We have four ALJ's

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assigned to that office. Hopefully, we Commissioners can get out West to hear oral arguments in some cases. As far as attempting to explain the Commission's role to the industry—our attention has focused more at this point on the Western States, because of the fact that the coal mine operators in the Appalachian region and the Eastern region, if you will, have lived since 1970 under the 1969 act.

COURT SYSTEM WITH SPECIALIZED FUNCTION

Mr. JESTRAB. I think, Senator, that actually each of these—well, I will speak only of our Commission—is really a court system with a specialized function. They are adjudicative only in that they have no substantive powers. I think that is as it should be.

But I think that as we develop, it will probably be useful to examine the name of a specialized court system such as ours, because Commissions are usually what they call quasijudicial organizations.

Well, that is not true with us. We have strictly an adjudicative function. And I think that was a valuable question that you raised in connection with the previous hearing.

Senator SCHMITT. I hope you will feel free to submit your thoughts on that also.

Mr. JESTRAB. Yes; I'm sure that we will do that. I think this is a very, very exciting development. I think it is one that a couple of very farsighted judges have mentioned as a possibility to dispose of questions of a specialized character.

And I practiced law for 40 years before I ever became a bureaucrat, and it is a very exciting business—the development of really new concepts.

And I was glad to hear you ask that question because it is something that I had wanted to be sure was understood. I think it is working extremely well.

1980 BUDGET EXCESS

Senator SCHMITT. Well, I hope that you will comment further.

We, of course, in the Appropriations Committee do not really have the jurisdiction to change it, but certainly we are in communication with our peers who are.

With respect to the $90,000 excess amount included in your fiscal year 1980 request, what became of that amount and any other elaboration you wish to make?

Mr. BACKLEY. At this point, Senator, we are still operating on the theory that we may have at the end of the fiscal year $90,000. We're certainly not going to make any attempt to rush to attempt to spend it.

When the budget was put together for fiscal year 1980, it was like flying by the seat of our pants, and there were certain items in there that I have a feeling that we overestimated.

At this time I cannot say for certain what our expenses actually are, but I would be glad to supply for the record our progress on this point. Certainly I want to assure the committee that if at the end of the fiscal year we have $90,000 or more, that there's not going to be that 90-day rush or whatever it might be to spend it.

We are right now presently going along—my understanding is, fairly well, but if we look down the road, we think we may have some excess.

Senator SCHMITT. Do you have continuing obligational authority?

Mr. L'HEUREUX. We have single-year funding.

COMMISSION STAFFING AND TRAVEL

Senator SCHMITT. We were pleased to see in your opening statement that you intend to keep personal staff for each Commissioner small. We have had trouble with expense accountability with some of our boards and commissions and their personal staffs.

Now, do you have a travel policy that can be articulated?

Mr. BACKLEY. We have a travel policy, insofar as the Commissioners—insofar as we're concerned the five Commissioners—and each Commissioner has one Chief Counsel and one secretary/administrative assistant. And then we have a general counsel's office, of course.

All of the travel approval is by the Chairman. He is the one, acting through the Executive Director, which is an extension of him—neither one of which we have right now, but at the present, I'm acting Chairman, for example, this month and I am signing the travel vouchers.

Now insofar as our judges are concerned, we have made an attempt in all cases to go to where the mine—that is, as close to the mine as possible for a hearing. I mean, given proper hearing facilities, of course. And we think—and I'm sure it's obvious why this is of great value, because these are, in effect, better than seminars. That is, of course, one way to disseminate information, and of course there are speeches. That is one way. But I think if one goes out with a trial, if you will, and sees the judge and the prosecutor and defense attorney and the witnesses, I think that is very valuable, Senator.

Senator SCHMITT. Of course you have more access to witnesses.

Mr. BACKLEY. Yes; and you do have more access. Now that travel is the responsibility of the Chief Administrative Law Judge, working very closely with the Executive Director and the Chairman. In order to minimize travel costs we opened one office in Denver, and the Chief Judge can correct me if I'm wrong, we opened it in October, and already 406 cases approximately are pending out there.

We have seen that this office has worked quite well.

Senator SCHMITT. And do you have a first class travel policy?

Mr. BACKLEY. No; we don't. If I understand you correctly, we ride coach.

Senator SCHMITT. Unless there are extenuating circumstances?

Mr. BACKLEY. I've been with the Government 24 years, Senator, and I think I flew first class once.

Senator SCHMITT. Ah-hah. [Laughter.]

Mr. BACKLEY. You got me.

Senator SCHMITT. Do you mean airline deregulation hasn't affected you like it has the Occupational Health and Safety Review Commission?

Mr. BACKLEY. No; we take what we can go on. I think we have to take advantage of whatever cutrate fares are available.

Senator SCHMITT. Do you anticipate your reservations far enough in advance to get coach? This is a clear example of Parkinson's law.

Mr. BACKLEY. I have to be honest with you, Senator, I don't think we do in order to take advantage of super saver fares and the like, because sometimes a judge will have to schedule these hearings in a relatively short period of time. But, I repeat that we do always go coach—not first class. But I think my answer to the question is, no, Senator.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. We may have a few more questions for the record.

Since you anticipated several of the questions already asked, I think that will do it, unless you have something else.

Mr. BACKLEY. No, Senator, except to say it has been a pleasure to appear before you.

Senator SCHMITT. Well, good luck to you. We may have some more substantive questions next year, as you have a full year before you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. What is the caseload of the Mine Safety and Health Review Commission? How many cases are currently pending?

Answer. As of February 1, 1980, 3,641 before the administrative law judges. As of February 1, 1980, 152 before the Commission.

Question. What is the current processing time for a case file with the Mine Safety and Health Review Commission?

Answer. From filing to assignment to administrative law judge, 2.6 months. From filing to disposition by administrative law judge, 6.9 months. From time of direction for review to disposition by Commission, 5.8 months. Our length of time from filing to disposition by Commission is approximately 13 months.

Question. How many cases a year are filed with the Mine Safety and Health Review Commission?

Answer. During fiscal year 1979 there were 4,766—actual. During fiscal year 1980, 5,280—projected. Fiscal year 1980, 5,800—projected.

Question. What percent of all cases are contested under the Mine Safety and Health Act.?

Answer. Insofar as penalty cases are concerned, this question should be more properly directed to MSHA, Assessment Office. We have only partial statistics on this, received from that office. We do know that in fiscal year 1979 MSHA assessed 39,371 cases and of those 4,119 were filed with the Commission, or 10.5 percent. However, these are penalty cases and about 12.5 percent of our case load consists of nonpenalty cases. These cases are increasing in number particularly those involving alleged discrimination under section 105 of the act.

U.S. SOLDIERS' AND AIRMEN'S HOME

STATEMENT OF GEN. GEORGE McKEE, ON BEHALF OF THE U.S. SOLDIERS' AND AIRMEN'S HOME

ACCOMPANIED BY:
COLONEL HAMPTON
MR. GRITTON
MR. CURRY

BUDGET REQUEST

Senator SCHMITT. We will now proceed to the final witness today, Gen. George H. McKee of the U.S. Soldiers' and Airmen's Home. I hope you really have not been waiting as long as I think you have. But maybe we ought to have a rotary schedule each year.

Your full statement will be included in the record, if that in fact is necessary. You may summarize.

General McKEE. Mr. Chairman, I do have a couple of points I would like to add to the record, and I will provide these to the recorder for his information later.

Last year in our hearings before the committee about this time, I noted for the benefit of the new members of the committee at that time that the Soldiers' and Airmen's Home, since its creation in 1851, has never been a burden on the taxpayers. There has been only $54,000 ever appropriated to support our facility, and this is a fact that is largely unknown even to well-informed people.

The support of the Home is derived principally from the soldiers and airmen themselves, through contributions, plus forfeitures and fines of enlisted people from courts-martial that go into our permanent fund to be set aside as a trust fund for the Home.

EFFORTS TO INCREASE ANNUAL REVENUES

In 1975 and 1976, the Home's officials attempted to get three things accomplished to increase our annual revenues so as to insure the life of the home beyond the year 1989. Two of the three items requested were approved by Public Law 94-454, and these were to raise withholding fees of enlisted personnel on active duty from 25 to 50 cents per month, and to start charging the residents at the Home a fee, which could be as much as 25 percent of their retired paycheck or VA pension check.

The third item that was sought by the officials at the Home was to obtain the fines and forfeitures resulting from nonjudicial punishment for the Home. Now, in 1851 Congress said all fines and forfeitures from courts-martial would come to the Home for its operation. Well, in 1963, when the article 15 came out, that was a type of punishment in lieu of court-martial for enlisted personnel when they did something wrong.

The Comptroller General made the decision in 1963 that it's really not a court-martial fine and forfeiture; it is different, as nonjudicial punishment.

It is our view and opinion that Congress in 1851 intended that all fines and forfeitures would come to the Home. So that brings me up to the next point I want to make, Mr. Chairman, that—even with the additional income provided by the increased withholding pay from enlisted people and warrant officers in the service and the member's fee—this year, in 1980 and 1981, we are about to reach the point where we have used up those additional dollars that were coming in to us on an annual basis, and we will be going into deficit spending probably this year or next year.

So it will be necessary for the Home to seek some sort of alternative funding once again. What we will do will be to seek legislation through the proper committee authorizing the return of nonjudicial fines and forfeitures back to the Home again, which in our opinion justly belong there. I pass that along to you for your information, sir.

This is one of the primary objectives we have at the Home at the present time, to seek alternative funding in the out years to assure the buying power of the permanent fund beyond the year 2000. If we get the nonjudicial fines and forfeitures, this will do it for the Home. If we don't, we are certainly going to need some kind of alternative funding to keep us in existence beyond another 10 years.

Senator SCHMITT. Well, I am sure the staff and the committee as a whole will track this. But if you would keep us informed of your view of that progress, we would appreciate it. And that would result in potentially more appropriations if we cannot find some alternative solutions.

General MCKEE. All right, sir.

1980 APPROPRIATION AND 1981 BUDGET REQUEST

Mr. Chairman, our budget for fiscal 1981 is $20,595,000. This is $927,000 greater than fiscal year 1980 appropriation. Of this, $454,000 is for inflationary considerations, the increase for operating expenses is $473,000.

That is all that I have at this time, sir. I will be glad to answer any questions you may have.

1980 SUPPLEMENTAL REQUEST

Senator SCHMITT. OK. General, the committee has before it this request and a request for supplemental funds for fiscal year 1980 to take care of increased fuel prices. Obviously, fuel oil prices have gone up since you have made your estimates for this winter.

Can you explain the impact of these increases, what impact these increases have had on the Home's fuel costs, which have led to the supplemental estimate?

General MCKEE. Yes, sir; a little background, Senator. Our estimate was based on the Home's need for 1.6 million gallons at a forecasted average price of 58 cents. This was based on the best available figures

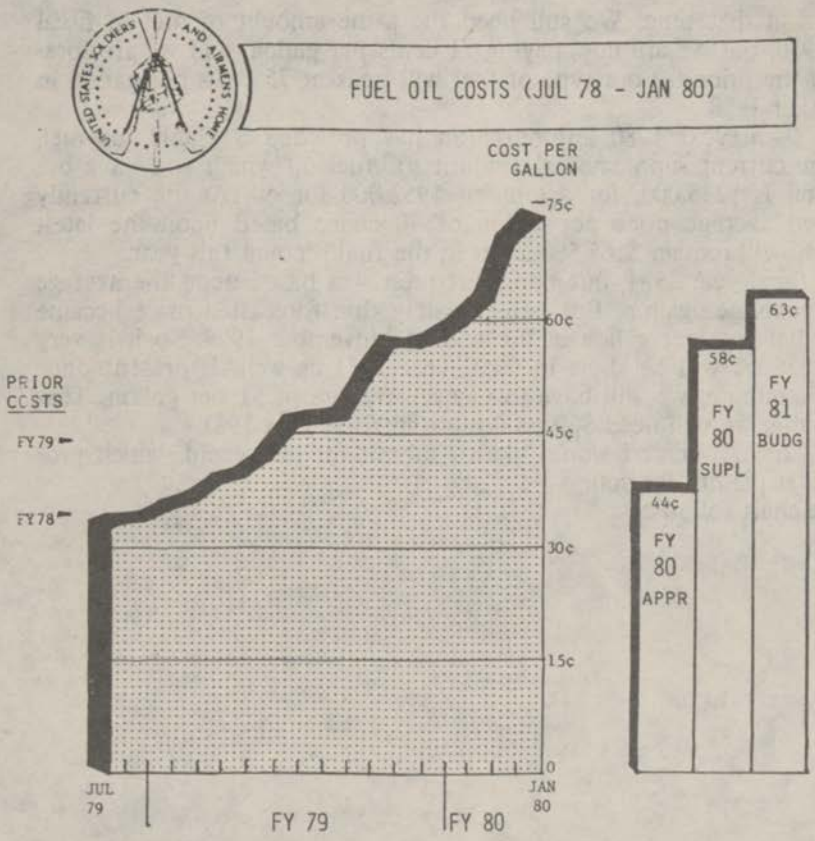
we had at that time. We still need the same amount of fuel in fiscal year 1980, but we are now paying 71 cents per gallon, and we are forecasting the price for our type of fuel will peak at 75 cents per gallon in fiscal year 1980.

The fiscal year 1980 appropriation has provided $717,000 for fuel, and the current supplemental amount for fuel oil which you have before you is $235,000, for a total of $952,000 for oil. At the currently expected average price per gallon of 70 cents, based upon the latest data, we will remain $165,500 short in the fuel account this year.

For fiscal year 1981, our budget request was based upon the average of 63 cents per gallon. But unfortunately that forecasted price became our actual cost per gallon at the end of November 1979. So it is very clear that we will be short in fiscal year 1981 as well. If present price trends continue, we will have to pay an average of $1 per gallon. That means that we will need $604,000 more in fiscal year 1981.

Sir, I have a chart I would like to submit for the record, which provides that picture for you.

[The chart follows:]



FUEL COSTS AND ESTIMATES

General McKee. You can see on the left side of the chart, the indices are for the actual cost, and on the right side the vertical bar graph shows the 44 cents per gallon we programed for fiscal year 1980 and 58 cents for our supplemental for fiscal year 1980 and 63 cents in this budget for fiscal year 1981. And today we are paying 71 cents a gallon.

So we know we are behind the cost curve here so far as keeping up with the price of fuel oil is concerned. It is a major concern to us.

Senator Schmitt. Well, why isn't the 1981 request reflective of these?

General McKee. That was the best data that we could obtain at that time from other sources in addition to our own experience. It is just

that I don't think there is any agency who is able to keep a good close fix for an accurate estimate of what the fuel oil is going to cost us.

Now, I have a bit of confidence in the $1 figure I gave you, however. I have no control over the ultimate price we must pay for fuel oil in fiscal year 1981. As the chart shows you, if you project the price line, it will come out to an average amount of about $1 per gallon.

Senator SCHMITT. Well, would you provide us with your estimates of what is going to be required under those conditions in fiscal year 1981?

General MCKEE. Yes, sir; I would like to provide those for the record.

[The information follows:]

EFFECT OF REVISED FISCAL YEAR 1981 FUEL OIL REQUIREMENTS

1.6 million gallons at an average price of $1 per gallon	$1,600,000
Budget request for fuel oil	−996,000
Additional fiscal year 1981 requirement	604,000
Fiscal year 1981 budget request for operation and maintenance	20,595,000
Additional fiscal year 1981 requirement for fuel oil	604,000
Fiscal year 1981 budget request total	21,199,000

CONSERVATION

Senator SCHMITT. Have you initiated conservation measures to attempt to alleviate this situation? And hasn't this winter been an easier winter for you?

General MCKEE. It has been an easier winter for us, and we have taken certain actions and certain measures in order to lower our fuel consumption. In addition to lowering the thermostats and other actions such as that, we had a program in the budget to implement or take some conservation actions which would improve our heating system output at the Home.

For example, the heat for most of the facilities there is provided from a central heating plant. When these heating lines were put in the ground some years ago, the price of fuel oil was very low, less than 5 cents a gallon and the insulation of those lines cost more than the fuel oil, so they weren't insulated too well. Now we feel that we can save a considerable amount of fuel oil if we go back through and insulate those underground steam lines that we have out there around the Home. In fact, we can amortize those programs in about a 6-year time frame.

The total package that we have to insulate our steam lines and install storm windows and install some water heaters in our dormitories, so that we can heat the hot water locally within the dormitory in the summertime and not have to run the large steam plants, all of those requirements came to $714,000. If we had this approximate amount, we could go ahead this coming fall with a contract and save us some money on fuel oil in the long run. In approximately 5 to 6 years we could amortize the cost of what it would take to save some of the energies that we are losing now because we are not doing as we should

do out there. Our total appropriation request would then be $21,913,000.

Senator SCHMITT. Could you supply the committee for the record a copy of your energy study?

General MCKEE. Yes, sir; we can do that.

Senator SCHMITT. And that would include the assumptions you made to arrive at that 6-year estimate?

General MCKEE. That is correct.

[The study follows:]

SUMMARY OF ENERGY CONSERVATION STUDY

In May 1979, an architectural and engineering firm completed its study of the Home's steam and hot water distribution systems. They concluded that about 144,000 gallons of fuel oil could be conserved by increasing insulation of existing steam transmission lines and by decentralizing hot water production during summer months.

The estimated outlay for the project is $675,000. Based on a discounted cash flow analysis, the firm projected payback within 6 years. It was assumed that fuel oil prices would increase 15 percent per year. The Home's cost of capital was set at 8.5 percent. Included in the calculations was the cost of the gas to fire the new hot water boilers.

Additional conservation measures are considered worthwhile by the Home, including: (a) Insulation of the mess hall roof; (b) installation of storm windows on buildings; and (c) replacement of incandescent light fixtures with energy saving fluorescent fixtures. The estimated cost of these items is $75,000.

The total cost of all of the improvements outlined above is $750,000. Energy savings in fiscal year 1981—part year—will be approximately $36,000, reducing the total required to $714,000.

SUBSISTENCE

Senator SCHMITT. General, I see the supplemental request also includes some subsistence. What brought that about?

General MCKEE. Inflation and the fact that more of our members now are eating in the general dining hall than before, because the high prices outside are now driving them inside. At the present time we are feeding about 68 percent of the membership in our general mess. We estimate it will go up to 71 percent for this coming year, and that is what has caused the increase.

PASSAGEWAY CONSTRUCTION

Senator SCHMITT. Is the short tunnel for the protection, the walking protection of the residents from the dormitory to the dining area, included in the budget?

General MCKEE. It is included in the budget. Mr. Chairman, what we have is two dormitories, one located across the street from the other, about 800 members in each dormitory. And in one of the dormitories we have the central dining hall facilities. That means that some 800 people make a trip two or three times a day to get into the other one. The average age of our members is 65 years old. We need that all-weather tunnel for their protection, to keep them out of the elements.

MEMBERSHIP

Senator SCHMITT. Do you anticipate younger residents from the Vietnam era?

General MCKEE. Yes, sir; we will get some. We have some older

members who served during the Vietnam War. I have one member out there—the youngest one is 30 years of age, and he, because of wounds that he received in the Vietnam conflict, he is out there with head injuries and leg injuries. He is not employable. So he is eligible to come into the Home. That is the best example I have, but I do have others.

Senator SCHMITT. Do you expect an increased demand on the Home as a result of future disabled veterans?

General MCKEE. I would anticipate that, yes, sir. I have no study on which to base that other than the fact that it is my personal opinion that people will start to use the Home more.

QUESTIONS SUBMITTED FOR RESPONSES

Senator SCHMITT. General, I want to thank you and your colleagues for your testimony. And we have some questions for the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Question. If your fiscal year 1980 request is not going to be enough to cover 1980 fuel costs, shouldn't we put more funds in the regular bill to avoid another supplemental next year?

Answer. At this juncture, it is very clear that we will be short in fiscal year 1981 as well.

Question. General, you mentioned the energy conservation study. Is that item in your fiscal year 1981 budget?

Answer. No, sir; during the budget process, the item was eliminated.

Question. General, is the item still a valid requirement?

Answer. Yes, sir; I am convinced that it is warranted.

SUBCOMMITTEE RECESS

Senator SCHMITT. We are sorry to keep you waiting, but I have to go vote. The subcommittee stands adjourned.

[Whereupon, at 5:15 p.m., Thursday, February 28, the subcommittee was recessed, to reconvene at the call of the Chair.]

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

MONDAY, MARCH 3, 1980

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

The subcommittee met at 2:05 p.m. in room S–128, the Capitol, Hon. Warren G. Magnuson (chairman) presiding.

Present: Senators Magnuson, Eagleton, Chiles, Schweiker, and Schmitt.

DEPARTMENT OF LABOR

STATEMENT OF RAY MARSHALL, SECRETARY OF LABOR

ACCOMPANIED BY:
ALFRED M. ZUCK, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT
NIK EDES, DEPUTY UNDER SECRETARY FOR LEGISLATION AND INTERGOVERNMENTAL RELATIONS
JODIE ALLEN, DEPUTY ASSISTANT SECRETARY FOR POLICY, EVALUATION, AND RESEARCH
WILLIAM R. REISE, COMPTROLLER
MARY ANN WYRSCH, DIRECTOR, OFFICE OF BUDGET
DARLA J. WHITE, LEGISLATIVE LIAISON OFFICER

BUDGET REQUEST

Senator MAGNUSON. The subcommittee will come to order.

We are here this afternoon to hear from Secretary Ray Marshall on the fiscal year 1981 Department of Labor budget request.

It might be well to place the budget request in perspective—90 percent of the Department's total budget is for CETA. Although the remaining programs are small in terms of spending, they're vastly important for protecting the working conditions of millions of Americans. Unlike last year, there are no major cuts. But this appears to be basically a standstill budget, adjusted for inflation, with a few selected increases for programs such as the youth initiatives and occupational safety and health.

You may proceed with your statement.

PREPARED STATEMENT

Secretary MARSHALL. Mr. Chairman, I have a fairly detailed statement.

Senator MAGNUSON. We'll place it in the record in full, and you highlight it.

[The statement follows:]

STATEMENT OF RAY MARSHALL

I welcome this opportunity to present to you an overview of the Department of Labor appropriations request for Fiscal Year 1981.

The 1981 budget proposals that I am reviewing for you today represent the Carter Administration's strong commitment to the needs and concerns of America's workers. It contains a major new program designed to increase education, training and job opportunities for disadvantaged youth. It also continues our efforts to provide employment and training opportunities for the economically disadvantaged. In addition, the 1981 budget represents a commitment to improve all of our Labor Department programs which protect working men and women.

It is important to note that in a time of budget restraint, the President has increased funds for critical programs that address real human needs. Throughout this Administration, we have cut away waste and inefficiency. We have reduced the Federal deficit by $50 billion since taking office, to the lowest level it has been in 7 years. And at the same time, we have expanded key programs, such as our employment and training programs, that serve those who are most in need. For example, when President Carter took office approximately $5 billion was being spent on employment and training programs. In 1981, we will be spending almost $10 billion. Equally important, there will be a 31 percent increase in the percent of disadvantaged persons served by CETA from FY 1976 to FY 1981.

The 1981 budget clearly demonstrates that the Carter Administration will continue jobs and training programs for the disadvantaged. In addition, the President has announced a major new program to increase education, training and job opportunities for disadvantaged youth. Three existing programs, started under the Youth Employment and Demonstration Projects Act (YEDPA), which expire in 1980, will be consolidated in this new initiative and expand the Department of Labor's budget authority in 1981 by $300 million. By 1982, the new youth initiative added to our current programs serving youth will mean that $6 billion will be spent to provide basic education, work experience and training for an estimated 3 million disadvantaged young people each year. In the 1981 budget the Administration is requesting $1.2 billion in new budget authority ($300 million for the Department of Labor, and $900 million in forward funding for the Department of Education). I hope that the Committee will favorably consider this important request.

Furthermore, we have maintained the basic CETA program which is now carefully targeted on those groups who face particular disadvantages in the labor markets. The number of public service employment slots funded under Title II-D and VI of CETA will remain at 450,000, the level planned for the end of the current fiscal year, with virtually all of the participants being economically disadvantaged. These targeted programs provide the Nation with an effective system to deal with the long-term problems of structural unemployment and a mechanism to respond to cyclical labor market conditions.

Finally, the budget reflects the Administration's continued commitment to promoting private sector involvement in all CETA programs, primarily through the Private Sector Initiative and the Targeted Jobs Tax Credit programs.

Turning to other parts of the Department's budget, we are requesting increases for all of our programs that protect workers on the job and that involve implementing and enforcing labor standards. Since 1976, this Administration has increased funding for these important programs by 91 percent.

In the earliest days of this Administration, the President asked each member of the Cabinet to work to improve the management of our programs. This reflects the President's long-standing concern that government programs be both efficient and effective.

The Department has made tremendous progress in improving management and eliminating fraud and abuse in Departmental programs. The 1981 budget demonstrates our continued commitment to this goal. We are requesting increased funding for the audit program of the Office of the Inspector General, additional training and technical assistance funds for CETA's new Office of Management Assistance and added funds for management improvement in the Employment Standards Administration and the Occupational Safety and Health Administration.

President Carter's 1981 budget proposals for the Department of Labor represent this Administration's commitment to not only more jobs but better jobs as well. It also represents our continued commitment to quality and improved management of all our programs.

I have attached to this Statement a summarized account of each DOL agency's request. I would be glad to submit it for the record or go over it with you as you see fit.

ATTACHMENT

EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

The Department of Labor's 1981 budget for ETA represents a continued major emphasis on employment and training programs designed to help those most in need. In a tight budget year, programs are maintained at current levels, while increases are provided for improved management and technical assistance in the CETA system.

Currently $4 billion is being spent on services to youth in all CETA programs. In fiscal 1981, $2.8 billion of the total CETA budget is slated specifically for youth programs. Of this amount, $1,125 million will be requested for the Department of Labor's portion of the Youth Education and Employment Initiative, which will incorporate three existing youth programs started under the Youth Employment Demonstration Program Act which expire in 1980, and expand budget authority by $300 million.

The Job Corps, the Young Adult Conservation Corps, and the Summer Youth Employment Program remain as separate budget items, and the 1981 requests for these programs increased over 1980 levels to provide for increased costs of maintaining currently authorized program levels. In total, the Department's youth programs in 1981 will serve 2 million participants.

The number of public service employment slots funded under Title VI and Title II-D of CETA will remain at 450,000, the level planned for the end of the current fiscal year (1980). Under the terms of the reauthorized CETA legislation, almost all of these jobs will go to the disadvantaged. The Administration has indicated that if the economic

situation deteriorates significantly, it will consider tax reductions and temporary spending programs such as those for jobs targeted toward particular sectors of economic stress.

The Department of Labor continues its commitment to training for and placement of individuals in private sector jobs. The President has requested funds for the Private Sector Initiative Program (PSIP) and for the Targeted Jobs Tax Credit program to insure that there is a total fund availability in 1981 of nearly $400 million. This requires $150 million of new budget authority in 1981. In addition to improving the placement rates of other CETA programs, activities funded directly under PSIP will aid about 121,000 persons in finding and retaining private sector employment.

For continuation of welfare reform demonstration projects, the Department is seeking $281 million in new budget authority to continue the 20,000 job and training opportunities for welfare eligibles in this pilot program, begun in 1979. This pilot effort is testing the elements of the President's Welfare Reform proposal.

Funds requested for Title II A, B, and C of CETA will total $2.1 billion, slightly above the 1980 level. These funds will serve about 1.2 million participants, approximately the same number as 1980, in programs of on-the-job training, work experience, institutional training, and other services needed to enable persons to obtain unsubsidized employment.

Sixteen million dollars of the total increase in Title III of CETA (National Programs) includes $8.5 million for expanded Technical Assistance and Training (TAT) and for the CETA Management Information System. The increase in these two programs will further the Department's continued efforts to improve management and reporting capabilities of prime sponsors, and to improve program quality. The added TAT funds will be administered by the new Office of Management Assistance, recently set up in the Employment and Training Administration. Also included is $7.5 million additional funds for special emphasis groups such as older workers and women, labor market information, and research and development.

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 52,250 slots. This request for $267 million in budget authority will fund the program through June 30, 1982.

Based on projected increases in the unemployment rate, the State Employment Security Agencies will pay approximately $17.4 billion in benefits to approximately 11.4 million people under Federal and State regular and extended benefit programs during the year. Almost 1 million more persons are expected to receive unemployment benefits in 1981 than in 1980.

Finally, grants to States for administering the unemployment insurance and the employment services will total $2.1 billion. Employment service staffing in the State agencies will continue at the current level of 30,000.

LABOR-MANAGEMENT SERVICES ADMINISTRATION (LMSA)

The appropriation for the Labor-Management Services Administration covers several worker protection areas including enforcement of the Labor-Management Reporting and Disclosure Act, the Employee

Retirement Income Security Act, and other legislation dealing with veterans and employees in mass transit. The goal in fiscal year 1981 is to provide quality and timely programs in each of these areas, holding costs to a minimum, and increasing productivity. The Department's request for fiscal year 1981 is for 1,337 positions and $60.7 million, an increase of approximately $2 million from fiscal year 1980.

There are no permanent position increases or decreases proposed for FY 1981. The major dollar changes result from built-in changes including annualization costs of supplementals proposed for fiscal year 1980 including 44 temporary positions for the Special Investigation Staff litigative support in the Pension and Welfare Benefit Programs. The single program increase in 1981 is to provide funds to continue to finance 25 of these positions for this effort.

Grant applications under the Urban Mass Transportation Act, including those arising under the Surface Transportation Assistance Act amendments of 1978, will be processed within an average of 90 days (which is the established goal) due to the increase of 12 positions requested in a supplemental for fiscal year 1980 that will be available on a full year basis in fiscal year 1981.

A grants program will be initiated to aid Ph.D. candidates in industrial relations. This program is designed to develop new researchers in labor-management relations to replace the dwindling reserve that presently exists.

The compliance audit program of the Labor-Management Standards Enforcement program will be fully operational in 1981 with 200 units planned. This program, in conjunction with a targeting system developed to identify organizations most likely to have financial problems, is intended to ascertain the level of compliance with the Labor-Management Reporting and Disclosure Act (LMRDA) and identify any financial wrongdoing in those organizations selected. This new program will enable us to apply our investigative resources more efficiently and effectively.

The number of veterans and employers assisted is expected to increase from 306,200 in 1980 to 332,500 in 1981 as a result of the dissemination of newly designed publications to recently separated military personnel, informing them of their reemployment rights and sources of assistance.

As in fiscal year 1980, the major emphasis in the enforcement of ERISA will be to continue to improve the quality and efficiency of the compliance program. This includes improvement in the compliance strategy and in the evaluation of case quality. Fifteen positions will be reallocated to the field investigative staff from the National Office Reports Processing staff. This will increase by 220, the number of fiduciary investigations and on-site audits that can be completed during the year.

EMPLOYMENT STANDARDS ADMINISTRATION (ESA)

Our efforts to protect the wages of American workers will focus on improving our ability to respond to worker complaints under the Fair Labor Standards Act, Service Contract Act, and Davis-Bacon Act. Over 900,000 workers are expected to be directly aided as a result of these enforcement programs. The Employment Standards Administration will continue to emphasize the Administration's efforts aimed at employers

of undocumented workers through enforcement of the Fair Labor Standards Act and the Farm Labor Contractor Registration Act. In addition, we are employing a strike force concept in several areas of the country to combat particularly exploitive situations and "sweatshop" conditions involving undocumented and other low wage workers who are unwilling to use or are unaware of the protection available to them.

The Federal Contract Compliance program will continue its efforts to ensure that Federal contractors do not discriminate in the hiring and promotion of applicants and employees, and to take affirmative action in the recruitment and promotion of minorities and women where these groups are under-represented in the contractor's workforce. Under the 503 and 402 programs, qualified handicapped persons and disabled veterans are likewise protected against individual acts of discrimination. For this program, we are requesting a 1980 supplemental of $1.2 million and a program increase in 1981 of $0.3 million for the development and implementation of an automated data processing management information system to monitor equal employment and affirmative action compliance in the construction industry.

The Employment Standards Administration is also increasing its efforts to provide benefits to eligible Federal workers disabled in the performance of their duties. In the Federal Employees' Compensation program, a 1980 supplemental request of $1.5 million and a program increase in 1981 of $2.0 million will provide the resources to develop and implement a more sophisticated and more efficient automated data processing management information system.

For the Black Lung program, the Department is requesting a supplemental of $494 million in FY 1980 in order to cover the unanticipated increase in the number of claims processed and approved. Monies collected for the coal mine industry in the form of an excise tax on mine operators are not anticipated to be adequate for payment of Black Lung claims. Thus, we are estimating that an additional $455 million in FY 1980 will need to be advanced from general revenues to meet the Trust Fund requirements. For FY 1981 $933 million is being requested for Black Lung benefits.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

The 1981 appropriations request for the Occupational Safety and Health Administration is $211.9 million, an increase of $24.9 million over the 1980 level. No new positions are being requested. Nearly half of the requested budget increase is to cover the increased cost of current operations which will be carried forward into 1981.

In terms of real program growth for OSHA in 1981, we are requesting $13.5 million in new contract and grant authority. The largest single increase is a $4.0 million request to allow States that presently provide on-site consultation assistance to employers under State plan 50-50 matching grants, to convert their consultation activity to 90 percent Federal funding under section 7(c)(1) State agreements--the same funding arrangement as in non-plan States. All State consultation projects will be required to comply with Federal regulations. The on-site consultation program provides expert technical advice and assistance, directed especially to small business employers, on how to make their workplaces safe and healthful for their employees.

The New Directions training grant program will be increased by $2.9 million in 1981. These funds provide grants to organizations such as

labor unions, employer associations, and educational institutions to aid them in developing a continuing capability for providing occupational safety and health training and related services to employers and employees. The balance of the requested increases will generally strengthen OSHA's ability to clearly identify occupational safety and health hazards, especially those identified under the recently announced Cancer Policy, and to ultimately promulgate equitable and effective standards to reduce worker exposure to cancer-causing agents. Approximately 65,900 Federal compliance inspections are projected for 1981. In addition, State inspectors in plan States will complete about 132,000 inspections.

We are requesting elimination of all but one of the restrictions included in the 1980 appropriations. The appropriation language restricting penalties for small business employers who have obtained consultation is not being opposed since we recognize the importance of consultation in fostering compliance with the Act.

MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

In 1981, the Mine Safety and Health Administration will continue to work to achieve a safe and healthful environment in the Nation's coal and other mining operations. $156.7 million is being requested to carry out these activities, an increase of $12.6 million over the 1980 level. Plans for 1981 call for the conduct of 21,140 complete inspections in the coal industry, and 23,200 complete inspections in metal and non-metal mines. In addition, over 69,000 other inspections and investigations will be conducted to assure a safe and healthful mining environment.

The 1981 budget will allow for construction of Technical Support facilities in order to consolidate the Approval and Certification Center and the Mining Equipment and Safety Laboratory at Dallas Pike, West Virginia. Also, MSHA is requesting funds to purchase the Mine Emergency Operations Center at Hopewell, Pennsylvania. An increase of $7.25 million is being requested to support these activities.

The Department is requesting the removal of the restrictive language included in the 1980 appropriations which exempted many surface and non-metal mines from the enforcement of the training regulations. The training provisions were specifically incorporated into the Federal MSHA of 1977 after evidence had been presented which established that all too frequently miners received inadequate training or no training at all to prepare them for this extremely hazardous occupation. The basic purpose of the training provisions is to insure that the Nation's miners are adequately informed of the hazards which may be encountered at their workplace. In FY 1979 there were 114 fatalities in the metal/nonmetal mining industry. Sixty-four fatalities occurred in those segments of the mining industry in which MSHA is prevented from enforcing the training requirements. It is precisely these deaths, the deaths and injuries of the workers inexperienced at their jobs that the training provisions are designed to prevent.

BUREAU OF LABOR STATISTICS (BLS)

The Bureau of Labor Statistics (BLS) request is for $107.4 million, up $3.7 million over last year. These resources will enable the Bureau, which is the major source of labor force, wage and price data for employers, employee organizations, State, local and Federal government planners and advisors, to continue to produce its regular

statistical series and analytical output. Additionally, the request will permit BLS to complete the revision of the mining and manufacturing sectors of the producer price measures; to expand further the international measures of price change in products exported from, and imported to, the United States; to develop measures of multi-factor productivity; and to improve information with which to manage its programs and related resources. The producer and international measures are particularly important right now to assessments of the sources of inflation and our international trade problems, respectively, and the multi-factor productivity measures should assist in analysis of the present productivity slowdown.

DEPARTMENTAL MANAGEMENT (DM)

Major emphasis continues to be placed on the elimination of fraud, waste and abuse in Departmental programs. An increase of $1.8 million is being requested for the Office of Inspector General to enhance these efforts. These resources will be utilized in conducting additional contract audits of CETA grantees.

Additional workload generated by the 1978 CETA amendments and increasing wage-hour caseload necessitate additional resources in our adjudicatory and legal services functions. Thirty-five additional positions are being requested in 1981 to handle this increased workload. In addition, 26 new positions are requested for adjudicatory functions to handle increasing FECA workload.

Increased efforts at providing well balanced programs and initiatives aimed at working women are reflected in the additional resources requested for the Women's Bureau.

Finally, for FY 1980, the Department is requesting a $2.2 million supplemental in order to permit the Minimum Wage Study Commission to conduct research on mandated topics so that its report can be submitted to Congress and the President by mid-1981.

BUDGET HIGHLIGHTS

Secretary MARSHALL. Let me say that I welcome this opportunity to present the Department's budget request for fiscal year 1981. The 1981 budget proposal I am reviewing for you today represents the Carter administration's continuing commitment to the needs and concerns of America's workers. It contains a major new program designed to increase education, training, and job opportunities for disadvantaged youth. It also continues our efforts to provide employment and training opportunities for the economically disadvantaged. In addition, the 1981 budget represents a commitment to improve all of our Labor Department programs which protect working men and women. It's important to note that in a time of budget restraint, the President has increased funds for critical programs that address real human needs.

Throughout this administration we have cut away waste and inefficiency. We've attempted to reduce the Federal deficit as much as we can, while at the same time improving the impact of our programs on the people that we're mandated to serve.

We think it's important to continue this process.

Senator MAGNUSON. Well, now, there's one statement here which I think should be underlined. You say you have reduced the Federal deficit by $50 billion since taking office, the lowest level it's been in 7 years. Perhaps you ought to underline that statement for the record.

Secretary MARSHALL. In spite of the tight budget, we've expanded key programs, such as our employment and training programs that serve those who are most in need.

For example, when President Carter took office, approximately $5 billion was spent on employment and training. In 1981, we will be spending almost $10 billion.

Equally important, there will be a 31-percent increase in the percent of disadvantaged persons served by CETA from fiscal year 1976 to 1981. The 1981 budget clearly demonstrates that the Carter administration will continue jobs and training programs for the disadvantaged.

In addition, the President has announced a major new program to increase education, training, and job opportunities for disadvantaged youth.

NEW YOUTH INITIATIVE

Senator MAGNUSON. Now, on the youth initiative program, it hasn't been authorized.

Secretary MARSHALL. No, sir.

Senator MAGNUSON. So we just have to wait for the authorization, and until then it shouldn't be part of the fiscal budget. But you anticipate it?

Secretary MARSHALL. Yes, sir; that's right.

Three existing programs started under the Youth Employment and Demonstrations Projects Act of 1977, which expires in 1980, will be consolidated in this new initiative and expand the Department of Labor's budget authority in 1981 by $300 million.

By 1982, the new youth initiative added to our current programs serving youth will mean that $6 billion will be spent to provide basic education, work experience, and training for an estimated 3 million disadvantaged young people each year.

In the 1981 budget, the administration is requesting $1.2 billion in new budget authority. That's $300 million for the Department of Labor and $900 million in forward funding for the Department of Education.

DEFINING DISADVANTAGED YOUTH

Senator MAGNUSON. Now, by "disadvantaged," how do you index disadvantaged youth? Someone who has gone through high school and now can't find a job? Or a person who has taken up some training and still can't find a job?

Secretary MARSHALL. The definition that we've used is based upon people who've tried to find a job and have been unemployed for—what's your definition, Jodie?

Let Dr. Allen give you the exact definition we use for these numbers?

Dr. ALLEN. In the new youth program we will employ a definition——

Senator MAGNUSON. Now, wait a minute, you haven't gotten the youth program.

Secretary MARSHALL. This refers to the youth proposal.

Dr. ALLEN. In the new youth proposal, we are proposing a definition

of "economically disadvantaged" to be a youth in a family with income below 85 percent of BLS's lower living standard and who also shows need for employment training services, using such indicators as long-term unemployment, as the Secretary mentioned, or being a dropout, and otherwise having a difficult period of adjustment to the labor force.

Senator MAGNUSON. He may be a person that is part of a family who's income is below the poverty level. But you define this as disadvantaged?

Dr. ALLEN. The legislation directs the prime sponsor, in addition, to apply the income criteria to direct resources to youths who also show other measures of need.

Senator MAGNUSON. I'm only worried about using the broad term, "disadvantaged," and questioning how you define it.

Secretary MARSHALL. Well, that's the reason, you have——

Senator MAGNUSON. You might use the term "employable youth." People think when you talk about disadvantaged people, you're talking about somebody that actually is disadvantaged, that probably couldn't be employed even if there was a job for him.

Secretary MARSHALL. We don't use it that way.

Senator MAGNUSON. I know you don't.

YOUTH IN NEED

Secretary MARSHALL. The term that tends to get used for that is "unemployable." And we believe that most of these young people are employable if you can give them the basic education and training and overcome the defects they have that make it difficult for them to meet the employer's entry level requirements.

But in order to establish the universe of need, we've tried to give a broad statistical definition—and I think it would be necessary for the people who actually run the program to see what that means in their area, because if you're going to allocate the funds, for example, on some basis——

Senator MAGNUSON. There'd be some allocation of funds to people who are really disadvantaged?

Secretary MARSHALL. Yes, sir.

Senator MAGNUSON. Maybe they'd have a magnet or something like that. You're trying to get people who are employable into the employment stream——

Secretary MARSHALL. That's right.

Senator MAGNUSON. If I was a youth and I was willing and able to get some training and just couldn't get a job, I'd be a little bit resentful if I was called disadvantaged—a disadvantaged youth.

Secretary MARSHALL. There might be a better term that you could use other than "disadvantaged." The basic idea is that we don't consider these people to be permanently disadvantaged. Whatever the universe would be, it could enable you to define them as eligible persons, and they would be eligible, and we do that with some of our programs. But the term "disadvantaged" has been used for a long time for this purpose.

Senator MAGNUSON. Such an individual might be disadvantaged in that he doesn't have the advantage of having a job.

BASIC CETA PROGRAM MAINTAINED

Secretary MARSHALL. He doesn't have the requisite education or skills to get a job.

Three existing programs started under the Youth Employment and Demonstration Projects Act, which expire in 1980, will be consolidated in this new initiative and expand the Department of Labor's budget. We've already covered that.

Furthermore, we maintain the basic CETA program, which is now carefully targeted on those groups who face particular disadvantages in the labor markets. The number of public service employment slots funded under titles II–D and VI of CETA will remain at 450,000, the level planned for the end of the current fiscal year, with virtually all of the participants being economically disadvantaged.

These targeted programs provide the Nation with an effective system to deal with the long-term problems of structural unemployment and a mechanism to respond to cyclical labor market conditions.

Finally, the budget reflects the administration's continued commitment to promoting private sector involvement in all CETA programs, primarily through the private sector initiative and the targeted jobs tax credit programs.

WORKER PROTECTION PROGRAMS

Turning to other parts of the Department's budget, we are requesting increases for all of our programs that protect workers on the job and that involve implementing and enforcing labor standards.

Since 1976, this administration has increased funding for these important programs by 91 percent. In the earliest days of this administration, the President asked each member of the Cabinet to work to improve the management of all of our programs. This reflects the President's longstanding concern that Government programs be both efficient and effective.

The Department has made tremendous progress in improving management and eliminating fraud and abuse in departmental programs. The 1981 budget demonstrates our continued commitment to this goal.

We are requesting increased funding for the audit program of the Office of the Inspector General, additional training and technical assistance funds for CETA's new Office of Management Assistance, and added funds for management improvement in the Employment Standards Administration and the Occupational Safety and Health Administration.

President Carter's 1981 budget proposals for the Department of Labor represent this administration's commitment to not only more jobs, but better jobs as well. It also represents our continued commitment to quality and improved management in all our programs.

Mr. Chairman, I have attached to this statement a summarized account of each of the DOL's agency requests. I'd be glad to submit it for the record or to go over it with you, as you see fit.

INCREASE FOR OFFICE OF INSPECTOR GENERAL

Senator MAGNUSON. Now, you are increasing funding for the Inspector General's Office—by how much?

Secretary MARSHALL. $1.9 million.

Senator MAGNUSON. Does that give you enough?

Secretary MARSHALL. I believe it does give us enough. Of course, what we're doing now is building that Office, and they're improving their ability to function, getting their staff on board. While you can always argue that they could use more or less, we believe that with efficient use of the resources they have, that this will be enough.

OIG COMPLAINT REFERRALS

Senator MAGNUSON. We had a short hearing last Thursday with General Accounting Office. They pointed out a lot of fraud and abuse exists. The hotline they use, in which they claim they refer such problems to the Department involved, and OMB also refers them to the Department—they too have a hotline—is mainly for Federal employees. It's very effective.

The Department of Justice, however, just seemed to be dragging their heels on the followthrough of that. The Inspector General—and in all offices of the Inspector General, there wasn't any followthrough. The Inspector General, in your case, might get a complaint—whether it looks like a valid one or it's just a rumor or gossip, he turns it over to another member of the Department and that's the end of it. It isn't so much the main office as the regional offices and the district attorneys who don't follow through.

One of the reasons I asked the Inspector General if that's a sufficient funding level is they don't have as much help as they should to follow through on all the complaints they get. I would think you would want to ride herd on this.

Secretary MARSHALL. We will do that.

Senator MAGNUSON. They're not doing their job, they're not following through to see what happens to these cases. Sometimes they end up giving a slap on the wrist instead of really doing anything. Fraud is not a great item dollarwise, but waste is.

Now, GAO placed a lot of importance upon the auditing system. I don't know whether any of this requested money is for auditing?

OIG AUDIT ACTIVITIES

Mr. ZUCK. All of the budget increase would be for audit activities.

Senator MAGNUSON. For audits?

Mr. ZUCK. Yes.

Secretary MARSHALL. We have put a lot of emphasis on auditing as well. I created an audit task force, reporting to me, to pay attention to this problem. We tried to strengthen our auditing activities.

Senator MAGNUSON. All this occurs in the regions. It isn't so much here; it's in the regions.

Secretary MARSHALL. Almost all of our auditing activity is at the regional and local level; so we've got a network in the CETA system of 50,000 organizations, and those are local organizations. So we have tried to strengthen our auditing and management assistance programs at the regional level so we can help the local prime sponsors do a better job of auditing, as well as strengthening the management.

We believe one of the most important things we can do for fraud and abuse activity is to try to prevent it. And one of the best ways to prevent it is to have good management and auditing, as well as to view the Office of the Inspector General as a part of your management improvement system.

IMPACT OF A 1981 BUDGET CUT

Senator MAGNUSON. If there's strict auditing, there are fewer temptations to do certain things, like fraud. I'm pleased you requested increased funding for audit expenditures. I think we need it.

Let us consider the proposed cuts. If we cut CETA public service jobs by $1 billion, how much would we have to put in for welfare and unemployment insurance?

Secretary MARSHALL. We can't give you an exact figure, but it would be a lot. We assume that the dispacement is directly at least 15 percent. The calculations that we made—I believe that's a conservative figure, but it's at least 15 percent. And most of our calculations on savings—I think it would be, because you don't trace it out directly. A lot depends on what else is going on in society.

But as unemployment is going up, for example, you tend to get an increase in welfare dependency and unemployment compensation and all the rest of those things.

[The information follows:]

CETA OFFSETS

The operation of a PSE program leads to net Federal budget cost offsets in a number of other programs. Participants in an employment program lose their eligibility for UI, and many who have been welfare recipients (AFDC general assistance or food stamps) either lose their eligibility or become eligible for a smaller benefit amount. In addition, participation in PSE results in added payments into the Federal coffers for income taxes and for social security taxes by both participants and their employers (for those local governments covered under social security).

The Congressional Budget Office (CBO) earler estimates were that Federal offsets resulting from PSE (excluding tax changes) were in the range of 4 to 21 percent. The lower figure was derived using survey data from the CLMS that indicates welfare and UI status, amounts received, and duration before, at, and after entry into the program. In addition, detailed sets of assumptions were made concerning the numbers of those actually affected by program participation and the length of time benefits would have altered. The higher figure is derived by simulation model which attempted to adjust for the CETA reauthorization eligibility requirements and the attractiveness of PSE jobs.

DOL's analysis indicates that the method used to estimate the 4 percent lower bound is far too conservative. Given the shifts taking place in the PSE program since the reauthorization—increased participation by welfare participants and high school dropouts—offsets are going to be greater than before.

The most recent CBO estimates (Congressional Budget Office, "Reducing the Federal Budget: Strategies and Examples," Background Paper, February 1980) indicate that reducing title VI PSE expenditures by $523 million in fiscal year 1981 would lead to increases in other Federal costs in the range of $100 to $300 million, i.e., from 19 to 57 percent, the range depending on the extent of fiscal substitution. These more recent estimates take account of the more targeted nature of the program as well as a broader range of offsets including unemployment compensation, social security, food stamps, public assistance payments, medicaid, and veterans benefits. Based on this more recent analysis an offset rate in the range of 20 to 30 percent seems conservative.

BUDGET REDUCTIONS

Senator MAGNUSON. Well now, I'm going down to the White House tonight. We're going to have a meeting to discuss budget cuts—rescissions and reductions in the 1981 budget. What Department of Labor programs do you recommend be reduced, as long as I have you here? [Laughter.]

Secretary MARSHALL. This is a painful process that we're going through.

Senator MAGNUSON. It is painful to me, also.

Secretary MARSHALL. I don't necessarily recommend that we cut any. I think we've got to look at the programs that are available, the so-called controllable programs. And if cuts have to be made, try to see where cuts can be made. In our case, of course, there are very few places that can be cut, because almost all of ours are concentrated in our employment and training programs.

Senator MAGNUSON. Would you favor an across-the-board cut or specific cuts?

Secretary MARSHALL. I think there's a lot to be said for across-the-board cuts. I haven't made up my mind. I want to see——

Senator MAGNUSON. I want to see, too, as long as I have you here.

Secretary MARSHALL. I think there's a lot to be said for across-the-board cuts.

Senator MAGNUSON. So everybody takes the same cut.

Secretary MARSHALL. Yes; that also means you keep your priorities the same when you cut them all together. I think whoever puts the whole process together has to look to see what effect that has.

NEED FOR BLACK LUNG SUPPLEMENTAL APPROPRIATION

Senator MAGNUSON. We are also going to be faced with supplemental requests that amount to $14.7 million. How urgently do you need these?

Secretary MARSHALL. Some of our requests are very urgent, because there would be benefits that won't be paid to people if we don't get them. And we've got a list of those we can submit for the record.

Al, do you want to speak to them?

Mr. ZUCK. The largest supplemental request, Mr. Chairman, is almost $500 million for black lung benefit payments. We will run out of funds to pay those benefits by April. So that's an urgent supplemental for us. The need for the supplemental was created by faster decisionmaking by the Department and the social security system, which by law had to reopen a whole series of decisions that had been made earlier.

Senator MAGNUSON. We're talking about black lung. There is a request for $500 million in supplementals?

Secretary MARSHALL. That's correct.

Senator MAGNUSON. How did they get that far off their budget?

Mr. ZUCK. It was the higher approval rate and faster processing of claims under the new act, which required that we and the Social Security Administration go back and reopen cases that had been denied. They have been processed very rapidly, with the result that we are running out of funds and need the supplemental.

Secretary MARSHALL. We put a great premium on working off the backlog. Many of the miners involved——

Senator MAGNUSON. For black lung, we need a large appropriation.

Secretary MARSHALL. That is correct.

Senator MAGNUSON. The disease will gradually die out over time, and here we come every year with $500 and $600 million in new appropriations for black lung. What are we spending in black lung now?

Mr. ZUCK. We're probably spending $1 billion each year in black lung benefits. There was a trust fund created under the new act.

Senator MAGNUSON. That was supposed to have taken up the slack.

Mr. ZUCK. There is a tax on new mined coal that goes into that trust fund. However, that trust fund is inadequate due to the approximately 300,000 new claims that had to be reopened and the decisions made on those claims.

Senator MAGNUSON. Do you think that can wait?

Mr. ZUCK. No, sir; unless you want miners and their families not to receive their checks.

Senator MAGNUSON. It is not that we want miners and families not to receive their checks. There may perhaps be too many of them receiving aid.

Mr. ZUCK. We believe that those who are receiving them are those who are entitled under the law to the benefits.

Senator MAGNUSON. What supplementals do you wish to include in fiscal 1981?

Mr. ZUCK. I don't believe we have any that could wait until 1981.

OTHER SUPPLEMENTAL REQUESTS

Senator MAGNUSON. What's your total on supplementals?

Mr. ZUCK. We have about $600 million in supplementals, Mr. Chairman. The biggest one is the black lung supplemental.

We've requested $145 million for employment security agencies to pay for increased employment security staff to process unemployment compensation claims. They will run out of money by the end of the summer if they do not have that supplemental.

We've also requested pay raise supplementals for the pay raise for Federal employees in October.

In addition we have several small supplementals for enhancing our management capabilities in the Federal employees' compensation areas to produce increased automation in some of our programs.

Senator MAGNUSON. What about the youth employment initiative? Do you need a supplemental on that?

Mr. ZUCK. We would, following the enactment of our budget amendment. We're talking about that as a 1981 proposal, not as a 1980.

TOTAL SUPPLEMENTAL REQUEST

Senator MAGNUSON. You've $979 million requested in supplementals?

Mr. ZUCK. That's correct. However, $455 million of the request is almost double accounting, because we have to have an appropriation out of general funds to go into the black lung trust fund. And then we

need an appropriation out of that fund. So it's almost an appropriation twice for those black lung benefits.

Senator MAGNUSON. Any questions?

Senator EAGLETON. Too many. [Laughter.]

Senator SCHMITT. Excuse me, did you say that we ought to subtract $455 million from this?

Mr. ZUCK. In terms of our requests, we've got two requests for black lung appropriations. The first one is an appropriation of almost $500 million from general revenue into the black lung trust fund. But then, in order to make those payments, we need another appropriation out of the black lung trust fund to authorize it. However, it's essentially the same dollar amount; so in terms of net dollars, it's about $500 million.

Senator SCHMITT. So these shouldn't have been added is what you're saying?

Mr. ZUCK. Yes; you can look at it that way.

Secretary MARSHALL. It has a budget impact of almost $500 million.

Mr. ZUCK. But we need two appropriation actions.

Senator SCHMITT. So, $529 million would be the correct budget authority request, taking that?

Mr. ZUCK. Yes; if you adjusted that, that's correct.

YOUTH INITIATIVE FUNDING

Senator MAGNUSON. When legislation comes along for the youth employment program, that request is for $2 billion?

Secretary MARSHALL. No, sir; for us, it's $300 million.

Senator MAGNUSON. $300 million?

Secretary MARSHALL. $300 million for 1981 in additional funds, or a total of $1.1 billion associated with the new legislation. Then it's $900 million for education. So it's $1.2 billion of additional funds, for a $2.2 billion total to be included in the budget amendment.

Senator MAGNUSON. Any questions on that?

Senator SCHWEIKER. No.

BUDGET REDUCTION OPTIONS

Senator MAGNUSON. Senator Eagleton?

Senator EAGLETON. I missed the earlier part of your testimony, Mr. Secretary. But did the chairman ask you, and did you respond, as to where cuts might be made in the fiscal year 1981 budget? I presume you, like every other department head, have been requested by the President and Mr. McIntyre to submit a list of possible reductions in the 1981 budget; isn't that correct?

Secretary MARSHALL. Yes, sir.

Senator EAGLETON. Have you prepared your list?

Secretary MARSHALL. We have, and there are several options that we're exploring. We haven't come down hard on where it's going to come out. The chairman asked me about an across-the-board cut or selective cuts, and I think that this is a thing that needs to be explored very carefully. But I think if cuts must be made, I think there's something to be said for an across-the-board cut, relative to trying to

rearrange our priorities, or to cut simply because there are certain kinds of things that can be cut.

Now, in our case, where the cuts would have to come, if we took substantial cuts, would be obvious, because most of our controllable funds are in employment and training programs.

Senator EAGLETON. And you have submitted them to Mr. McIntyre and to the President, different options, a range of alternatives, is that correct, for 1981?

Secretary MARSHALL. My understanding is that we pointed out what could be done, and then we're supposed to get together to discuss the alternatives.

Senator EAGLETON. I see.

POSSIBLE FISCAL YEAR 1980 BUDGET RESCISSION

Was any request made of you as far as potential rescissions for the 1980 budget, or the current 1980?

Mr. ZUCK. Depending upon what decisions may get made concerning 1981, it may have the effect of being brought back into 1980, which could require some rescissions.

Secretary MARSHALL. Explain what you mean.

Mr. ZUCK. We are, as you know, operating under a continuing resolution, and we're essentially talking about funds for the CETA programs. Under that resolution, by law we allocate those funds to prime sponsors. We cannot administratively make a reduction in those funds that have been authorized under the continuing resolutions. Therefore, we have to go back for a rescission act.

Senator EAGLETON. Is that any different than if you weren't operating under the continuing resolution?

Mr. ZUCK. No; it would have the same effect.

Senator EAGLETON. Has the administration explored the possibility of what, for lack of a better term, I'll say is an omnibus rescission measure, that is a group of rescissions in a whole range of different departments to be treated as a package, to be accepted or rejected in toto, rather than dozens of individually targeted rescissions, each of which would require a separate up or down vote?

Mr. ZUCK. I honestly don't know. That is certainly an option that I think would be available and could be considered.

Secretary MARSHALL. I'm not even sure we're going to recommend any rescissions. I think what we're doing now is exploring options.

But it seems to me, as we explore options, that is one that ought to be considered.

Senator EAGLETON. I don't know whether that's legally or procedurally possible. I'm just saying from the point of view of what the Congress would be willing to buy, I think you can make an arguable case that a package of rescissions might fare a lot better than 30 or 40 individual rescissions requiring a separate vote on each item, as opposed to an overall package that would cut x billion from the total Federal budget.

A final question, Mr. Chairman.

Senator MAGNUSON. That's all right.

TIMING BUDGET CUTS FOR ANTI-INFLATION IMPACT

Senator EAGLETON. If the administration does not send up any rescissions on the fiscal year 1980 budget, but focuses all of its attention on cutting the fiscal year 1981 budget, then from a fiscal budgetary point of view, there won't be any relief on the inflation problem prior to October 1, 1980, because that's when the fiscal year 1981 budget would begin to be operative. And then the effect wouldn't be felt for several months in any event.

So, without a package of rescissions, from a budgetary and fiscal point of view, you won't be doing much on the inflation front.

Secretary MARSHALL. That is correct, in terms of direct expenditures. The argument that could be made is that you might have a psychological impact when so many people are concerned.

Senator EAGLETON. That's correct.

Secretary MARSHALL. And if you went ahead and took action, the psychological impact might tend to dampen inflation.

Senator EAGLETON. That's correct.

Thank you, Mr. Chairman.

REFLECTING CURRENT ADMINISTRATION DECISIONS IN THE BUDGET REQUEST

Senator SCHMITT. Mr. Chairman, excuse me.

Senator MAGNUSON. Go ahead.

Senator SCHMITT. I haven't had a chance to talk to a Cabinet officer since the big budget exercise. And I must confess I'm a little bit confused about how all of this gets done and actually how the Congress handles this thing.

We received a fiscal year 1981 budget and a fiscal year 1980 supplemental proposal from the administration. That was 6 weeks ago. I chaired a number of hearings—I think everybody here has chaired a number of hearings dealing with that particular budgetary submission.

And now, as a result of last week's announcements, apparently we're going to receive another set of budgetary submissions, both for 1981 and for 1980. I am not sure how the committees of the Congress, the Congress as a whole, get through this whole thing before October 1.

I'm also not quite sure why it wasn't done in the first budgetary exercise. From the point of view of the Department of Labor, why are we now going through this cycle? Again, why did we not pursue that cycle, the reduced balanced budget effort, in the first place?

Secretary MARSHALL. Well, let me emphasize I'm not sure we're going to go through that. One of the concerns that we obviously have is that inflation—the last indicators that we got were much higher than we hoped they'd be. The consequence of that is the feeling that we need to do something, and I'm not sure that the budget cut is the thing to do.

I think what the administration has to do is, as I say, explore all options. There are those who want to have wage and price controls, for example, as a way to deal with the problem.

Senator SCHMITT. The President said categorically he won't even consider that.

Secretary MARSHALL. And I think that is a good decision. I don't

think we ought to have wage and price controls. If somebody showed me how wage and price controls would increase the supply of energy, I might be more favorably disposed, or if they could show me some way to make the OPEC countries obey whatever control that you had. Any more than that I think it is going to be difficult.

So, I think what we have to do is, recognizing the gravity of the problem, explore all options. And that is essentially what the administration is doing. It's not clear what the final outcome of that process will be. I do think we need to do everything we can that makes sense to reduce inflationary expectations, as well as inflationary pressures.

Senator SCHMITT. I'm not disagreeing that the indicators weren't obvious when the first budget was submitted, but nevertheless is there any time frame in which this exercise might be completed? You know, just by the fact that you mentioned it, you've almost put everything we're doing over here on hold. We don't know what figures we're really going to be dealing with in this budget now. When do you think we would know? Have they indicated to you when they expect to make a decision that you can then come back up here and defend?

Secretary MARSHALL. Well, the only indication I've had is that it's going to be as fast as we can get the process done.

Senator MAGNUSON. We're going to have a revised budget of some kind.

Senator SCHMITT. We may have to do the revising.

Senator SCHWEIKER. When, Mr. Chairman? That's the question.

Senator MAGNUSON. I don't know.

It has to be soon. Otherwise, we'll have proceeded with rescissions. As a matter of fact, I nearly called off this hearing. We're just having to repeat the whole operation.

Senator SCHMITT. Well, yes; we're getting a new 1981 budget, a mere 6 weeks into the original. So all of a sudden somebody says, "King's X, didn't mean it." You know, the process can't work that way.

1981 REDUCTION TARGET

Senator SCHWEIKER. I'd like to ask a question, Mr. Chairman. What is the target figure that you've been given, Mr. Secretary, as to how much you're going to have to come up with in cuts, either across the board or individually?

Secretary MARSHALL. It's not clear that we're going to have to come up with any. They have said, "If you had to cut the budget, where would you cut so that you could indicate the priority?" But no decision has been made on whether we'll have to cut. And my understanding of the process is that, I'll meet with the Director of OMB, and we'll meet with the President later.

Senator SCHWEIKER. According to the press over the weekend—maybe this is inaccurate—I thought the decision had been made to cut some $20 billion?

Secretary MARSHALL. I don't think that has been made.

Senator SCHWEIKER. That has not been made?

Secretary MARSHALL. The President has not made the decision to cut that much out as far as I know. At least my information suggests that.

What we're doing is exploring alternatives, and we want to be sure, before we do it, that it will be something that will have some impact.

Senator SCHWEIKER. If $20 billion, the figure you're talking about, is about an 8-percent cut of controllables, that means about $1.1 billion cut right across the board if the $20 billion figure is right, if you cut controllables.

Senator MAGNUSON. We will need to battle them in the supplementals.

Senator SCHMITT. I think you have to throw into that pot the questions that this committee has already raised on the assumptions in the original budget, with respect to unauthorized programs, and with respect to the inflation rate, that clearly in the original budget were not realistic. I'm not sure whether $20 billion is what's going to balance that budget. If we really decide that's our national goal for this fiscal year, to balance the 1981 budget, we're going to have to correct a lot of errors, and there are a lot of errors in that original budget.

Senator MAGNUSON. One month the budget is in the black, the next month it's in the red. It depends on the revenue receipts, to get the budget down to where it looks like it should balance. Whether that's the best answer, I don't know.

Secretary MARSHALL. Any estimate which you put in the budget is a forecast.

Senator MAGNUSON. Balancing the budget is a forecast.

Senator SCHMITT. But you have to make it on some realistic ground. The chairman himself pointed out you can't talk about a balanced budget on the backs of unauthorized programs. That's what this budget is predicated on, the original one that we had. And you can't balance it by reflecting what would have been 1981 expenditures back into 1980, which this budget also did. And you can't do it either by assuming a factor of too low an inflation rate. It just doesn't work that way. And that's the budget we were going to have to deal with, and I think a lot of us were working on, technically revising, to make it a reasonable budget.

Now, we're saying hold on. The President is saying hold on. I may want to give you another one.

Secretary MARSHALL. Has he told you that?

Senator SCHMITT. He's certainly making noises that we'd better anticipate it.

Secretary MARSHALL. I don't know that that's likely to happen.

CUTTING DEPARTMENT OF LABOR PROGRAMS

Senator SCHWEIKER. Well, here's an article from the Saturday New York Times. I would like to read this.

> Administration officials confirmed that the Labor Department's manpower programs were one of the prime targets of the proposed budget paring. The officials said that the Office of Management and Budget was considering reducing by 50,000 the number of federally financed local government jobs at an anticipated savings of $523 million.

That's pretty specific.

Secretary MARSHALL. But, Senator, if you go back and look at what the New York Times said about the Labor Department, it's supposed to

have come from White House sources. You'll find that they're usually wrong and have been ever since this administration has come into office.

Senator SCHWEIKER. You mean the Office of Management and Budget isn't asking you to consider a cut of that magnitude?

Secretary MARSHALL. They are asking us to consider the cut. That doesn't mean the President has made the decision to do it. What we're doing now is looking at options, and no decisions have been made.

So, the question is: If this is one option we want to pursue, what are the implications of that for you? And I think that's as far as we are with it. But no decision has been made as far as I know to cut the budget by any particular amount. It might be made.

Senator MAGNUSON. The decision has been made to cut the budget.

Senator SCHWEIKER. He said that is not true. That's what I'm trying to get straightened out. What has been made?

Secretary MARSHALL. There is no decision made that the Department of Labor's budget will be cut by any particular amount, but it might be.

Senator MAGNUSON. If you're going to cut the budget, the Department of Labor is fair game. [Laughter.]

CONSUMER PRICE INDEX AS AN INDICATOR OF INFLATION

Do you feel that the Consumer Price Index overstates inflation?

Secretary MARSHALL. I believe there are some problems with the Consumer Price Index. There are problems with any index, and the Consumer Price Index has problems in overstating some prices and understating others.

The Bureau of Labor Statistics points that out and studied that very carefully. They have issued, I think, a very good statement, which I'd like to submit for the record, from Dr. Norwood, which goes into great detail about the basic problem involved.

Senator MAGNUSON. The statement will be inserted in the record at this point.

[The statement follows:]

CPI Issues

Report 593

Janet L. Norwood

When prices rise, people pay increasing attention to how the government measures inflation. Workers worry about their real income. Retirees want to be sure that their pensions will buy the same package of goods and services upon which retirement plans were made. Those responsible for economic policy want to measure their success in restraining price rises. National budget makers, concerned about growing dollar outlays, worry about the effect of indexation on the country's budget.

The Consumer Price Index (CPI), the Nation's most important price index, is used for all of these needs. Although the index serves the Nation's users both during periods of relative price stability and in periods of rising or declining prices, questions about the accuracy of the measure always crescendo in periods like the present, when prices tend to be unresponsive to measures taken to turn them around. Therefore, it is essential that the public understand what the index is intended to measure, why it is put together the way it is, and, especially, in what areas price measurement could be improved.

The Consumer Price Index is a good measure of the changes in purchasing power of the average family represented in the index. But, the CPI is not perfect. And, we know it is not appropriate for all measurement purposes. Because we recognize that index making is still a developing art, we are always experimenting with new approaches in order to improve the measurement of inflation.

Two criticisms of the index are now being widely discussed: (1) That the CPI overstates the cost of living because the index is based on a fixed market basket of goods and services and, therefore, does not reflect changes consumers make in buying habits, and (2) that the index overstates inflation because of the way it handles homeownership. Let us examine each criticism in turn.

The fixed market basket

The CPI *is* based on a fixed market basket. That is, the weights for the mix of goods and services purchased during the base period are held constant from year to year until a major revision occurs. We keep the market basket constant deliberately because we want to keep fixed the living standard represented by that market basket. Our purpose, to the extent possible, is to isolate price changes from other changes which may occur in living standards.

The economists in the Bureau of Labor Statistics, of course, know that consumers shift their purchases in response to changes in relative prices. What we do not know, however, is whether such changes in consumption patterns result in a living standard that is higher or lower than that in the base period. If the market basket were changed whenever prices change--without knowing whether the consumer is equally satisfied with the shift--we would not know whether a change in the index was caused by a change in prices *or* by a change in the market basket. Because a market-basket change could amount to a change in living standards, those whose income payments are adjusted by the CPI would not be assured that their living standards would remain at the same level. The purpose of such CPI cost-of-living adjustment (indexation) has traditionally been to permit people to purchase in today's prices the bundle of goods and services they purchased in the base period, thereby leaving them at least as well off as they were then.

The following example will illustrate my point. If, in adjusting to higher prices, a family decides to forego its weekly restaurant dinner, the family is both changing its market basket and lowering its satisfaction or standard of living. If the objective of indexation is to ensure purchasing power necessary to preserve living standards, a measure used to index income should not reflect this kind of a market-basket change.

Homeownership

The present CPI homeownership component includes the month-to-month change in prices of five expenditures of owning a home. The weights for three of these expenditures--property taxes, insurance, and maintenance and repairs--represent the average expenditures by *all* people living in their own homes during the CPI base period. Thus, the housing costs for those who purchased their homes *before* the base period are represented in the index *only* by property taxes, insurance, and maintenance and repairs. Weights for two other expenditures--house prices and contracted mortgage interest costs--are based on the

Janet L. Norwood is the Commissioner of Labor Statistics, U.S. Department of Labor. This report was presented at the winter meeting of the National Association of Government Labor Officials in Washington, D.C., on January 21, 1980.

small group of families, roughly 6 percent of the total, who actually purchased a home in the base period. Thus, the CPI does not assume that *everyone* buys a new house every month; the house-price and mortgage-interest components in the CPI represent the expenditures *only* of those who *actually purchased* a house in the base period. In effect, those who purchased their own home *before* the base period are assumed to have *no house price or mortgage interest costs at all.*

Because the CPI represents the cost of the base period market basket of goods and services in today's prices, the prices used for houses and the mortgage interest rates are current prices. The house-purchase and mortgage-interest components of the index, therefore, rise or fall each month, based on current prices of houses sold and of current mortgage interest rates. This approach is entirely consistent with that used in other parts of the index, for refrigerators, stoves, apples, and oranges, for example.

Arguments for and against the current treatment of homeownership in the CPI come from people who look at the purchase of a house in different ways. They can roughly be divided into three groups:

1. Those who favor the current approach argue that most American families live in their own homes, not rented homes. They believe that the CPI should measure in today's prices the cost of the purchase of the same kind of house purchased in the base period and that owned homes should be treated in the index in exactly the same way as other items. The index should represent the price today for the proportion of expenditure on houses purchased in the base period. They argue that if a house were sold today and another of the same quality purchased, the consumer making the purchase would have to pay the house price prevailing today and would be forced to contract for a mortgage at the current interest rate. According to this view, that is exactly what the CPI should and does show. The index, they assert, correctly measures homeownership.
2. Another view of the CPI homeowner component is taken by those who argue that the index, as a measure of the change in purchasing power for purposes of escalating income or determining the rate of inflation, should not include the impact of rising prices on the value of assets such as houses. Just as the CPI excludes changes in the value of stocks and bonds, it is argued that the change in the asset value of the house (appreciation--or depreciation) and the cost of equity in holding that asset should be distinguished from the change in the cost of the shelter provided by the house. It is the cost of consuming the shelter provided by the house--not the investment aspects of homeownership--which should be reflected in an index used to keep real income constant.

   This is the position taken by the BLS staff during the last revision of the CPI. Bureau staff papers pointed out that there are two empirical methods which could be used to measure the cost of the flow of housing services. The BLS did a great deal of research and experimentation on one of these methods: Estimating what economists call a "cost function" for the use of an owned home. Some felt that this method, which includes all the major components of the CPI homeownership component--prices for property taxes, insurance, home maintenance and repairs, and interest rates, while at the same time adjusting for the interest cost of equity and subtracting appreciation--would improve the index. It was thought that it would be acceptable to users, especially if it used current prices for each of these items, as is the case with all other parts of the index. Although some users of the CPI endorsed the Bureau's user-cost work, they asked that further research be done, especially on the procedures for estimating the equity interest term before use of this method in the CPI.

   The second approach to measuring the cost of shelter, an approach which the Bureau has not yet had the resources to test, would develop a new rental-equivalence sample of prices to represent the types of homes that are owned. Such a sample would consist of homes of the same type and at the same locations as homes that are owned. Rental prices collected from this new sample could be used in the index to represent the cost of shelter provided to homeowners by their own houses. The design of a rental-equivalence sample would, of course, be quite different from the CPI rent component, which was constructed to represent *all rented* units, not just rental units that are typical of owned homes.
3. Another group currently criticizing the CPI homeownership component alleges that it overstates the rate of inflation because it uses *current* house prices and *current* mortgage interest rates. This group argues that the CPI should not measure the costs of purchasing the base period houses in today's prices and today's mortgage interest rates, but rather that the CPI should measure what people are actually paying for housing.

   This "outlays" approach would use an average of the interest rates paid over a period of years instead of the current rates, would include property taxes, home maintenance and repairs, and insurance, but would exclude the cost of the house itself. Homeowners who had paid off their mortgages in the base period would be assumed to have no cost at all because they made no payment for mortgage interest. Under this system, mortgage interest rates would reflect an average of the rates prevailing over a period of time, 15 years, for example. Each month, a small portion of interest rates, contracted for 15 years ago at the rates prevailing at that time, would be dropped from the index and a small portion at the

current mortgage interest rate would be added. An index calculated in this manner would be lower than the official CPI when current interest rates rise and higher when current mortgage interest rates decline. Because the current mortgage interest rate would be used only for a small portion of homeowners, the index would continue to rise even when current interest rates decline.

The foregoing review of differing views of the homeownership component demonstrates the complexity of the conceptual and empirical issues involved in selecting the formulation to be used in the CPI. Among the alternatives, there are important differences in pricing mechanisms and large differences in the weight of homeownership relative to other components of the index. For example, the official CPI homeownership component now has a relative importance of almost 23 percent. Use of the flow-of-services concept that was proposed by the BLS staff would reduce that weight by one-half under the user-cost alternative (to about 11 percent) and to about 14 percent under the rental-equivalence approach. The outlays approach currently being suggested would reduce the weight still further to a relative importance in the index somewhere between 9 and 10 percent. Such significant variations in the relative importance of shelter costs could have a large effect on the All-Items CPI, especially in a period like the present when house prices and mortgage interest rates are rising at a fast pace. This consideration, plus the lack of agreement among major users of the index, led former Commissioner Shiskin to decide, during the recent revision of the CPI, to retain the historical treatment of the homeownership component while continuing staff work in this field.

BLS is publishing five experimental measures using variants of these different approaches to homeownership. (See tables 1 and 2.) Tables 3 and 4 show the elements included and prices used in the official CPI and in the experimental homeownership measures. Charts 1 and 2, which show 12-month percent changes in the homeownership component, demonstrate how wide the measurement differences can be. Charts 3 and 4 use the experimental homeownership approaches in all-items measures and show that in the 12 months ended in December 1979, the range among the experimental measures was 2 percentage points. For measure X-2 (user cost using current interest cost), the 13.2-percent change was about the same as in the official CPI. The percent changes in the other experimental measures were lower than in the official CPI. When one looks at these 12-month percent changes ended in each of the months of 1979, one sees a larger spread for measure X-2 (8.4 percent in January to 13.2 percent in December) than for the official CPI (9.3 to 13.3 percent). (See page 12 for a complete explanation of the homeownership measures.)

Further research

Bureau of Labor Statistics research on the measurement of homeownership began in 1970, long before the current discussion of the issue. As can be seen from the foregoing discussion, there is still considerable disagreement over the best method to measure homeownership. Because the issue is so important, the Bureau is continuing its work on homeownership measurement and will continue to publish research findings and experimental measures. We are also exploring the issues involved in development of a rental-equivalence measure so that BLS can, if resources are made available, carry out the field collection required for a full rental-equivalence index and calculate an experimental measure using a valid rental-equivalence component.

Further work also needs to be done on methods for developing what economists call a "constant utility" market basket. Such an approach would allow changes in the market basket while still permitting calculation of an index which holds constant the base period living standard.

This year, the Bureau began a new Continuing Consumer Expenditure Survey program. Under this program, the Bureau of the Census is collecting information on consumer expenditures on a recurring basis for the Bureau of Labor Statistics. These data will serve as the basis for revising the weights in future revisions of the CPI. The fielding of a continuing survey is an important step forward because it will provide an empirical foundation for examining changes in consumer expenditures and will become a basis for determining when a revision of the index is required.

Indexes for special purposes

Users of the CPI should be aware of the many subindexes which are produced as a part of the CPI system. These are published prominently in the monthly CPI news release, are used for analytical and other purposes, and, in some cases, are used for indexation. Among these subindexes, for example, is an index for "All items minus mortgage interest costs" and another for "All items less energy." In addition to these and other subindexes, BLS will now begin regular publication of the experimental housing measures I have described. We hope that by publishing these measures, we will encourage full public discussion of this complex but important subject.

BLS also can produce other indexes if they are required. Special indexes may be needed when the government pursues social goals which--at least in the short run--may raise prices. Should it be considered socially desirable to reduce energy consumption by raising gasoline prices, consumers would pay more for gasoline and the index measuring the rate of inflation would and should go up. It might be useful to policymakers, in such a case, to create a special index which could exclude such increases or which could treat other policy-directed price changes, such as changes in interest rates, in a special way. Some also have suggested the desirability of a special index--for use in pension escalation--that would represent the expenditure experience of persons receiving retirement benefits.

The Bureau of Labor Statistics is a service agency. Given the resources and time necessary, the Bureau can produce special consumer price indexes for particular needs. We should not, however, permit these other needs to weaken the ability of the present CPI to fulfill the objective for which it was intended.

Table 1. Alternative HOMEOWNERSHIP COMPONENTS used in official CPI-U and in experimental measures: Percent change over 12 months

12 months ended	Official Consumer Price Index for All Urban Consumers (CPI-U)	Experimental measures of homeownership				
		Flow-of-services measures			Outlays measures	
		X-1 Rental equivalent using CPI rent	X-2 User cost using current interest costs	X-3 User cost using average interest costs	X-4 Outlays using current interest costs	X-5 Outlays using average interest costs
December:						
1968	7.6	2.8	11.1	8.0	11.0	6.0
1969	10.2	3.8	6.9	3.5	13.2	8.3
1970	10.2	4.5	4.3	1.7	12.6	10.1
1971	2.7	3.8	−12.1	−8.9	0.3	7.7
1972	4.1	3.5	2.4	3.3	4.8	6.2
1973	7.7	4.9	22.9	18.8	10.8	4.4
1974	13.3	5.4	16.8	12.9	14.9	9.1
1975	7.9	5.2	2.7	3.3	7.1	9.0
1976	3.8	5.5	−1.0	2.0	2.7	7.6
1977	9.2	6.5	2.5	0.4	10.4	9.0
1978	12.4	7.3	5.7	1.1	12.0	5.3
January 1979	12.4	7.2	8.0	5.7	12.4	5.7
February 1979	13.5	7.1	10.8	7.4	13.7	5.7
March 1979	13.7	6.7	11.7	10.4	14.0	5.9
April 1979	14.2	6.5	12.3	9.9	14.4	6.1
May 1979	14.6	6.8	13.9	11.3	14.9	6.4
June 1979	14.9	6.8	14.2	10.6	15.0	6.4
July 1979	15.2	7.1	16.7	11.7	15.3	6.8
August 1979	16.0	7.5	20.1	9.8	15.9	7.0
September 1979	16.1	7.6	18.3	13.2	16.4	7.5
October 1979	16.8	8.4	22.2	13.7	17.2	7.8
November 1979	18.3	8.1	24.5	15.1	19.0	7.9
December 1979	19.8	7.9	28.2	22.4	22.6	11.2
Relative importance of homeownership component, December 1977 (all-items index=100)	22.8	14.5	11.4	10.0	10.0	8.7

Table 2. Official ALL-ITEMS CPI-U and EXPERIMENTAL MEASURES using alternative homeownership components: Percent change over 12 months

12 months ended	Official Consumer Price Index for All Urban Consumers (CPI-U)	Experimental measures using alternative homeownership components				
		Flow-of-services measures			Outlays measures	
		X-1 Rental equivalent using CPI rent	X-2 User cost using current interest costs	X-3 User cost using average interest costs	X-4 Outlays using current interest costs	X-5 Outlays using average interest costs
December:						
1968	4.7	3.9	4.9	4.6	4.7	4.2
1969	6.1	5.2	5.6	5.2	6.0	5.7
1970	5.5	4.5	4.5	4.2	5.2	4.9
1971	3.4	3.5	1.6	2.2	3.2	3.8
1972	3.4	3.3	3.2	3.3	3.4	3.5
1973	8.8	8.5	10.5	10.0	9.2	8.7
1974	12.2	11.1	12.6	12.1	12.3	11.8
1975	7.0	6.6	6.3	6.4	6.8	6.9
1976	4.8	5.1	4.3	4.7	4.8	5.2
1977	6.8	6.3	5.8	5.7	6.6	6.5
1978	9.0	8.0	7.8	7.4	8.5	7.8
January 1979	9.3	8.3	8.4	8.2	8.9	8.2
February 1979	9.9	8.6	9.1	8.7	9.4	8.6
March 1979	10.2	8.8	9.4	9.2	9.6	8.9
April 1979	10.4	8.9	9.6	9.4	9.8	9.1
May 1979	10.8	9.2	10.1	9.7	10.1	9.3
June 1979	10.9	9.3	10.2	9.8	10.2	9.4
July 1979	11.3	9.7	10.9	10.3	10.7	9.9
August 1979	11.8	10.1	11.5	10.4	11.0	10.2
September 1979	12.1	10.4	11.7	11.1	11.4	10.6
October 1979	12.2	10.5	12.2	11.1	11.5	10.5
November 1979	12.6	10.5	12.5	11.3	11.8	10.6
December 1979	13.3	10.8	13.2	12.3	12.5	11.3

Table 3. Weights and prices used in official CPI-U and experimental homeownership measures, December 1979

(Percent)

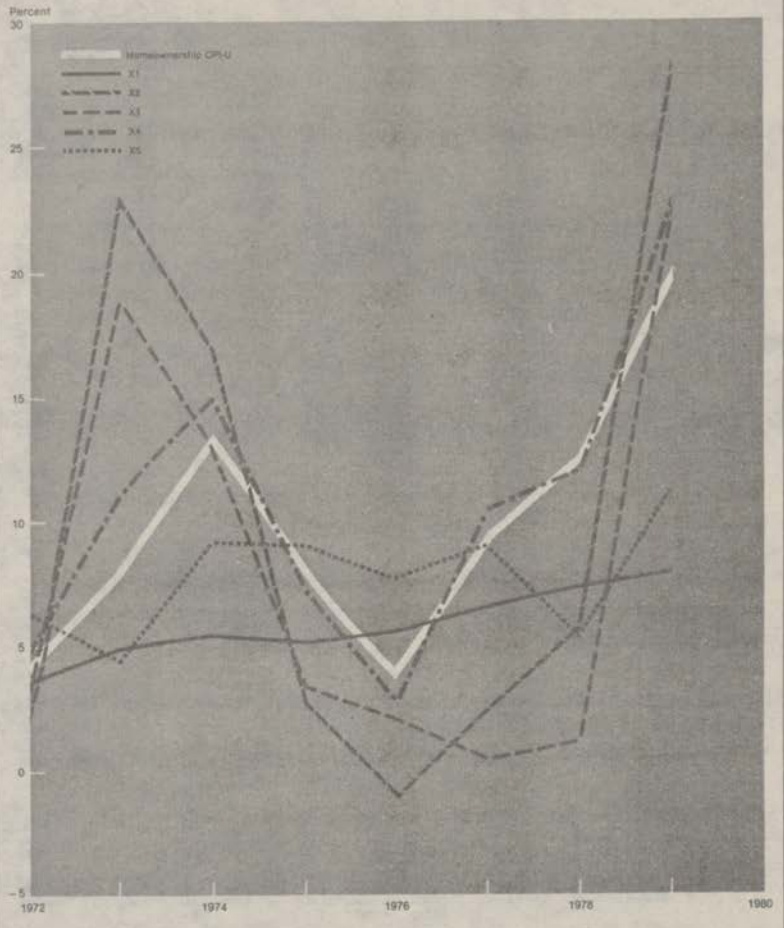
Measure	Relative importance of homeownership and homeownership elements										
	Total home ownership	Property taxes	Property insurance	Maintenance and repairs	Home purchase	Equity costs	Appreciation	Residential rent	Mortgage interest cost		
									Base-period homeowners' contracts	Revalued base-period debt	Actual base-period payments
Official CPI-U	22.8	2.1	0.6	3.7	10.0				6.5		
X-1. Rental equivalent using CPI rent	14.5							14.5			
X-2. User cost using current interest costs	11.4	2.4	0.7	1.8		9.8	–8.3			5.0	
X-3. User cost using average interest costs	10.0	2.5	0.7	1.8		10.0	–8.4				3.6
X-4. Outlays using current interest costs	10.0	2.5	0.7	1.8						5.2	
X-5. Outlays using average interest costs	8.7	2.6	0.7	1.8							3.6

Table 4. Homeownership elements and prices used in official CPI-U and experimental measures

Measure	Elements included in weights										
	Represents costs for all homeowners	Property taxes	Property insurance	Maintenance and repairs	Home purchase	Equity costs	Appreciation	Residential rent	Mortgage interest cost		
									Base-period homeowners' contracts	Revalued base-period debt	Actual base-period payments
Official CPI-U	No	X	X	X	X				X		
X-1. Rental equivalence using CPI rent	Yes							X			
X-2. User cost using current interest costs	Yes	X	X	X		X	X			X	
X-3. User cost using average interest costs	Yes	X	X	X		X	X				X
X-4. Outlays using current interest costs	No	X	X	X						X	
X-5. Outlays using average interest costs	No	X	X	X							X

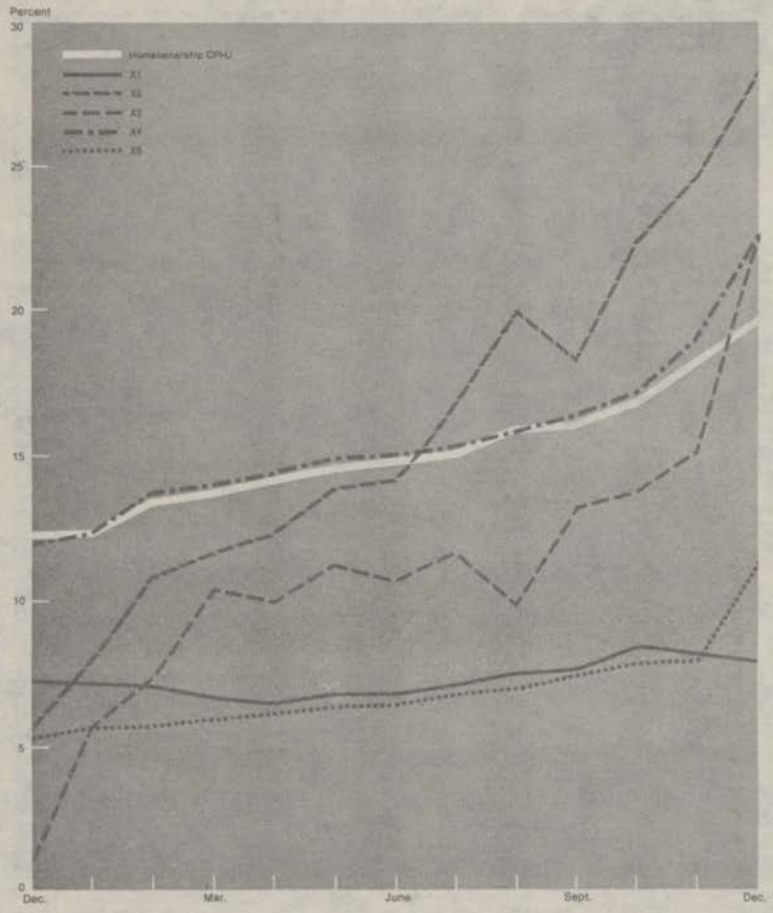
Measure	Prices used		
	5-year average appreciation rates	Current mortgage interest costs	15-year average mortgage interest cost
Official CPI-U		X	
X-1. Rental equivalence using CPI rent			
X-2. User cost using current interest costs	X	X	
X-3. User cost using average interest costs	X		X
X-4. Outlays using current interest costs		X	
X-5. Outlays using average interest costs			X

Chart 1. Alternative homeownership components: Official CPI-U and experimental measures, percent change over 12 months, 1972-79



NOTE: See page 12 for a description of the homeownership measures.

Chart 2. Alternative homeownership components: Official CPI-U and experimental measures, percent change over 12 months, 1979



NOTE: See page 12 for a description of the homeownership measures.

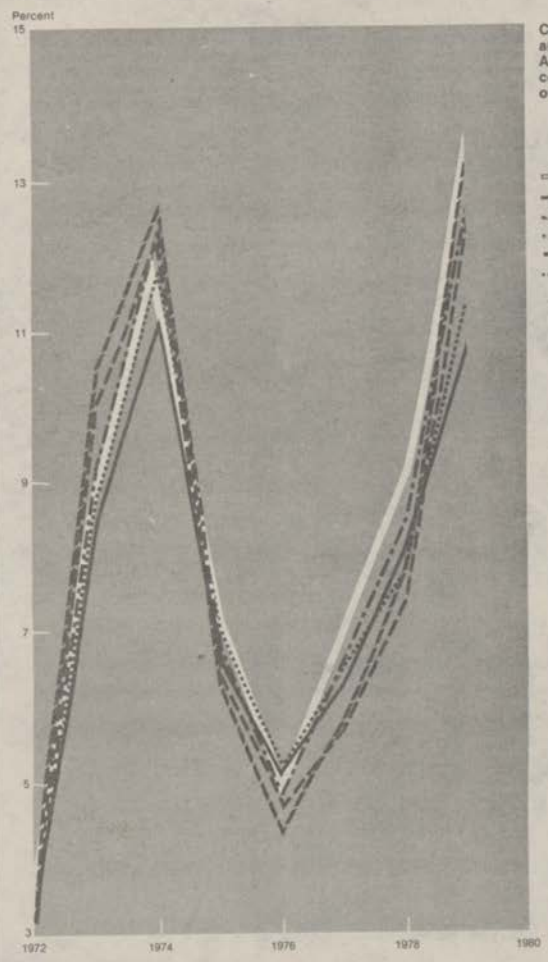


Chart 3. Official All-Items CPI-U and experimental measures: Alternative homeownership components, percent change over 12 months, 1972-79

NOTE: See page 12 for a description of the homeownership measures.

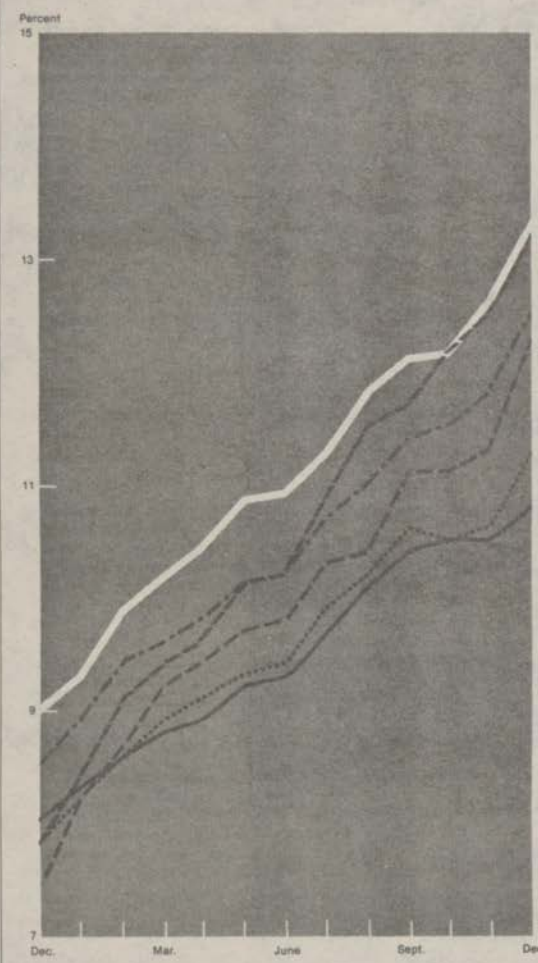


Chart 4. Official All-Items CPI-U and experimental measures: Alternative homeownership components, percent change over 12 months, 1979

NOTE: See page 12 for a description of the homeownership measures.

Explanations of Homeownership Measures

Official CPI-U Includes five components. (1) The weights for property taxes, property insurance, and home maintenance and repairs represent expenditures of all homeowners in the base period. The weights for house prices and contracted mortgage interest cost represent only those homeowners who actually purchased a home in the base period. Included are the total price paid for the home and the total amount of interest expected to be paid over half the stated life of the mortgage. (2) Current monthly prices are used for each of these components.

Experimental Measure X-1: (1) The weight for this rental equivalence measure is the estimate of the rental value of all owner-occupied homes in the base period compiled from a specific question asked on the 1972-73 Consumer Expenditure Survey. This covers the entire stock of owned homes. (2) Prices used are the current rents collected for the residential rent component of the CPI. The CPI rent component is designed to represent changes in residential rents for all types of housing units, not just changes in rents for units that are typically owner occupied. The CPI rent component is, therefore, not appropriate for this measure.

Experimental Measure X-2: (1) The weight for this user cost method includes expenditures for mortgage interest, property taxes, property insurance, maintenance and repairs, the estimated base-period cost of homeowners' equity in their houses, and the offset to shelter costs resulting from the estimated appreciation of house values in the base period. This measure covers the entire stock of owned houses. To derive the weights for mortgage interest costs and equity costs, the total value of the housing stock in the base period was apportioned into its debt and equity components. The debt component equals the amount owed and the equity component is the amount owned, i.e., payments on principal plus appreciation from the time of purchase to the base period. Each component was subsequently multiplied by the average mortgage interest rate in the base period to determine its cost. (2) Prices used are current ones except for the appreciation term, which uses a 5-year moving average of the changes in appreciation rates.

Experimental Measure X-3: (1) The weights are the same as in Experimental Measure X-2, except that mortgage interest costs are calculated as the total interest amount *paid out* by homeowners in the base period. As in X-1 and in X-2, this measure covers the entire homeowner population. (2) The prices for all components except mortgage interest costs and appreciation are current monthly prices. As in X-2, appreciation is represented by a 5-year moving average of the changes in house prices. However, X-3 uses past and current mortgage interest costs in a 15-year weighted moving average, which reflects the base period age distribution of mortgage loans.

Experimental Measure X-4: The weights for this outlays approach include expenditures actually made in the base period for property taxes, property insurance, and maintenance and repairs. The weight for the mortgage interest term is calculated in the same manner as in X-2. However, no appreciation or equity terms are included. Not all homeowners are represented in this measure because those who made no mortgage debt payment in the base period are excluded. (2) The prices used for each of these items are current ones.

Experimental Measure X-5: (1) The weights for this outlays approach include, as in X-4, expenditures actually made in the base period for property taxes, property insurance, and maintenance and repairs. The weight for the mortgage interest cost term is the same as for the X-3. No appreciation or equity elements are used. As in X-4, not all homeowners are represented in this measure because those who made no mortgage debt payment in the base period are excluded. (2) Current prices are used in X-5 except for mortgage interest, which uses the 15-year moving average also used in the X-3.

RELATION OF BUDGET DEFICIT AND INFLATION

Secretary MARSHALL. But let me also say that what she's also done is to start releasing several numbers that correct for the problem, so that we can look at the effects of treating mortgage interest rates, for example, in a number of different ways.

Senator MAGNUSON. Each 1-percent rise in the Consumer Price Index triggers an estimated $1.5 billion increase in mandatory price increases.

They say when you have an 18-percent inflation rate you're dealing with a possible increase every month. It could be higher; it could be lower. What they're saying, if this keeps up, is that will amount to——

Secretary MARSHALL. That's right. They're saying that if the monthly increase will continue for the whole year, the rate will be 18 percent.

Senator SCHMITT. Mr. Chairman, if you believe some of the other indicators that are precursors to inflation, that 18 percent may turn out to be realistic this year.

Senator MAGNUSON. Certainly.

Senator SCHMITT. The Wholesale Price Index, certain raw material price increases——

Senator MAGNUSON. That could even be too low. The impact of balancing the budget—you say—is more psychological than actual?

Secretary MARSHALL. We were talking about not balancing the budget. But when the expenditure reductions actually went into effect—as Senator Eagleton was saying, since they would not be going into effect until some time in the future, they couldn't have much present effect.

My response was that you could have a present effect if you look at the psychological aspects of inflationary pressure.

Senator MAGNUSON. Well, the Federal Reserve Board keeps raising the interest rate on the basis that we're not balancing the budget, that we're not cutting our expenditures down.

We have had all the economists, I think, in the United States, before the Budget Committee, and we asked them, "What does the deficit have to do with inflation?" We had a $5 billion figure deficit.

They all answered unanimously that the $5 billion deficit figure would be one-tenth of 1 percent of inflation—unanimously, all of them. Of course, $25 billion would be 0.5 percent; $50 billion would be 1 percent. Inflation does have a great effect on the deficit, and the Treasury has got to go out and borrow money. And there's only so much money in the pot, and in order to take that money out of the pot—unless the money is tied up in the private sector, the more the rental of the money goes up. And that has an effect on the interest rates. That's the bad thing about a deficit.

Secretary MARSHALL. The psychological impact we were talking about is the immediate impact.

UNEMPLOYMENT RATE

Senator MAGNUSON. What is the unemployment rate?

Secretary MARSHALL. 6.2 percent.

Senator MAGNUSON. Up from 5.5 percent?

Secretary MARSHALL. The lowest it had been, before it went from 6.2 percent to 5.9 percent. It had been up to 6 percent before it went back down to 5.8 percent, as I recall. It went to 5.8 percent, then to 5.9 percent, and then to 6.2 percent.

Senator MAGNUSON. Have the States started to pay back the fund loans?

Secretary MARSHALL. Into the unemployment compensation fund?

Mr. ZUCK. I think you mean, Mr. Chairman, States that have borrowed against the fund. There are some that have started to pay back the loans, and there are some that have not. We could provide for the record——

Senator MAGNUSON. For the record, those that haven't?

Mr. ZUCK. Yes.

Senator MAGNUSON. How much is being paid back? My State put in a little, but we were told there was a whole lot outstanding, and that was part of the expenditure, part of the deficit.

Mr. ZUCK. Yes.

Senator MAGNUSON. Off the record.
[Discussion off the record.]

TOTAL BUDGET REQUEST

Senator EAGLETON. May I ask a question, Mr. Chairman?
What is your total budget?
Senator MAGNUSON. I have several questions here on this which I will submit for the record, and you can respond for the record.
Mr. ZUCK. We've got about a $30 billion budget.
Senator MAGNUSON. Let's get this straight—90 percent of their budget——
Secretary MARSHALL. It's over 90, 90 percent of controllable funds are in CETA, but more than 90 percent of our budget——
Senator MAGNUSON. If you're going to cut the budget across the board, you're going to make specific cuts, you have to zero in on 90-plus percent of the budget this year.

UNCONTROLLABLE PERCENTAGE OF BUDGET

Senator EAGLETON. That's what I wanted to establish.
What percentage of your budget is uncontrolled?
Mr. ZUCK. Essentially two-thirds of our budget is uncontrollable.
Senator EAGLETON. Sixty-six percent in uncontrollable?
Mr. ZUCK. Our total budget in round numbers, if you look at the outlays, is about $30 billion. About $10 billion of that is in what we would consider controllable programs. The others represent unemployment insurance and worker's compensation payments, black lung payments, Federal employees' compensation payments. So about one-third of our budget is controllable.
Senator EAGLETON. So you have made significant cuts in this budget, two-thirds of which is uncontrollable?
Mrs. Harris testified the other day 95 percent of her budget at Health and Human Service is uncontrollable. And you could go down a litany of other departments. But to make significant budgetary cuts, you have to do it in the uncontrollables as well.
Mr. ZUCK. And our uncontrollables are essentially employment and training programs.
Senator EAGLETON. Those are your controllables.
Mr. ZUCK. I'm sorry. Our controllables are our employment and training programs.

PSIP BUDGET

Senator MAGNUSON. Just let me ask one question. Congress provided $400 million for the PSIP program last year. For fiscal year 1979 only $10 million has actually been expended, and you're asking for $150 million.
Mr. ZUCK. $400 million; $75 million of that was appropriated for fiscal year 1979; $325 million is for fiscal year 1980. The sum of the two of those is $400 million in a 2-year period.

Senator MAGNUSON. And you have only spent $10 million?

Mr. ZUCK. That was essentially last year's outlays.

Senator MAGNUSON. How much are you spending now?

Mr. ZUCK. I don't have the current figures through this fiscal year, Mr. Chairman, but we can provide that to you.

Secretary MARSHALL. We've obligated $275 million, which means it might not all have been spent, but it's already obligated. And virtually every major labor market now has a private industry council, which are in different stages of development. One of the reasons for the $400 million to start with is the private sector felt it was an extremely important program to get underway, because we concluded that we would not be able to solve our employment and training problems in the public sector alone. If we could get more private involvement, it not only would get workers into the mainstream of the economy where most of the jobs are, but that involvement would improve our public employment, training program, and placement.

In fact, what we hoped and what we can see happening is that you change the success criterion from the program to simply enrolling people in it to getting people out of it. The private sector initiative was a very important part of that.

When we talked with employers all over the country, they said that in order to get the enthusiasm and support that we need, the private industry councils would need to know that the funds are already out there and that even though they weren't all being spent that they could count on that amount of money for the planning period.

That's one of the reasons that even though we know we wouldn't spend all that money this year, that we thought it was important to have an appropriation at that level.

Senator MAGNUSON. All right.

Senator Chiles has some questions.

ADJUSTING CETA ENROLLMENT LEVELS

Senator CHILES. Mr. Secretary, I want to first say something about the emphasis on your summer youth employment program. We have reviewed your Department's assessment of last summer's youth employment program. I want to compliment you and Mr. Taggart for undertaking an extensive monitoring effort on a politically sensitive program.

I think the Department's efforts, plus the pressure generated by this committee, has brought about a major improvement in the program. I hope that effort will not slack off in the future, but will be extended to other parts of CETA as well.

And while I note that there are still some problems in some of the major cities—in 11 cities selected for intensive serious monitoring effort, 40 percent of the work sites had serious problems, 19 percent has lesser problems, and only 41 percent were entirely satisfactory.

And while it looks like a lot more work needs to be done, clearly it was a large effort on your part and on the Department's part, and I certainly want to compliment you on that.

When you were up here last year, we had a considerable discussion about the fact that CETA public jobs enrollments dropped by 130,000 slots below the base you used to prepare your budget. And, once again, we found that by the beginning of 1980, the prime sponsors had reached the phasedown level that you planned for the end of 1980 for the title VI or countercyclical program.

Now, they've even dropped off over 80,000 people from the title II structural jobs even though we appropriate the full amount.

It's clear to me that local governments are reluctant to hire unskilled people at low wages and to transition them into private sector jobs. In a lot of cases they think they can spend the money better on training and support services. However, the Department of Labor seems intent on playing the numbers game and pushing people higher just to keep the national enrollment figures up.

REVISION OF PLANNED ENROLLMENTS

I received complaints all last year from prime sponsors about being pushed to revise their planned enrollments under threats of having their entire plan disapproved. That kind of pressure disrupts the system, and I think it diverts attention from the comprehensive services needed. And I think it undermine again the credibility of the program.

Once again, I see the Department of Labor trying to push out these funds. I've got a copy of this field memorandum—this goes out dated January 11—that instructs the regional offices to review and, where necessary, require revisions to CETA prime sponsors in title II and title VI planned enrollment levels in order to bring those levels into agreement with the levels that can be supported with the funds available.

Later on it mentions—in use of staff, it says, "This takes priority over everything. This exercise should be considered the highest priority. Where necessary, other assignments should be delayed until it's completed."

This, again, just seems to me to be "spend for spend's sake" mentality, that I think—you know, to get the funds out, make sure we get the levels exactly or as high as we had the last year, or we're going to lose these funds. And I see very little in here that says to these local prime sponsors we're going to allow them to determine where the needs are, and we're going to attempt to meet those needs. But we want to shift numbers from title II to title VI, if it's necessary, to meet the quotas.

I notice that in this plan it says, "You can look for the same plan that you used a year ago." And that's when we really had a heavier hand. And they're getting a little more sophisiticated in the way they write it now, but it just seems like we're still on that same ball game.

Secretary MARSHALL. Well, I don't really believe that we are in the same ball game. I think it's imporant, too, as early as possible, for the prime sponsors to see how much they're going to be able to use. And if they have unmet needs, then it seems to me that they ought to get out and try to find out what they are. If they don't, then we ought to reallocate those funds to places that do have needs. But we don't want to be precipitous about that. We don't want to take funds away from

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people who might really be able to use them later on and give them to places that have needs. We have some places that could put people to work immediately, areas of high unemployment.

Let me also say that the level of 450,000 by the end of the year was mandated by the Congress. And we think that that is a figure that can be met. We don't want to cause people to waste the funds. We've been very careful with that.

If there are communities in the United States unable to make adequate use of the funds, we don't want to penalize those people. But at the same time, we believe that it's important to try to take those funds and use them where they can be used effectively. But we first want to be sure that they have made the best possible effort to use them in those communities. I believe we've gone a long way.

SUMMER YOUTH PROGRAM

You mentioned what we'd done in the summer youth program. Actually, I think the summer youth program, in terms of monitoring, is one of our most difficult programs. We've also done a much better job with the rest of the CETA system. However, there are some problems because we are going through a transition. There are people who are now at the end of the new 18-month limitation on the length of stay in the CETA program. We also found that at the allowable spring planning estimates have to be completely redone, because the actual appropriation was so much lower than the planning levels that they have. What we have done to the system is to try to work with the prime sponsors as much as we can to manage the levels so that they will be realistic and will avoid sudden changes that we'd have to make in the system.

There are a lot of reasons that we had a very low enrollment level; but our people have done a complete analysis of that, and I'll be glad either to go over that or submit it for the record.

[The information follows:]

EXPLANATION OF PSE ENROLLMENTS SHORTFALL

The fiscal year 1980 Labor-HEW appropriations bill assumed a beginning-of-the-year PSE enrollment level of 520,000 and an end-of-the-year level of 450,000. However, enrollments have been declining since September 30 and as of January 31, 1979, there were 388,061 enrollments—188,832 enrollments in title II-D and 199,229 in title VI. This shortfall, which mostly occurs in title II-D, is attributable to several factors:

An anticipated beginning-of-the-year drop because of the one-time phenomenon of the new 18-month limitation on an individual's participation in a PSE job.

The fiscal year 1980 annual plans of the prime sponsors were based on spring planning estimates which had to be completely redone because the actual appropriation levels were so much lower than anticipated.

The fiscal year 1980 continuing resolution was not passed until October 12 and was only a 1-month bill. A second continuing resolution for the remainder of fiscal year 1980 was not passed until November 20. Most prime sponsors did not receive their funds until November 20, 6 weeks after the beginning of the fiscal year.

The new eligibility criteria, restrictions on wages and supplementation, and the entry level job requirement, meant that prime sponsors had to design new jobs, often in conjunction with community-based organizations rather than local government. Jobs for title II-D participants also had to be combined with training activities. These new factors meant that it was not simply a matter of quickly filling vacancies in existing job slots.

The process of redesigning new jobs and finding new providers meant that new contracts had to be negotiated. This local contracting process with some 50,000 subgrantees, takes 2 to 3 months from the request for proposal stage to final award of the contracts.

Enrollments dropped further in December because, historically, December is a slow month due to the holidays. It also reflects the layoff of workers who had received waivers for the first quarter of fiscal year 1980, which ended December 31.

As a result of the late appropriations and the need to redo the annual plans, prime sponsors were in the process of renegotiating their plans with regional offices during January. Some prime sponsors delayed full implementation until their plans were finalized, which did not occur until the beginning of February.

DETERMINATION OF LOCAL NEED

Senator CHILES. Well, I guess one of the things that continues to bother me is that where—you know, I think we designed a plan to allow the local prime sponsors to determine what their needs were going to be and tell us their needs. And I continue to see the heavy-handedness on the part of the regional offices that are going to tell you you are going to meet your quota or you're not going to get a plan, period; or, you know, who are not going to allow you to do it on that kind of basis.

I'm looking at a modification that was sent in by Orange County after they were told their numbers were too low. And they said, in their modification, they said, "This modification is for the purpose of increasing the enrollment level in title VI, as directed by the Department of Labor, in achieving the national goal of 625,000 PSE enrollments."

When they got that plan, they rejected that. They didn't want them saying it that way. So they said, "We're not going to approve that," since you say you're modifying your plan to meet the goal. But they accepted the plan when they went back and wrote it again, and they said, "This modification is for the purpose of increasing enrollment level in title II–D in order to more completely serve the economically disadvantaged population of Orange County." That's all right when they say it that way, but when they say, "You're doing it because you're making us do it, we reject that; we're not going to approve your plan," it just seems like to me that, you know——

Secretary MARSHALL. They're talking about 625,000. They must have been talking about 1977; is that the case?

Senator CHILES. This is last April.

Secretary MARSHALL. Because our end-of-year target is 450,000 this year, what we need to try to do is to be sure that we don't get people sitting on funds, that is putting funds away that they are not likely to use. We try to avoid that, to prevent the prime sponsors from setting aside money that they're not going to be able to use. Many of them like to do that. They like to build a cushion for uncertainty. If I were running a program in Orange County or any other county, I'm sure I'd have the same attitude about it. You don't know whether you're going to get appropriations. And if you do, you don't know how much. In order to do some planning and to make it possible to phase out a program if you don't get the funds, it's always good to have a cushion.

Now, from our perspective, that makes it difficult for us to carry through the monitoring of the program. We don't want to be heavy-

handed with it, but we also don't want people to take funds that were intended for the purpose of putting people to work or into training and not be training during that period. We want to avoid as much as we can the reserves that the prime sponsors tend to build up.

PHASING OUT TITLE VI

Senator CHILES. Mr. Secretary, I kind of find it hard to see the continued need for public service jobs and your reluctance to phase out title VI. Looking at the data released by your own Department, we see that State and local employment has continued to increase faster than the rest of the economy.

And if we subtract our public service jobs, which declined by 126,000 from January of 1979 to January of 1980, we find that State and local governments increased hiring out of their own funds, 357,000 jobs, or 2.9 percent, from January of 1979 to January 1980.

By contrast, the total jobs in the economy grew by 2.3 percent. So the economy is growing, but State and local government is growing even faster. So how do we justify continuing the countercyclical thrust when we are trying to come to grips with this kind of inflation and deficit that we have when the State and local government—they're growing faster than the general economy right now.

Secretary MARSHALL. I think the only way you can justify it in the first place, is that the hiring of people is very uneven around the country, as the growth is much greater in States where economic conditions are better than in others.

Also, title VI as well as title II–D serve the economically disadvantaged, people who are not likely to get those State jobs because they don't meet the civil service requirements.

One of the things that we hope is that by giving greater emphasis to training and work experience in our youth and other programs and requiring State and local governments to restructure some jobs. We can put some people to work doing things that need to be done in all of those places that otherwise wouldn't be done. This will be good for them and good for the country, as it was when we put the unemployed people to work.

I think the justification is that it's just a good investment if they select the kinds of things that need to be done. I think there's no shortage of those kinds of things that will not be done by regular State and local government employees.

For example, home health care programs relieve the burden on the Federal Government. The fact that you can take care of somebody in his home with a CETA worker is a lot cheaper than having that worker on welfare, and that patient institutionalized. So the Federal cost of that activity is a good bit less than if you didn't have the program.

With our weatherization program, we've helped the country with a number of different objectives. If you can use unemployed workers to weatherize the homes of low-income people, you not only help with the energy problem, because one of the greatest savings that can be made in energy is in weatherization and conservation. Some of our programs have been able to cut the fuel bills of low-income, elderly people in half for the winter.

Now, if you can do that, you improve their living conditions, and you also train people for a job that's going to be around for a good while. Our experience with these programs has been that people stay in that work for a year or so and then they go to work for a private contractor, and in that private work they continue to be weatherization workers. I think that's the kind of approach that we ought to take.

We no longer let them stay for any length of time on the State and local government payrolls. In fact, the 18-month limitation is one of the reasons for the declining enrollments.

We're phasing title VI down. We did that as unemployment went down, but the counterstructural part of the program is one that we need to continue regardless of the level of unemployment in order to be able to get people into the mainstream of the American economy.

So, I think you can justify it in human terms, but I think you can also justify it in terms of a good public investment. I think that there are not many businessmen who would pass up an investment like CETA. If you could show them the returns that we get on the CETA program and the alternatives that are available, they would see that it's a good investment, indeed.

CONTINUATION OF TITLE VI

Senator CHILES. Well, I think it's a good investment, like most appropriations bills that I vote for. I've never voted for a bad one. They're all good, and they all are going to help somebody.

But if you've only got so many dollars in the store, you sometimes have to determine which of those investments are the best kind of investments that you can make. And I think there are a lot of businessmen who would pass up this investment when the store is out of dollars. And that's been our problem.

And when we started with what was to be a countercyclical, temporary job program, we say we're in the height of a recession, so we're going to come up—we're going to have this title VI. We're going to help get out of this recession through this program.

Well, that was back in 1973 and 1974. Now we're talking about 1980. And we're still getting out of the program. And now, of course, it looks like we're not even talking about getting. And I think the Congress specifically said, "Let's get out."

Let's go to title II. Let's look at this hard-core group that have got to have special training. And if you want to train them for weatherization or anything else, you can train them there in title II. And let's go into that program, and let's get out of the temporary jobs program. But we're still in it.

Secretary MARSHALL. Well, what I read Congress as having said is that you would stay in it until you got full employment. We're not at full employment yet. The legislation provided for it specifically in title VI through a trigger formula intended to provide for jobs for 20 percent of the unemployed over a 4-percent unemployment rate in order to be able to meet part of the need for jobs as unemployment goes above 4 percent. We haven't reached that 4-percent level yet. It seems to me if you look at the options that are available to the unemployed,

the second best thing that can happen to them is to be in a public employment training program. The best thing is for them to be in the private sector in the regular economy. But I believe it's much better for them to be in a public employment training program than either on welfare or unemployment compensation.

Now, what we ought to do—and that's the reason we put so much emphasis on the private sector initiative—is to do everything we can to find people jobs in the regular economy. A good bit of the Department's priority efforts are in that direction. All of our welfare reform demonstration projects give heavy emphasis to the job-search activity in an effort to first find people jobs in the regular economy.

I think only after that should you use public employment and training. For the young people, I think you ought to give heavy weight to training and work experience in order to be able to get them into the mainstream and to coordinate that with the schools.

As expenditures go, the amount that we're spending for young people is, I think, a good investment.

I agree with you though. I was looking at the whole budget, and if I could find a better place to invest the funds that would have more impact on the problems that this country faces than putting it into CETA, I wouldn't put it into CETA. But I don't think you'll find that you'll be able to do more in reducing unemployment, overcoming inflationary pressures in the economy, relieving future skill shortages with any program that we've got than you will with CETA.

The CBO and other agencies have made that determination, too.

DEVELOPING JOB SKILLS THROUGH TITLE VI

Senator CHILES. Of the title VI program? I don't think we're getting any job skills. You know, in the title VI program I don't think, really, there's any studies that we've done of that program at all that have shown that we have developed job skills.

Secretary MARSHALL. What they do show is that title VI is a much cheaper way to reduce unemployment than anything else you would do other than getting people into the regular economy.

Senator CHILES. They do show, also, that you've got a disastrous record of taking people off of title VI, or saying they went from title VI to the private jobs and that they've been able to stay in that job.

Secretary MARSHALL. Well, it's getting better. I think the record has not been good enough. That's the reason we're placing emphasis on developing a private sector initiative. We are studying that very carefully. I believe that we have greatly improved the placement record. We've got a good technique for examining that. It's now about 60 percent 10 to 12 months after termination from the PSE job. And the placement rates for the youth programs are even higher than that.

Senator CHILES. Well, I am concerned that the continued emphasis on the public service jobs not distort the CETA program from its comprehensive service task. We're talking about training and supportive services that are at least as important for many of CETA's disadvantaged clients.

Do you intend to develop performance standards that will include

such measures like percent of trainees achieving acceptable work skills or something else which measures the outcome of training programs?

Secretary MARSHALL. Absolutely; this is one of the things that we learned.

Senator CHILES. At present those performance standards are just in terms of the number of placements.

Secretary MARSHALL. We want to change the performance standards for the agencies running the programs, as well as for the people who are in it. That's the reason, for example, in our proposal for the new Youth Employment Training Act, we will establish specific benchmarks that we expect that the people who are in the programs would meet. One of the most important findings we make is that many young people are being unable to read and write. Many don't have functional literacy even if they've been through many of the schools.

So one of the things we want to do is be sure that they have the reading and writing requirements to get entry level jobs. That's one of the things we've learned since 1977 with our experimental and demonstration projects.

PERFORMANCE BENCHMARKS

The second thing we learned is the point that you made. In talking with employers, they are concerned that there are no performance benchmarks. Our proposal now is to introduce those performance benchmarks, so you'll get more discipline in the programs. Employers who are hiring will know what has been achieved and what people have learned in the program. The person who's completed the program will have a certificate that will be meaningful. The way it is now it has not been meaningful. We recognize that as a serious defect.

The third main lesson that we learned is the need for basic education, the need for the benchmarking and performance standards, the need also to simplify the program as much as we could and to consolidate it. We've tried to do all those things with our new proposal.

Senator CHILES. Thank you, Mr. Chairman.

REQUEST FOR WORKER PROTECTION AND LABOR STANDARDS PROGRAMS

Senator EAGLETON [presiding]. Senator Schmitt.

Senator SCHMITT. Yes; Mr. Secretary, I'll suspect that you'll want to provide some information for the record, but you said in your testimony, on page 3, that you're requesting "increases for all of our programs, to protect workers on the job and involve implementation and enforcing labor standards."

Could you provide some expansion of that for the record as far as what those programs are?

Secretary MARSHALL. Sure.

Senator SCHMITT. And specifically, in that address the activities of the Office of Federal Contract Compliance programs.

I'll send you a letter that I wrote to Mr. Mitchell, Director of the Division of Corporate Policy for those programs, dealing with a regulation that they have proposed that basically says that office has the right to cancel deposit insurance for financial institutions if employment

practice violations are alleged. We would think that that is going a little bit far, and you probably do not have the statutory authority to do that. I'll give you a copy of that letter.

Would you also address specifically what does that statement in your testimony imply for various programs?

Secretary MARSHALL. We can get that for you.

Senator SCHMITT. Thank you.

[The information follows:]

WORKER PROTECTION AND LABOR STANDARDS PROGRAMS

A major portion of the Department of Labor's responsibilities involves implementing and enforcing labor standards and worker protection legislation. These responsibilities account for a large part of the Department's staff. These programs provide significant protections to the American worker in guarding against unsafe work places, in assuring payment of minimum wages, in combatting discrimination in employment, and in protection of pensions. The FY 1981 request contains increases for a number of these programs.

Labor-Management Services Administration

The appropriation for the Labor-Management Services Administration covers several worker protection areas including enforcement of the Labor-Management Reporting and Disclosure Act, the Employee Retirement Income Security Act, and other legislation dealing with veterans and employees in mass transit. The goal in fiscal year 1981 is to provide quality and timely programs in each of these areas, holding costs to a minimum, and increasing productivity. The Department's request for fiscal year 1981 is for 1,337 positions and $60.7 million, an increase of approximately $2 million from fiscal year 1980. There are no permanent position increases or decreases proposed for FY 1981.

- For the worker protection activities related to transportation grants, a 1980 supplemental for 12 additional staff is requested. These staff will enable this program to reduce backlogs and to handle increased workloads resulting from the small urban and rural program of transportation assistance.

- A 1980 supplemental for 44 temporary positions is requested provide support for litigation activities related to the Central States Teamsters case.

- $1.5 million is requested in a 1980 supplemental for microfiching the required reports by ERISA.

- For 1981, 25 temporary positions are being requested to continue work related to litigation activities in the Central Teamsters Case.

Employment Standards Administration

Our efforts to protect the wages of American workers will focus on improving our ability to respond to worker complaints under the Fair Labor Standards Act, Service Contract Act, and Davis-Bacon Act. Over 900,000 workers are expected to be directly aided as a result of these enforcement programs. The Employment Standards Administration will continue to emphasize the Administration's efforts aimed at employers of undocumented workers through enforcement of the Fair Labor Standards Act and the Farm Labor Contractor Registration Act. In addition, we are employing a strike force concept in several areas of the country to combat particularly exploitive situations and "sweatshop" conditions involving undocumented and other low wage workers who are unwilling to use or are unaware of the protection available to them.

The Federal Contract Compliance program will continue its efforts to ensure that Federal contractors do not discriminate in the

hiring and promotion of applicants and employees, and to take affirmative action in the recruitment and promotion of minorities and women where these groups are under-represented in the contractor's workforce. Under the 503 and 402 programs, qualified handicapped persons and disabled veterans are likewise protected against individual acts of discrimination.

- ESA will continue in 1981 to utilize a three-part enforcement strategy, including complaint response, directed investigations, and public information for the Fair Labor Standards Act (FLSA), Service Contract, and Davis-Bacon Acts. About 900,000 workers are expected to be directly aided as a result of these enforcement programs.

- About 700,000 migrant and seasonal farmworkers will be protected under the Farm Labor Contractor Registration Act program. ESA will continue its undocumented worker enforcement efforts under FLSA and FLCRA with the aim of reducing the economic incentive to hire such workers.

- The Federal Contract Compliance program is slated to receive funding increases, both in a requested FY 1980 supplemental and in the 1981 budget, to develop automated data processing capability in the construction industry enforcement program. This increase will further enhance OFCCP's management of its enforcement of equal employment opportunity for minorities, women, veterans, and handicapped persons in the Federal contract workforce.

- In the Workers' Compensation Programs, a FY 1980 supplemental and a 1981 budget increase are requested for enhanced automated data processing capabilities in the Federal Employees' Compensation Act (FECA) program. The increase will result in faster and more accurate claims processing.

- A 1980 supplemental of $494 million in additional budget authority is being requested for the Black Lung Disability Trust Fund due to a greatly increased claims approval rate. For 1981, $933 million is being requested for Black Lung Benefits.

Occupational Safety and Health Administration

OSHA's enforcement efforts for 1981 are planned to result in 198,400 State and Federal inspections, in establishments employing nearly ten million workers. This is an increase of 15,500 inspections over 1980 activity. No new positions are sought for FY 1981. Nearly half of the requested increase is to cover the higher cost of current operations which will be carried forward into 1981.

OSHA's 1981 request for its compliance assistance program will total $41 million, an increase of $9 million over the 1980 level. Key increases in this compliance assistance effort are:

- The "New Directions" program of training grants for labor unions, trade associations, educational institutions, and other non-profit organizations, will be continued with an additional $2.9 million. These grants aid recipient organizations to develop an internal capability to provide occupational safety and health training to their own constituencies.

- In the occupational safety and health consultation program operated by States with Federal matching funds, a $4 million increase will be sought. This increase will allow States formerly funded on a 50/50 matching basis to convert to a 90/10 basis. With the increase, total funding for this effort will be $23 million, with an estimated 26,000 consultative visits provided nationwide.

An increase of $4.7 million is provided in the Safety and Health Standards program and in the Technical Support activity to support activities related to simplification and clarification of standards and for analysis of proposed new health and safety standards. One million of this amount will support identification, classification and evaluation activities for the OSHA cancer policy. Development of the cancer policy will assist the prevention of occupationally related cancers through the reduction of worker exposure to cancer-causing agents.

Mine Safety and Health Administration

In 1981, the Mine Safety and Health Administration will continue to work to achieve a safe and healthful environment in the Nation's coal and other mining operations. The request for $156.7 million is an increase of $12.6 million over the 1980 level.

MSHA enforcement plans for 1981 call for the conduct of 21,140 complete inspections in the coal industry, and 23,200 complete inspections in metal and non-metal mines. 69,000 other inspections and investigations will be conducted.

With the goal of consolidating and improving its technical support operations, MSHA is requesting a $7.25 million increase. This request has two main elements:

- $6.5 million of the request will allow for consolidating approval and certification activities, and testing laboratories at Dallas Pike, West Virginia. These functions are now performed in separate, and temporary facilities.

- An additional $1 million will allow the purchase of the Eastern Mine Emergency Operations Center at Hopewell, Pennsylvania.

Bureau of Labor Statistics

The Bureau of Labor Statistics is the major source of data on the labor force, wages, and prices for employers, employee organizations, and State, local, and Federal government planners and advisors. The FY 1981 request is designed to continue its production of regular statistical series and analytical output.

- The Bureau is requesting $2.6 million in additional funds for continued improvement and revision of the Producer Price Index, the International Price Index, and in productivity measures.

Departmental Management

Departmental Management responsibilities cover a variety of programs ranging from international labor affairs, legal services, and audit/investigations to administration, management, and special areas of concern such as the Women's Bureau activities.

- Major emphasis continues to be placed on the elimination of fraud, waste and abuse in Departmental programs. An increase of $1.8 million is being requested for the Office of Inspector General to enhance these efforts. These resources will be utilized in conducting additional contract audits of CETA grantees.

- Additional workload generated by the 1978 CETA amendments and increasing wage-hour caseload necessitate additional resources in our adjudicatory and legal services functions. Thirty-five additional positions are being requested in 1981 to handle this increased workload. In addition, 26 new positions are requested for adjudicatory functions to handle increasing FECA workload.

- Increased efforts at providing well balanced programs and initiatives aimed at working women are reflected in the additional resources requested for the Women's Bureau.

- Finally, for FY 1980, the Department is requesting a $2.2 million supplemental in order to permit the Minimum Wage Study Commission to conduct research on mandated topics so that its report can be submitted to Congress and the President by mid-1981.

U.S. Department of Labor
Comparison of Budget Authority
FY 1976 and FY 1981
(In millions of dollars)

Worker Protection and Labor Standards:	FY 1976	FY 1981	Increase	Percent Increase
Labor-Management Services Administration.....	$ 46	$ 61	$ 15	
Employment Standards Administration (Salaries and Expenses.....	87	179	92	
Occupational Safety and Health Administration.....	117	212	95	
Mine Safety and Health Administration (Department of Interior/1976).....	84	157	73	
Bureau of Labor Statistics.....	66	107	41	
Departmental Management*.....	38	119	81	
Total, Worker Protection and Labor Services.....	438	835	397	90.6

* Budget Authority excludes trust fund amounts transferred from the Unemployment Trust Fund.

PROPOSAL TO DELETE OSHA AMENDMENT

Senator EAGLETON. Senator Schweiker.

Senator SCHWEIKER. Thank you, Mr. Chairman.

Mr. Secretary, I'd like to ask you about your proposal to delete the Schweiker amendment on OSHA from the fiscal year 1981 bill. You might recall that this was a compromise on an amendment which Senator Church proposed which would exempt some 30 million small businesses from OSHA.

My compromise preserved OHSA authority to deal with health hazards, serious safety problems, employee complaints, imminent dangers, willful violations, employee discrimination, serious accidents, and the like.

My question is: Can you give me examples of small businesses OSHA wants to inspect that, in fact, we can't inspect under the Schweiker amendment now in fact?

Secretary MARSHALL. I can ask the OSHA people to supply that.

Let me say, in a general way though, that we obviously will always have to do some targeting. We will never have the resources through inspections alone to carry out the mandate. We've got 4.4 million firms that we have to be responsible for, and we believe we've been doing that.

We have targeted the enforcement. We've tried to improve the efficiency of that whole system by eliminating regulations that were not important and by simplifying the rest, and by concentrating the remaining resources we have on more advantageous areas.

I think the problem we have with the exemptions is that there is a significant difference between probably not getting inspected and knowing that you will not be inspected in your performance. I think the difference is very significant.

[The information follows:]

HIGH-HAZARDS BUSINESSES EXEMPTED BY SCHWEIKER AMENDMENT

Under the Schweiker appropriations amendment, a number of standard industrial classifications (SIC's) are exempt that OSHA might otherwise schedule for inspection. For example, five industrial classifications that include serious problem areas such as grain elevators and handling facilities are exempt. Business services are also exempt. Although OSHA does not generally inspect firms in this SIC, there are a few types of businesses within this grouping, such as building window washers, which can be extremely hazardous. Also exempt are industries such as petroleum refining and industrial inorganic chemicals.

Generally these industries have low-injury rates, but when accidents do occur, they can be very serious. Under the SIC system, establishments care categorized according to their major activity; thus firms can be in low-injury rate SIC's but still have certain operations which are very hazardous. It can be shown that injury and illness rates can vary just as widely within an SIC as they do between SIC's. Furthermore, firms are sometimes identified in the wrong SIC. For the past 3 years, it has been OSHA's clearly articulated policy not to inspect low-injury rate industries. These discrepancies can easily be resolved when the agency has the administrative discretion to do so, but when the strict interpretation of SIC codes is used to grant a legal exemption, then many employees would lose the protection offered by OSHA's selected inspections of high-hazard work environments.

GENERATION OF OSHA INSPECTIONS BY COMPLAINTS

Senator SCHWEIKER. Well, Mr. Secretary, my amendment to the statute says that if the employee complains, the workplace will be inspected. So how do you know you won't be inspected?

Secretary MARSHALL. You know unless somebody complains you won't be inspected.

Senator SCHWEIKER. If you have a risk or hazardous problem, OSHA has the right to inspect you.

Secretary MARSHALL. There are places we do find, as a general rule, there's a high correlation between where you get the complaints and the degree of hazard. But what we also find is that many employees in this society are afraid to complain. These tend to be the ones who are likely to have the most difficult conditions.

For example, we found that where a lot of undocumented workers are being used, they are afraid to complain because they'll be deported from the country. And yet those might be very hazardous places, both for them and for other workers who are on the job. But it makes it very difficult to maintain the standards. That's one of the reasons that we have not relied exclusively on complaints as we tried to use directed enforcement to go into those kinds of circumstances.

And I'll have to say that our directed enforcement activity has found significant violations of the law in those places.

EXEMPTIONS UNDER THE OSHA AMENDMENT

Senator SCHWEIKER. Of course, my amendment doesn't exempt the hazardous places, Mr. Secretary. My amendment specifically says that they must be in a standard industrial classification code having an illness and injury rate less than 7 per 100 employees.

Secretary MARSHALL. There's a difference between exempting hazardous industries and existing hazardous firms. There are no numbers available that we know of that can make it possible to predict in a firm what the accident rate is going to be, because you get great variation within those SIC codes in the firms within a given industry.

Senator SCHWEIKER. I'm not sure you're really familiar with my amendment, Mr. Secretary, because the first exemption gives you the authority to do just the thing you say you want to do.

No. 1, under my amendment it says, "except to take any action authorized by such act with respect to any employer, or group of employers, within such categories whom the Secretary determines to be engaged in an activity involving very substantial occupational hazards."

Secretary MARSHALL. If we can do all that we do, the real question is why you have an amendment.

REASONS FOR DELETING OSHA AMENDMENT

Senator SCHWEIKER. The question is why do you want to knock out the amendment, when in fact you haven't come up with any specific power or authority that you need that you don't have in my amendment.

Secretary MARSHALL. As you say, I haven't examined it in great detail. I will give you a written reply, but it seems to me that, in the first place, if there is an amendment, one of the problems that you have is the possibility of greatly increased litigation, people who say that we don't have the authority to go in because of the amendment. And that would make it very difficult for us to continue the path that we're trying to follow now, which is to reduce litigation and to reduce a lot of paperwork, and to have as much flexibility as we can.

I guess the way I would conclude it would be to say I really don't see the need for an amendment. I don't see the problem that it solves. I don't see that it does anything that we are not now already doing. And I think that the possible increased paperwork and litigation that we might get involved in, as well as loss of flexibility in our operations, would make it difficult for us.

IMPACT OF OSHA AMENDMENT ON LITIGATION

Senator SCHWEIKER [presiding]. Of course, as you know, you've got plenty of litigation without my amendment.

Secretary MARSHALL. But I'm afraid that with it there will be a lot more.

Senator SCHWEIKER. Have you any specific cases of litigation this year that you can cite, which are the result of my amendment?

Secretary MARSHALL. I can check that. I don't have it right off the top of my head.

[The information follows:]

OSHA LITIGATION RELATED TO SCHWEIKER AMENDMENT

The provisions of Senator Schweiker's amendment have already been raised in OSHA litigation. When OSHA compliance officers seek to enter an employer's premises to conduct an inspection, employers, at that point, refuse entry on the grounds of exemption under the amendment. Such a refusal necessitates OSHA's having to obtain a warrant (Example cases are: *Royal Court Furniture Inc.* (D. Idaho C.A. Me 2196); and *D & D Log Mill Inc.* (D. Idaho C.A. MS 2211)).

Subsequently, in the context of contested citations, employers are also raising the provisions of the amendment (Example cases are: *Pyramid Steel* (OSHRC Docket No. 79-583); *Metropolitan Packaging Mfg. Co.* (OSHRC Docket No. 79-5413); and *Universal Office Equipment Co.* (OSHRC Docket No. 80-0491)).

While the amendment has been in effect for only about 5 months and so far there has been a limited number of actual cases, we can, based on past experiences with employer defenses, reasonably predict that the number of cases involving the rider will substantially increase in the future.

AFFIRMATIVE ACTION CASE IN CONSTRUCTION

Senator SCHWEIKER. Well, going back to your other argument that, you know, if you're not doing these things, why do you have to be told not to do these things, I think it leads me into my next case. You and I have corresponded on what I think is the most absurd example of Government regulation that I've ever seen, where a small government contractor had only three employees, no office and no secretary, and, including employees of subcontractors, he had a total of 11 people on a Government contract. A compliance officer from your Office of Federal Contract Compliance Programs cited this contractor for failure to meet his affirmative action guideline of 5-percent female laborers.

Now, a little arithmetic tells me that because there were four laborers on this one contract, 5 percent of this is two-tenths of a female. Now, they threw the book at him because he wasn't employing two-tenths of a female. This is exactly my point in the first question, which is, when you have these things on the book, somebody always finds a way to harass and make absurd a program that I'm sure was never intended to look for two-tenths of a female. Yet that's exactly what OFCCP did, Mr. Secretary, and got into quite a hassle about it.

Secretary MARSHALL. Let me say that I think under all circumstances you might have people who would abuse their authority. I'm not sure it was done in this case, but it's certainly possible. But let me emphasize that in the first place, this is a very old program. It goes back to World War II. It has evolved, I think, through time into a fairly effective program. I think nobody should be throwing the book at anybody who made a good faith effort to meet whatever goal was there and whatever they agreed to do, when they signed the contract in the first place. Nobody forced this person to go out and get a Government contract. And when you enter into any contract, you agree to do certain things. One of the things you agree to do is to not discriminate because of things unrelated to merit and productivity.

I think that if there's a problem, then a better way to handle it is to look at the case and try to simplify it, if we can, and we try to do that with small employers in all of our programs. We try to give them as much technical assistance as possible, to simplify and in many cases eliminate paperwork entirely. As long as I am Secretary of Labor nobody is going to throw the book at anybody for not meeting a goal, because the goal is not a quota.

The only thing you have to do is make a good faith effort to do what you've contracted to do. Now I don't deny that I've seen too many cases of it. I'm working hard to try to be sure that we don't do that. Local field people get carried away. The only thing I can say is that we will do everything possible to try to train people and to take disciplinary action against people who abuse their authority. I think that's the best way—the only way we can deal with it, or if what we're doing with small employers doesn't make sense, as we've concluded with OSHA, for example, where we're eliminating all the paperwork for small employers, hence to give them as much help as we can through our regular people. I think it makes sense for us to try to do that.

Senator SCHWEIKER. Well, as I'm sure you probably recall, they did throw the book at this guy. They sent him a 10-page conciliation agreement with 43 compliance and paperwork steps to try to employ two-tenths of a female. What sense does that make? Why spend the resources and our energies in these areas? Why don't we arbitrarily cut off when we're dealing with less than half a person? You know, why do we enforce these?

Secretary MARSHALL. It seems to me you said he had 11 people.

Senator SCHWEIKER. No; he was only charged with a violation applying to four people working in the craft classification of laborer because he didn't have two-tenths of a female. He wasn't charged for anything else. He had no office and no secretary. He was told to post

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notices of picnics and have segregated toilets. He doesn't even have an office. So much of this is just patently ridiculous.

AFFIRMATIVE ACTION REQUIREMENT

Secretary MARSHALL. Well, as I say, I think the only requirement that we have any legitimate reason to impose is that he make a good faith effort. If he said he would try to hire women when he got the contract, he should try to hire women. And it doesn't mean that anybody has the right to cancel a contract simply because you don't hire them. I believe that we do have to use commonsense and say, "Did you really make a good faith effort to do it?"

WOMEN IN CONSTRUCTION

Senator SCHWEIKER. Well, how many women laborers do we have? What percent today of the work force are women laborers? This is a laboring classification now, woman laborer.

Secretary MARSHALL. I can give you the exact figure, but about half of our work force now are women.

Senator SCHWEIKER. No, no, no. This is construction laborers at a building site, Mr. Secretary. Nowhere near half.

Secretary MARSHALL. One of the reasons, of course, that we've got the requirement is because there aren't many, and the women's groups want to establish timetables on the grounds that we have established effective goals and timetables for other affected classes. Therefore, in an area in construction where there were not very many women, this was prima facie evidence in the minds of a lot of people, in fact, that people had been discriminated against. The fact that they didn't have them doesn't mean that they couldn't get them.

We are increasing female participation not just in labor, but as electricians, plumbers, and sheet metal workers.

Senator SCHWEIKER. I would understand that, Mr. Secretary, if some woman had applied to this contractor and had been turned down. Then I would think everything you said made sense, but that's not the case. He didn't have two-tenths of a female, so he had to sign this conciliation agreement, and do 43 things from now on until you let him off the hook.

There's a whale of a difference, and I'm sure the intent of the program was to protect someone from being discriminated against in terms of being rejected or turned down.

Secretary MARSHALL. No; it is not. The intent of the law is that the employer practice affirmative action. And affirmative action does not mean——

Senator SCHWEIKER. How does the hiring of two-tenths of a woman further affirmative action goals?

Secretary MARSHALL. You can hire two-tenths of a woman. You can hire a woman for part-time, if that's what he agreed to do. Why did he say that before he signed the contract?

Senator SCHWEIKER. First of all, if he doesn't have a secretary, if he doesn't have an office, I think he'd have trouble even reading the con-

tract. If the compliance contract is 10 pages, I'm sure he had trouble even reading the contract.

Secretary MARSHALL. It makes me wonder what he was doing for the Government.

ENCOURAGING SMALL BUSINESSES TO SEEK GOVERNMENT CONTRACTS

Senator SCHWEIKER. How do we get small businesses to work for the Government? Must everybody be General Motors, Mr. Secretary? Must you have a lawyer or an expert to read the contracts? You are going to put small businessmen out of business then, if you get this "gotta read this," "gotta do that." What's the Office of Small Business for, and what's the advocacy of the small business representatives for?

Secretary MARSHALL. I think that as I've mentioned before, our people have an obligation to help small business meet the requirements of the law.

Senator SCHWEIKER. You sure don't show it, Mr. Secretary.

Secretary MARSHALL. We've attempted to do that with our programs by having special conferences for small business, special materials for them, even waiving a lot of requirments for them. And I believe that it's important for us to continue to do that.

Senator SCHWEIKER. Why don't we consider some kind of an exception for a small company, like you say in practice you're doing in OSHA?

Secretary MARSHALL. Well, you're not exempting them. There's a difference between exempting them from the law and exempting them from filling out all the same paperwork that you would require from a large corporation. The reason that you don't exempt people from the law is because I don't know if people feel any better about being discriminated against by a small businessman.

Senator SCHWEIKER. How does two-tenths of a woman feel discriminated against, Mr. Secretary? I have trouble with that.

Secretary MARSHALL. Well, women feel that if you had five such people, they should hire a full-time woman, make an effort to at least get a woman started. If you're in the construction business, you don't hire two-tenths of a woman, but you can hire two-tenths of a full year's work for a woman. That means you'd get two-tenths. It wouldn't be hard in the construction industry where it is usual to get somebody working that amount of time for you. Especially if you've got a total work force of 11 that you're drawing from.

Senator SCHWEIKER. He only had three. He subcontracted out. He only had three that he was drawing from, and they knew that.

Secretary MARSHALL. He should have, when he signed his contract, said that this is unreasonable. I can't meet that requirement. Just like anybody else who signs a contract. I assume that somebody who enters into a contract of that magnitude can read a contract and understand what they're signing. And nobody forced him to go and take that contract.

CONTRACT PROVISIONS

Senator SCHWEIKER. Did the contract say he had to employ two-tenths of a female?

Secretary MARSHALL. No.

Senator SCHWEIKER. I am sure it didn't. No contract would be that ridiculous.

Secretary MARSHALL. You establish whatever goals and timetables you've agreed to at the outset when you sign the contract. So I'd have to look at the particulars in that case and see what the contractor agreed to sign.

Senator SCHWEIKER. The contractor had to agree to comply with the rules, including 5 percent women. And 5 percent of 4 is two-tenths of 1 woman. That's what he agreed to, and it would be a little bit unreasonable to assume that they were going to beat him for not employing two-tenths of a woman; would it not?

Secretary MARSHALL. Unless he could show that he could make a good faith effort to do it, it was not unreasonable.

Senator SCHWEIKER. If you have three people, and you need two-tenths of a woman, what do you do? Do you fire two-tenths of a man?

Secretary MARSHALL. I assume that if you're in the construction business that you don't have—that it is a casual occupation and it's quite possible to hire people part-time.

Senator SCHWEIKER. But it's possible, but how many want to work part-time, and how many are there?

Secretary MARSHALL. There are a lot of people who want to work part-time, and there are a fair number of them. In fact, according to my information the contract was for 11 people, not three.

Senator SCHWEIKER. You're wrong, Mr. Secretary. You've been misinformed. The total contract was for 11 people, but the part that he violated, the part that he violated the affirmative action program was only for four, that's all. That's all he's charged with. The total contract was for 11, but they went after him for four people, and that's the violation he was charged with. It had nothing to do with the rest of the 11. And it's two-tenths of a woman involved here. No wonder people look at me when I go back home and say "What the devil is our Government doing?" You know, how ridiculous can they get? No wonder we're treated back home as if Government doesn't know what it's doing and doesn't care and just seems to pummel all the people in the wrong places. No wonder we've lost credibility with people.

LOSS OF CREDIBILITY

Secretary MARSHALL. I don't believe we've lost credibility——

Senator SCHWEIKER. I believe we have.

Secretary MARSHALL [continuing]. I don't believe we've lost credibility with a program that has been responsible for reducing discrimination against people. In the history of this country as any other, now there are always people who are going to lose by the change who resist it. But I don't believe if you look at the minorities in this country and people who have been discriminated against because of things unrelated to their merit and productivity, that they would say that the Federal Government has not done a good job.

Senator SCHWEIKER. I think they have on the bigger concept and in the bigger programs. Everything you said is correct, but it's certainly

not true when you're dealing with the small contractors who are supposed to employ two-tenths of a person. That's a ridiculous part of the program.

Secretary MARSHALL. Well, it might be, but I think, as I say again, I don't believe people ought to enter into contracts, unless they intend to carry them out.

Senator SCHWEIKER. And one other thing, this was not a discrimination case. He was not charged with discrimination. It was an affirmative action goals program that we set up to get two-tenths of a woman. Now doesn't that tell you something's wrong about getting our goal for two-tenths of a woman?

Secretary MARSHALL. He has the right under the system to protect that, and I assume he did. That's the way it got here.

Senator SCHWEIKER. Does he hire a lawyer for three people, Mr. Secretary? Do they make a guy go bankrupt just to engage a lawyer to deal with you folks?

Secretary MARSHALL. He doesn't have to go bankrupt.

COMPLIANCE ORDER

Senator SCHWEIKER. Sure he would. Lawyers charge enough to throw a three-employee guy out the window. That's where you put the small businessman, right out the window and throw it all to big business. They can comply with all these regulations.

Secretary MARSHALL. What we've tried to do with this program in particular is to get administrative relief, so that you don't have to get a lawyer and go to court in order to have a hearing. I think he did complain to our regional people, in fact, and you don't have to have a lawyer to do that.

Senator SCHWEIKER. He complained, and all they did was send him a letter with 43 septs to comply with.

Secretary MARSHALL. He didn't complain about that.

Senator SCHWEIKER. Yes; but it didn't do him any good. He's still under a compliance order, so it didn't do him any good.

You know, it just seems to me, here we talk about cutting budgets, about focusing resources, and yet we spend our time finding out that this guy with three employees and no secretary and no office didn't hire two-tenths of a woman, and we're ready to go down to the sea in ships to fight that case.

Secretary MARSHALL. I'm not; you seem to be more inclined to do it than I am.

Senator SCHWEIKER. It was your employee that was willing to do it and that signed the agreement and that raised the hassle. If he'd let him off the hook, we wouldn't even be discussing this here. I wrote a very nice letter to try to get this straightened out, and you rejected it. Do you want me to read the letter back to you? You told me that we just couldn't do this kind of thing. You know, I'd like to put this in the record. I gave us a chance to get off the hook and get out of it. You gave me a three-page letter why you couldn't do this kind of thing, and you had to go ahead and proceed just as we are.

[The letters follow:]

LETTER FROM SENATOR SCHWEIKER

NOV. 28, 1979.

The Honorable F. Ray Marshall
Secretary of Labor
Washington, D.C. 20210

Dear Mr. Secretary:

I seek your assistance in eliminating a complex of unnecessary and overburdensome government regulation concerning compliance by small business government contractors with affirmative action employment requirements under Executive Order 11246.

A constituent of mine, who operates a sole proprietorship, was the recipient of a government construction contract which included federal affirmative action requirements. This contractor employs a total of three people, one carpenter and two laborers. He has no secretary, no office, and no other employees. On the contract in question, a total of 11 workers were employed, the contractor's three, two electricians of the electrical subcontractor, two plumbers of the plumbing subcontractor, two painters of the painting subcontractor, and two laborers of the flooring subcontractor.

A Labor Department review of this contractor's employment practices concluded he had failed to meet his quota of 5% females employed in the craft classification of laborer. Assuming this contractor would not have been expected to employ an individual who is two-tenths female, the deficiency boils down to the contractor's failure to employ one female among the four laborers.

As a result of this deficiency, the employer was told he must either defend a legal action to disqualify him from federal contracting or sign a "conciliation agreement." Recognizing the obvious mismatch of him against the government, he chose to sign.

The agreement is ten pages long. It cites 17 separate deficiencies, mostly-dealing with failure to undertake various mechanical steps deemed necessary to demonstrate an effort to meet the affirmative action quota. It also spells out numerous "corrective measures" the contractor must take in order to keep his government contract. Included in these "corrective measures," I have counted forty-three separate requirements for affirmative actions he must undertake and for paperwork he must maintain. For your information, the things the Labor Department has told this businessman to do and the records he has been told to keep to prove his obedience are as follows:

(1) maintain documentation of good faith efforts to employ 1 woman laborer for every 20 employees;

(2) maintain documentation that all foremen maintain a working environment free of harassment;

(3) maintain a current listing of recruitment sources for minority and craft workers;

(4) maintain copies of letters to recruitment groups specifying employment opportunities;

(5) maintain records of all responses received to letters to recruitment groups;

(6) maintain a separate file for every recruitment group contacted;

(7) maintain a file of names, addresses, telephone numbers, and craft of minority and women applicants and a record of what action was taken with respect to each, including reasons why any applicant was not hired;

(8) maintain written records of contacts (written, telephonic, or personal) with minority and women's community organizations and recruitment sources, and schools and training organizations;

(9) maintain copies of letters sent to community organizations, recruitment sources, schools and training organizations at least one month prior to acceptance of applicants for training, describing openings, screening procedures, and tests to be used in the selection process;

(10) maintain copies of diaries, telephone logs, or memoranda indicating contacts with minority and women employees requesting assistance in recruiting other minorities and women;

(11) maintain records of results from contracts under #10;

(12) maintain records of contractor's contributions in cash, equipment, or personnel to Labor Department sponsored training programs;

(13) maintain records of hiring of minorities and women from Department of Labor sponsored training programs;

(14) maintain copies of letters to minority and women recruitment sources informing them of Labor Department training programs;

(15) maintain a written equal employment opportunity policy, including identification of contractor's EEO officer;

(16) include EEO policy in company policy manuals;

(17) post a copy of the EEO policy at all job sites;

(18) maintain documentation that EEO policy has been discussed with every minority and woman employee;

(19) maintain documentation that EEO policy has been discussed regularly at staff meetings;

(20) have copies of newsletters and annual reports that include the EEO policy;

(21) have copies of letters to unions and training programs requesting assistance in meeting EEO duties;

(22) have copies of letters at least every six months or at the start of every new major contract to all recruiting sources (including labor unions and training programs) stating EEO policy;

(23) maintain copies of advertising with EEO statement;

(24) maintain copies of letters to all subcontractors and suppliers requiring compliance with EEO policy;

(25) maintain records of annual reviews of minority and female employees for promotional opportunities;

(26) maintain records of encouragement of minority and female employees to seek promotions;

(27) maintain records of annual review with supervisory personnel of affirmative action obligations, including identification of time and place of meetings, persons attending, subject matter discussed, and disposition of subject matter;

(28) maintain certifications that testing, interviewing, and selection procedures meet government guidelines;

(29) maintain documentation that the EEO officer reviews all monthly workplace reports, hirings, terminations and training;

(30) have a written job description for EEO officer including duty to monitor all employment activities for discriminatory effects;

(31) maintain documentation that corrective action has been taken whenever the contractor finds a possible discriminatory effect;

(32) include in all subcontracts and purchase orders a government "Certification of Nonsegregated Facilities";

(33) maintain records that parties and picnics have been posted and available to all employees;

(34) maintain records of contacts with supervisors to insure privacy between the sexes with respect to toilets and changing facilities;

(35) maintain records of all contacts from minority or women subcontractors;

(36) maintain records of assistance provided to minority or women subcontractors in preparing price quotations;

(37) maintain records of all minority or female subcontracts awarded, with dollar amounts;

(38) maintain copies of solicitations to minority or female subcontracts for project bids;

(39) submit reports to the government regarding EEO activities;

(40) maintain records for each employee of name, address, telephone number, trade, union, social security number, race, sex, position, dates of change in position, hours worked per week, rate of pay, and locations of work;

(41) file with the government monthly employment utilization reports;

(42) file with the government a quarterly report of minority and female applicants, job offers, new hires, terminations, and layoffs;

(43) submit a report to the government stating the date when each of the above requirements was complied with.

Mr. Secretary, I understand that the government has a legal right to attach strings to the awarding of federal contracts. But to tie this avalanche of paperwork to a three-employee firm which failed to meet its quota of one female employee is stupefying. This wheel-spinning does nothing to advance the government's overall program, is an extraordinarily wasteful use of government resources, and is inconsistent with clear Congressional policy of increasing utilization of small business for government contract work. If real people, real time, and real taxpayers' money were not involved, this bureaucratic paper shuffle would be amusing. But it is not amusing, and, in my opinion, immediate corrective action is imperative.

Therefore, I propose that you immediately exercise your Executive Order 11246 authority (under section 204) to waive the applicability of the affirmative action requirements to any employer with fewer than 25 employees (including all employees of the contractor plus the subcontractors' employees involved in the contract). In addition, I strongly suggest that you initiate a thorough review of the program to determine if further revisions in coverage are desirable and if the mind-boggling amount of paperwork can be reduced for all contractors.

The change I propose would focus the government's enforcement program where it will more likely achieve appreciable results and would be entirely consistent with the President's espoused objective of reducing unnecessary government regulation and paperwork. I hope you will give this your careful attention. Enclosed for your information is a copy of the concilation agreement referred to above.

Thank you for your consideration. Please advise me of your thoughts on this matter.

Sincerely,

Richard S. Schweiker
United States Senator

LETTER FROM SECRETARY MARSHALL

FEB 4 1980

Honorable Richard S. Schweiker
United States Senate
Washington, D. C. 20510

Dear Senator Schweiker:

Thank you for your letter of November 28, 1979, in which you described the difficulties one of your constituents had in complying with the regulations of the Office of Federal Contract Compliance Programs (OFCCP). I apologize for the delay in responding. Although you did not identify the constituent and the conciliation agreement attached to your letter did not include the contractor's name, I believe you are referring to the Dante Construction Company (hereinafter "Dante").

Dante is a Federal contractor with Federal contracts in excess of $800,000 to do renovation work for the Department of Defense at the Philadelphia Navy Yard. These contracts were entered into between August, 1978 and April, 1979. As you are aware, the Navy Yard is located in South Philadelphia, in an area which has a very high concentration of available minority group persons and non-minority women, and the workforce at this location is highly visible to the community.

All covered contractors who have Federal contracts or subcontracts in excess of $10,000 are required to submit monthly Employment Utilization Reports, Form CC257. This report shows the number of hours worked in the covered area for both its Federal and non-Federal work.

Dante was notified of this requirement during the bid process and upon award of its contracts. However, no reports were submitted by Dante until it was notified that it was in violation of its contractual obligations by OFCCP's Philadelphia Area Office. When Dante reported in January, 1979, for the months of October, 1978 and November, 1978, it reported "No Activity". Thereafter, no other reports were submitted. Under normal circumstances,

a 30-day "Notice to Show Cause" would be issued for failure to report.

In view of the high dollar volume of contracts held and the highly visible location of the projects, the Area Office Director of our Philadelphia Office elected to assign a staff person to conduct a compliance review. Usually, we schedule compliance reviews of contractors who report 8,000 or more hours of work during a month's period. Had Dante been reporting, it would not have been scheduled for a review.

The review occurred in June, 1979, at the Navy Yard facility. The contractor requested that the meeting take place at this location rather than in its office. He further indicated he would bring all of the necessary records. (These are described in the Standard Federal Equal Employment Opportunity Construction Contract Specifications (41 CFR 60-4.3), which are a part of all Federal construction contracts.)

I have directed the OFCCP to make sure their compliance officers adhere to less burdensome and more helpful procedures in situations similar to Dante's. Also, I have directed OFCCP to have a compliance officer contact Dante and offer technical assistance.

Although I believe that OFCCP's experience with Dante is an exception to normal OFCCP operations, I share your concern that small contractors should not be confronted with unnecessary and overburdensome government regulations. However, the situation we face in OFCCP with construction work is not stable and neither are the contract dollars awarded for a given contract. Employment in the construction industry is so fluid that very few contractors maintain a crew of 25 permanent employees. Most contractors' workforces fluctuate, sometimes greatly, with the dollar volume of work and with the seasons, thus making it almost impossible to utilize the number of employees as a basis for determining coverage. Further, the prime contractors' and subcontractors' employment activity must be considered separately, since they individually are responsible for their own employment practices.

The OFCCP is making progress in reducing paperwork requirements, such as the abbreviated review

mentioned previously. Continued paperwork reductions and increased technical assistance will, in my view, relieve the regulatory burden on small contractors such as Dante, yet protect the integrity of this vital program.

Thank you for bringing this matter to my attention. It has been helpful to me in assuring that our programs are administered in a reasonable manner. If I may be of further assistance, please let me know.

Sincerely,

Ray Marshall

Secretary of Labor

RECOURSE TO COMPLIANCE ACTION

Senator SCHWEIKER. So you know, I gave you the opportunity to get out of it, and it seems you want to fight the case. So what do I do but represent my constituent, whom I feel has been grossly mistreated. And also grossly singled out for harassment.

What do you recommend I do? I mean your office won't give an inch on it. What do I do? What's my recourse here? What's my remedy?

Secretary MARSHALL. What I'll be sure we do is we'll be sure that what our person did was not to harass, that that person did not exceed his authority, and that we give every chance that we can to help this person comply with the contract that he signed.

Senator SCHWEIKER. How can he get two-tenths of a woman? Will you tell me that? I have trouble. I really do. How does he get that?

Secretary MARSHALL. He can hire one woman, two-tenths of the time.

Senator SCHWEIKER. Does he fire one man?

Secretary MARSHALL. He doesn't have to fire anybody.

Senator SCHWEIKER. I don't know how else he can do it. You're asking him to increase his employment force 33 percent, a 33-percent increase. I can't believe he can handle that too well.

You know, there's a realistic problem here. Rather pragmatic. And we seem to be up on cloud nine with some grandiose scheme that just doesn't work at the lower level.

Secretary MARSHALL. I believe affirmative action can work at any level. It might well be that this person if he makes a good faith effort to meet his contractual obligations, that that's all that was required of him.

Senator SCHWEIKER. How many other people are there like this out there?

Secretary MARSHALL. That's the first one I've heard of.

Senator SCHWEIKER. It just sort of makes me wonder.

Secretary MARSHALL. There are a lot of people who don't like to comply with affirmative action programs, but I don't know how many people who complain——

Senator SCHWEIKER. Are there are a lot who don't like to comply by hiring two-tenths of a person?

Secretary MARSHALL. I've never heard that before.

Senator SCHWEIKER. It just strikes me as utterly ridiculous. Where did we ever dream up that you could hire two-tenths of a person, because that's what he's cited for?

Secretary MARSHALL. You hire people part-time all the time. Many workers in our society are hired part-time. In fact, it's a growing trend, especially for women.

EVIDENCE OF DISCRIMINATION

Senator SCHWEIKER. First of all, I'd like to see where this guy was discriminatory, in terms of turning a woman down. The idea was that he was discriminating. I mean that's the thesis of the law.

Secretary MARSHALL. No, sir; there's no law.

Senator SCHWEIKER. The thesis of the law. Discrimination, yes, it goes back to World War II, the very thing you say.

Secretary MARSHALL. It's the Government contracting provisions which are different from the law, and this party created the obligation when he signed the contract. And all you have to do under the law is, as you say, not discriminate. But if you sign a Government contract to undertake affirmative action, you agree to do more than that. You've agreed to take positive steps to include people who have been excluded.

Senator SCHWEIKER. I would like you to send me a list of women laborers who have been excluded that we're concerned about in the construction trades in the category of laborer.

Secretary MARSHALL. More important in affirmative action is women who have been included. That's what affirmative action involves, not exclusion.

Senator SCHWEIKER. Included in what respect?

Secretary MARSHALL. Hired; people who were not on the job before who have now been hired on those jobs, as a result of the goals and its timetable.

MOST EFFECTIVE USE OF COMPLIANCE RESOURCES

Senator SCHWEIKER. Fine; but you say there are just so many women out there that have been discriminated against in this classification of women's labor that we could have picked up here with a three-man firm. But I'd just like to have a listing of all these potential discriminatory cases that we are attuned to and are gearing up our resources to administer.

Secretary MARSHALL. We're not gearing up our resources.

Senator SCHWEIKER. You are when you hit a guy with 43 separate compliance steps.

Secretary MARSHALL. We are trying to see that women get included into areas where they've been excluded, and that's what affirmative action is all about.

Now in the construction industry, for example, we got figures on what happens to the goals and timetables, and the proportion of women in the construction industry is increasing. And it's increased primarily as a result of the establishment of an affirmative action program.

Senator SCHWEIKER. Well, I agree with that. But I can't believe it's increased, because we're after two-tenths of a woman.

Secretary MARSHALL. No, that's right; that's a relatively small and unusual case. I think if you add them all up—you see, one of the things that you've got to be concerned about is that most employers in the construction industry are small. There are 500,000 contractors in that industry. In fact, in the whole society most of the growth in employment is in relatively small firms, and if we exempt those firms from affirmative action, we would exclude a lot of people who need employment opportunities from the coverage of the program, especially in construction.

Senator SCHWEIKER. If you get into situations where you're concerned about hiring a fraction of a person, I think you would be better advised to spend your enforcement resources elsewhere.

Secretary MARSHALL. Maybe; in the construction industry it's not uncommon for people to work for more than one employer during the same day and during the same week. It's part-time employment. That's what it's all about. And, therefore, I would say very few workers would sign on for an employer for construction and work a whole year. So I don't believe that just because it's part-time, that it's necessarily unreasonable.

Senator SCHWEIKER. A 10-page form and 43 steps seems like an awful lot for 8 hours of work according to your figure.

Secretary MARSHALL. It might not be very much for an $800,000 contract by a relatively small firm. I would fill out more pages than that for an $800,000 contract.

PSIP OBLIGATIONS

Senator SCHWEIKER. You have a lot of pages to fill out here, I know that, and it looks like the Labor Department is creating its share of paperwork with 10 pages for one three-person firm, because they're going to have to hire a secretary, I'm sure, just to fill out the compliance memorandums. They're supposed to go through 43 steps and tell them what they've done. With a three-member firm, it's going to create a lot of paperwork for somebody both with the contractor and at your end.

Now going to the private sector program, Mr. Secretary, how much have we obligated in the private sector initiative program?

Secretary MARSHALL. $275 million.

Senator SCHWEIKER. For this fiscal year?

Secretary MARSHALL. So far this year, the total was $275 million.

Senator SCHWEIKER. We're now talking about obligations? The figure that I thought we had here indicated that for fiscal 1980 we weren't outlaying more than $164 million?

Secretary MARSHALL. Yes; we estimate outlays of $164 million in fiscal year 1980. According to the information I've got here, through December 1979, 447 of the 470 primes had established private industry

councils. Another 10 had been appointed private industry council chairpersons. This represents 95 percent of the CETA system. It is expected that all of the $400 million appropriated in fiscal year 1979 and in fiscal year 1980 will be obligated by the end of the fiscal year. To date, $275 million has been obligated to the primes.

Mr. ZUCK. Senator, that means, outlays; the actual disbursement for costs incurred through the end of the year is less than the amount obligated.

Senator SCHWEIKER. All right. Let me ask what we've actually outlayed then?

Mr. ZUCK. Our estimate for the year is $164 million, which is, I think, the figure you referred to.

Senator SCHWEIKER. OK, for the year. Now, to date, as of right now, how much of that $164 million has been outlayed?

Mr. ZUCK. I do not know. We'll have to supply that for the record.

Secretary MARSHALL. Do you know?

Ms. WHITE. It's approximately $10 million.

Senator SCHWEIKER. I guess my question is why we haven't outlayed more at this point, because I agreed with your comments earlier, that this might be one way to put people into the private sector. And I'll have to say it's still a good program, it's just getting underway. But is there any particular reason that we only outlayed $10 million?

Secretary MARSHALL. Part of it is that the system is relatively new. We expect to accelerate the activity under the program during this year now that the system is in place virtually everywhere.

One of the reasons that it was important to the business community that we have the funds out there and that they be obligated and that they know what is available for planning purposes. We had some delays in the implementation of the program due to the uncertainty about the timing and about funding, and we finally got that resolved.

There was a lengthy startup process required for the employment training programs in the private sector, partly because we were institution building. What we were trying to do was to change the basic nature of the system, put the institutions in place. I think that's been done. So I expect the expenditures to increase.

In fact, traveling around the country as I have, and visiting a large number of these PIC's, I believe that there is enthusiasm for the private sector program and that it will work. Accordingly, we expect the expenditures will increase during this year. Those are the main things.

First, you recall we said we were going to have $400 million. We went out and worked hard with the business community to get support. And then it looked like we wouldn't get the $400 million. So then they came and said, "Are we going to get it or not. We're getting the troops all ready to go."

Senator SCHWEIKER. I supported you on that request and fought for you, as a matter of fact.

Secretary MARSHALL. The fact that we got it, enabled us to give some assurance that there would be a program. This has made it possible to go forward with the institution building, which we have done and which I think now——

FOUNDATION FOR DEVELOPING A SOUND PSI PROGRAM

Senator SCHWEIKER. As long as it's built soundly, I can't be too critical of a slow start. There are some programs that go the other way and get us in all kinds of messes. The point is if you're building a sound base and feel confident that you're going in the right direction, I won't be too critical of it as long as you're saying, "Our goal still seems to be the same." And at this point I gather you're also saying that our expectations still look about the same?

Secretary MARSHALL. That's right. I think that we are building slowly. As you know, we found some systems that were already in place to build on. We had some very good programs that were already working. We studied those very carefully and put the model in, and I think that there's every reason to believe that this will be more successful than any previous efforts to try to get private sector involvement, primarily because we are not in the local labor market area, where the jobs are. This system has a permanence and an ability to relate to the local labor market accurately, as our previous programs have not.

OHIO STATE EVALUATION OF PSI PROGRAM

Senator SCHWEIKER. I understand Ohio State is conducting an evaluation of the program. I wonder what the status of that is and what the indications are so far?

Secretary MARSHALL. We can make that available to you. We have some preliminary findings from that. I'd be glad to make that available to you, Senator.

EFFECTIVENESS OF PSIP IN MEETING WORK SKILL SHORTAGES

Senator SCHWEIKER. The Wall Street Journal, using Labor Department data, indicates the Nation is facing a severe shortage of machinists and tool and die workers. My question is: Will the private sector program help in the effort to deal with a specific shortage such as that?

Secretary MARSHALL. I believe that it will do a lot to deal with the shortage. I believe we also have to couple this with another of our initiatives, which is to expand the apprenticeship program into that area. In the automotive area, when we started our new apprenticeship initiatives, we found that there were about 1 million people working in the automotive industry and only 10,000 had had any formal training. With the growing complexity of engines, and with the emissions controls and fuel efficiency requirements, it's clear that the automotive area is getting more complex. This is suitable for the most highly skilled part of apprenticeship training.

But the other part of it, the private sector initiative will need some private initiative training. I think the system will spot people into apprenticeships, where fuller training is normally required in that area.

PRIVATE INDUSTRY COUNCILS

Senator SCHWEIKER. 470 prime sponsors in the PSIP program have established private industry councils. According to the information I have only about 10 have appointed chairpersons for those councils. I'd

just raise the question of what progress we're making there? Is there anything we can do to expedite that? It would seem to me that it's pretty hard to operate without a chairperson.

Secretary MARSHALL. My understanding of that is different, and that is that all of them have chairpersons, all the ones that are in existence. We need to go from 440 to 470. What we have is over 450 PIC's established.

Senator SCHWEIKER. Are my figures wrong?

Secretary MARSHALL. The 10 is 10 of the remaining ones, who have chairpersons but have yet to establish the PIC's.

Senator SCHWEIKER. You're saying that 447 do have chairpersons?

Secretary MARSHALL. Yes; it's hard to set one up without it.

Senator SCHWEIKER. We misunderstood the figures.

Secretary MARSHALL. Of the remaining ones that don't already have the PIC's, what we do is go in and try to identify the chairpersons and then build the PIC's.

Senator SCHWEIKER. So—OK, then you state the figures correctly for the record, because I obviously misconstrued them.

Secretary MARSHALL. Let me get the exact numbers.

Through December 1979, 447 of the 470 primes had established private industry councils. And another 10 had appointed private industry council chairpersons. This means that 457 prime sponsors had PIC chairpersons. So we've got about 20 yet to go to cover all the primes.

Senator SCHWEIKER. You're saying specifically that 447 do, in fact, have chairpersons?

Secretary MARSHALL. That's right. In fact, that's the number I have been using, 450. That's the number I've been using, I guess; 457 already have chairpersons, and 447 of those have operating PICs.

Senator SCHWEIKER. OK.

QUESTIONS SUBMITTED FOR RESPONSES

Senator Chaffee has some questions he will submit to you for the record. I'm sure—probably my majority and minority staff have others as well they'll submit.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

IMPACT OF BALANCED BUDGET

Question: What would be the economic impact of balancing the Federal Budget in Fiscal 1981? How much would inflation be reduced? How much would the unemployment rate go up?

Answer: Conventional estimates of the economic impact of balancing the Federal budget in FY 1981 would suggest only a modest impact on both inflation and unemployment. However, such conventional estimates are based upon econometric models which predict on the vasis of normal past experiences. These clearly are not normal times. Inflation, particularly in energy prices, has accelerated much faster than expected. Given the current situation, the President has been seeking advice on a number of options including balancing the budget which could have an impact on people's expectations of the rate of inflation.

"REMEDIES" FOR ECONOMIC DOWNTURN

Question: I note you recently stated that the Administration is prepared to take action to cushion the effect of an economic downturn. Apparently, you have in mind not only consideration of a tax reduction but also some temporary spending programs targeted toward areas of economic stress. For example, you apparently told the House Appropriations Committee that a contingency budget is ready for additional funding should it become necessary.

How bad would unemployment have to get before you would suggest additional fund--or has this plan been shelved due to the sharp rise in inflation? What spending programs in the manpower area do you have in mind in connection with such a contingency budget? How much more would you plan to spend for Title IIC and Title VI public service jobs? For youth jobs? What specific programs might be expanded?

Answer: There is no single economic indicator that by itself would trigger a countercyclical action by the Administration. Indeed economic policy is developed within the broader context of a variety of factors both domestic and foreign, all of which must be taken into account when designing an appropriate policy. For this reason, we monitor the economy on a continuing basis to see whether the current mix of policies and programs is the proper configuration.

In terms of the current situation, the rapid acceleration in prices is, of course, our primary area of concern. As of yet, we have seen no sign of recession and, as you know, the unemployment rate has remained approximately flat. Given the current set of circumstances, it is clear that at this time any increase in spending would be inappropriate.

NEW OMB REGULATION ON PAPERWORK

Question: OMB has issued preliminary regulations on paperwork reduction. Have you reviewed these and do you think they will be effective in reducing the number of forms to be filled out?

Answer: The Department of Labor has received OMB's proposed regulations on paperwork reduction and we have submitted written comments in accordance with OMB's Notice of Proposed Rulemaking.

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While the Department does not support all of the sections of the proposal, in general we believe the proposal, once implemented, will serve to improve paperwork management and reduce the paperwork burden placed on the public by government agencies. We are reluctant to estimate the actual net impact of these regulations on Department of Labor programs and the public until we have had an opportunity to analyze OMB's final regulations.

CONSULTANT REPORTS

Question: Why has the Department of Labor beem so tardy in submitting quarterly reports on consultant costs? They have been arriving four months after the end of each quarter.

Answer: The Department recognizes the delays in providing the consultant report to this Committee and will be providing the information on a more timely, regular basis. The report for the quarter ending December 31, 1979 will reach the committee within the week.

Part of our problem has been in familiarizing our agencies with the definition and coverage of the report. The agencies of the Department have improved their response time since the reporting procedures were issued last Summer. I should point out, however, that to ensure accurate, complete reporting throughout the Department--including our regional operations--we need approximately six weeks from the close of a quarter to gather and compile the information.

We will do all we can to speed up the reporting process for you.

Question: How soon after the end of a quarter can we expect to receive future reports?

Answer: The DLMS-3, Chapter 800 on Management Consultant Services, issued December 1979, asked DOL agencies to submit reports 45 days after the end of the quarter. We are preparing a Directive which reduces the time to 40 days to allow 5 days to consolidate the report. We feel that 6 weeks is a fair time limit. When the new Directive is issued and the revised definition in the DLMS-3-800 reaches all program offices involved, we should be able to meet the deadline.

REDUCTIONS IN TRAVEL AND TRANSPORTATION OF THINGS

Question. The continuing resolution for fiscal year 1980 mandates a governmentwide reduction in travel expenses in the amount of $500 million. What is the Labor Department's share of this reduction?

Answer. The Labor Department took a reduction of $3.8 million or 7.5 percent of the total travel and transportation funds enacted in FY 1980.

Question: Have you implemented this provision - have all agencies received across-the-board cuts?

Answer. Final allowances for revised travel/transportation levels have been distributed to the agencies. Every agency's travel was reduced.

Question. Please provide a list of travel reductions for each agency.

Answer. The Department of Labor's distribution of the reduction follows.

Agency	Reduction Amount ($000's)
Employment and Training Administration	$ 352
Labor-Management Services Administration	269
Employment Standards Administration	431
Occupational Safety and Health Administration	368
Mine Safety and Health Administration	1,125
Bureau of Labor Statistics	568
Departmental Management	659
Total Reduction	3,772

Question. Please provide your travel costs by agency for fiscal years 1979, 1980 and 1981.

Answer. The information follows. Agency amounts shown include funds directly appropriated as well as funds received for work performed on a reimbursable basis.

ANALYSIS OF TRAVEL AND TRANSPORTATION OF THINGS
Object Classes 21 and 22
(In thousands of dollars)

Agency	FY 1979 Actual	FY 1980 Revised Estimate	FY1981 Request
Employment and Training Administration 1/	$21,372	$13,559	$18,339
Labor-Management Services Administration	1,903	2,500	2,578
Employment Standards Administration	6,342	6,000	5,925
Occupational Safety and Health Administration	7,051	7,000	7,416

Agency	FY 1979 Actual	FY 1980 Revised Estimate	FY1981 Request
Employment and Training Administration.....1/	$21,372	$13,559	$18,339
Labor-Management Services Administration.....	1,903	2,500	2,578
Employment Standards Administration.....	6,342	6,000	5,925
Occupational Safety and Health Administration..	7,051	7,000	7,416
Mine Safety and Health Administration.....	8,487	8,400	8,870
Bureau of Labor Statistics.....	2,817	2,700	3,299
Departmental Management..	5,611	6,577	8,441
Total, Department of Labor.....	$53,583	$46,736	$54,868

1/ Includes $12,386 in 1979, $7,009 in 1980 and $11,471 in 1981 for allocations to the Departments of Agriculture and Interior for Job Corps and Young Adult Conservation Corps programs.

Question. What impact would a ten percent cut in travel funds have on your fiscal 1981 budget requests?

Answer. The Department of Labor is requesting $8.1 million more in travel and transportation than the revised 1980 estimate of $46.7 million. This is a 17.4 percent increase related to cost increases. Between November 1978 and November 1979, the transportation component of the Consumer Price Index increased over 17 percent. Cost rises are expected to continue. Most of the Department's programs are necessarily travel intensive. Examples include OSHA/MSHA inspections, BLS data collection, ESA enforcement, OIG audits and investigation, and ETA program monitoring responsibilities. If the 1981 request were reduced by ten percent, the impact would be more on the order of 25 percent in terms of real dollar reductions, and would seriously affect the Department's ability to fulfill program responsibilities. The workload of the Department would have to be reduced because no alternative to travel exists.

OVERTIME FOR TRAVEL

Question: How much is spent by the Federal Government to pay overtime to employees in official travel status?

Answer: There is no reporting mechanism in place that could provide that information. Federal agencies are not required to submit overtime data to the Department of Labor. Within the Department's own accounting system, reports are not available which specifically identify the amount of overtime paid to DOL employees in travel status.

Question: Why should employees be paid for weekend travel time, especially when they are traveling at the Government's expense for their own benefit, such as to take training courses?

Answer: First of all, training at Government expense is authorized only when an agency is the principal beneficiary. Therefore, when an employee must travel to get to a training site, for example, such travel is also for the benefit of the agency. Any personal benefit derived by the employee is incidental to the Government's primary interest in developing and improving job skills and performance of official duties.

Both the Fair Labor Standards Act and title 5 of the United States Code require that certain travel time be compensated. However, most federal employees who travel are exempt from overtime, and their weekend travel would thus not require the payment of additional wages. In any event, to the maximum extent practicable, travel away from an official duty station is to be conducted during an employee's regularly scheduled workweek.

Question: Is it true that the Fair Labor Standards Act doesn't give the option of turning down overtime pay for official business weekend travel?

Answer: Yes. If the employee, while in travel status, is entitled to overtime payments under the FLSA, compensation cannot be declined. This is because employees cannot waive their rights under the law. However, most employees who travel would not be entitled to overtime payments at all, because they are supervisory and professional employees not subject to FLSA overtime provisions.

Question: What would be the impact of amending the Fair Labor Standards Act to prohibit payment of overtime where travel is incurred for the primary benefit of the employee and/or the agency?

Answer: Compensation for travel time which primarily benefits the employee never has to be paid. The impact of amending the Fair Labor Standards Act to prohibit payment of overtime pay for time spent traveling which primarily benefits the agency would be very slight. This is because most federal employees who travel on behalf of the Government are executive, administrative, or professional employees exempt from the overtime provisions of the Act under section 13(a)(1). In addition, a change in the FLSA would still leave all federal employees covered by the overtime provisions of section 5542 of title 5, U.S.C. These provisions, as applied to travel time, are basically comparable to those of the FLSA, but are more detailed. Specifically, 5 U.S.C., section 5542(b)(2) provides that time spent in a travel status away from the official duty station of an employee is compensable under certain circumstances, depending on whether or not he is performing work while traveling or is traveling as a passenger.

Thus, to make travel time by federal employees noncompensable under all circumstances, it would be necessary to amend both the FLSA and title 5.

WHITE HOUSE STAFF

Question. The press recently reported that some staff working for the White House were actually on the Labor Department's payroll.

Why wouldn't these people be put on the White House payroll?

Answer. On occasion, members of the Department's staff are detailed to the Executive Office of the President (EOP) to work on projects and issues which are of concern to both the EOP and the Labor Department. Such projects are essentially intra-agency in nature and therefore limited in duration. Fluctuating staff requirements precludes EOP from recruiting and, in a short time frame, releasing employees in a sound managerial manner.

Question. Is this an attempt to conceal the size of the White House staff, and get around the personnel ceiling?

Answer. No, it is merely a practical method of adjusting to fluctuating workloads.

Question. Does this indicate that Labor Department salaries and expense budgets can be cut, since you apparently have money for more staff than you need?

Answer. No, as is presented in the Department's budget justification, all salaries and expenses funding is attributable to DOL programs. This funding is essential for continuity of program implementation and delivery. Intra-agency coordination and joint problem solving and delivery are equally essential.

RECOMMENDATIONS FROM THE
NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

Question: A special committee appointed by Secretary Marshall was to issue a report by March 3 on its review of the recommendations of the National Commission on Employment and Unemployment Statistics. Can you tell us the highlights of the findings of the DOL's special committee's report and the annual price tag to implement them?

Answer: The report referred to is the "Interim Report of the Secretary of Labor on the Recommendations of the National Commission on Employment and Unemployment Statistics." It was transmitted to Congress on March 3 by Secretary Marshall and was based on advice given to him by a 3-member Department of Labor Committee comprised of Janet Norwood, Commissioner of Labor Statistics; Charles Knapp, Deputy Assistant Secretary, Employment and Training Administration; and, Arnold Packer, Assistant Secretary for Policy, Evaluation, and Research.

In his report, Secretary Marshall responded to each of the more than 80 recommendations of the National Commission. He endorsed most of the Commission's recommendations and accepted others in qualified form.

The highlights of the Secretary's report, along with some rough preliminary annual cost estimates for implementation of key National Commission recommendations, are as follows:

1. The Secretary endorsed, with some modification, the recommendation to expand the Current Population Survey (CPS) to obtain more accurate employment and unemployment data at the State and local level. The Secretary opted for an expansion which would bring annual average data for the 125 largest SMSA's to a minimum level of reliability rather than to accept the Commission's recommendation to make the data for the 35 largest SMSA's more accurate. Annual operating costs for the expansion are estimated at around $15 million annually. In addition, one-time start-up costs would be in the neighborhood of $12 to $17 million, spread over several fiscal years.

2. The Secretary also supported the recommendation to expand the CPS in order to improve the reliability of labor force estimates for minorities. Annual operating costs are estimated at $1.5 to 5.4 million, depending on the extent and nature of the expansion described in item 1 above.

3. The Secretary fully endorsed the National Commission's recommendation for the development of an annual report analyzing the economic hardship associated with low earnings, unemployment, and insufficient participation in the labor force. The Bureau of Labor Statistics has recently commenced work on the development of a series of such reports which would link labor force data with social developments such as the rapid growth of multi-earner families and of families maintained by women, and the more widespread availability of various forms of transfer income. No additional funding will be required by the Bureau for preparation of the reports.

4. The Secretary endorsed the recommendation to change the method of identifying discouraged workers to include only those who have actively sought work in the last 6 months (but not in the last 4 weeks), who express a desire for work, and are available to take a job. At the same time, he deferred the decision as to whether to continue the present practice of excluding discouraged workers from the unemployed and labor force totals, preferring to reserve judgment on the classification of discouraged workers until the current testing of new questions and data results could be evaluated and analyzed. The cost of this and several other proposed changes to the CPS questionnaire are estimated at $500,000 to $750,000 annually.

5. The Secretary endorsed the recommendation to include military personnel in the national employment and labor force totals but noted that the decision might have to be reconsidered if there is a change in military personnel policy with respect to the draft. No additional funding would be required by BLS for implementation.

6. With the concurrence of the Bureau of the Census, the Secretary reserved judgment on the recommendation to include the decennial census "undercount" in the monthly CPS labor force statistics until the many technical problems which would be involved are worked out.

7. The Secretary endorsed the recommended expansion and improvements in the Current Employment Statistics program (establishment survey). Annual operating costs are estimated at $4.1 to $5.1 million. Additional one-time costs are estimated at $1.1 million.

8. The Secretary endorsed recommended improvements in the "handbook" method used to estimate local area unemployment. Annual operating costs are estimated at $1.8 million.

9. The Secretary endorsed the recommendation to extend the Occupational Employment Statistics program to all States and to initiate a program for analyses of these data. Annual operating costs are estimated at $2.6 million.

The Secretary's responses to the rest of the Commission's recommendations and appropriate cost estimates are included in his March 3 report to Congress, copies of which were sent to the Appropriations Committee.

Question: Which proposals require authorizing legislation?

Answer: It is our judgment that none of the proposals would require authorizing legislation.

Question: Do you expect to submit a supplemental to carry out these recommendations?

Answer: No, budget submissions based on these recommendations will begin in FY 1982.

STAFFING

Question: How many direct federal employees work for the Labor Department?

Answer: As of February 29, 1980, the number of full-time permanent employees in the Department totaled 21,762.

Question: How many workers are supported by Labor Department grants and contracts-that is, staff administering programs, not enrollees?

Answer: The staffing estimates follow:

	FY 1980 Estimate	FY 1981 Estimate
Unemployment Insurance Service.....	56,000	59,000
Employment Services.....	30,000	30,000
Comprehensive Employment and Training Act prime sponsor employees....	43,000	37,000
Total.....	129,000	126,000

AFFIRMATIVE ACTION

Question: Senator Schweiker introduced a bill to exempt tiny contractors from the Affirmative Action Program. It would also eliminate the wheelspinning requirements for outreach and recruiting in which you tell companies to go out and contact anyone and everyone who might provide leads in meeting the affirmative action goals, and then to keep mountains of paperwork to prove their compliance. Under the bill, the U.S.

Employment Service would act as the link between contractors and all the training and community organizations, so contractors would simply have to recruit from the Employment Service. This is what the Employment Service is supposed to be doing--matching up workers with job slots. Do you think we can get the Employment Service more involved in the Affirmative Action Program, so we can cut back on the haphazard shotgun recruiting requirements of your regulations?

Answer: Under Senator Schweiker's proposed bill (S.2319), the Employment Service would be responsible for developing and implementing a program to identify not only potentially qualified applicants but also minority owned business in connection with affirmative action obligations of government contractors and subcontractors. To satisfy their affirmative action obligations, contractors and subcontractors would then make a reasonable, good faith effort to obtain, from the ES, referrals of individuals, and if appropriate, of subcontractor and to employ/contract with the qualified persons referred by ES.

The Department is aware of and sensitive to the need to work closely with government contractors and other employers to carry out effective affirmative action programs.

With respect to the Employment Service, this agency already carries out part of the responsibilities included for it in the proposed bill. Historically, the ES has assisted employers to meet affirmative action requirements by identifying and referring, among the qualified applicants, members of specified target groups. Usually these requirements are imposed by such actions as a court order, fair employment practices directive, or the affirmative action provisions of a government contractor, grant or loan.

Also, new Federal regulations are currently being developed which cover specific ES responsibilities and actions in identifying and referring applicants to affirmative action openings. These regulations encompass not only job openings placed by employers under imposed conditions such as those stated above but also those openings placed on a voluntary basis by employers, pursuant to the Affirmative Action Guidelines of the EEOC.

However, the ES does not now identify nor refer minority owned businesses to Federal contractors as potential subcontractors.

The Department of Labor, through its Employment Service agencies, will continue to assist employers, including Federal contractors, obtain referrals of qualified applicants. But, it cannot and should not serve, as stated in the proposed bill, as a complete link between government contractors and training/community organizations for purposes of referring not only applicants but also potential subcontractors. This would mean that contractors would only need to contact the ES to satisfy their affirmative action obligations. This places the ES in an inappropriate role of ensuring the compliance of contractors in meeting their affirmative action requirements.

LATE CONTRACT AWARDS

Question. What proportion of consulting service obligations have been made in the last quarter and the last month of fiscal years 1978 and 1979 relative to total obligations for such services?

Answer. The information follows.

Consulting Services
(Dollar amounts in thousands)

	FY 1978		FY 1979	
	Amount	Percentage of Total	Amount	Percentage of Total
Total Obligations...	$11,836	100.0	$23,571	100.0
Fourth Quarter.....	6,139	51.9	7,417	31.5
Last Month of the Fourth Quarter.....	4,629	39.1	4,498	19.1

Question. Provide the reasons for any significant surges in last quarter and month spending for such services.

Answer. During fiscal years 1978 and 1979 about one half and one third of the consulting funds were not obligated until the fourth quarter, respectively. Several reasons account for this obligation rate - principle among them are: 1) program decisions and plans made early in the year that are implemented later in the year - this is especially the case for the Commissions under the DOL appropriation. 2) the availability of funding; and 3) time involved in processing contract documents.

During the fiscal year certain obligations were postponed until final funding levels were known and allocations made. Such delays affected consultation services acquired by some of the Department's agencies. In addition, program decisions not made until well into the fiscal year which required the use of consultant services, had an impact on the rate of obligations.

Processing contract and grant documents takes time. An RFP may be initiated in the second or third quarter, but the contract may not be finalized until the fourth quarter, thereby delaying obligations until late in the fiscal year.

YOUNG ADULT CONSERVATION CORPS

Question: The Young Adult Conservation Corps has almost the highest unit cost per capita of any of the Labor Department Youth Programs -- and the majority of its participants are not economically disadvantaged. What is the rationale for continuing this program particularly with a $14 million increase for FY 1981?

Answer: Much of the work that must be performed in the conservation of natural resources is labor intensive. The projects selected for YACC enrollees by State and Federal natural resource agencies are labor intensive and are projects most in need of accomplishments to fulfill these agencies' conservation missions. Although vital, they could not be performed within existing agency resources.

It would not be cost effective to increase regular agency budgets to perform the vital work now done by YACC. In FY 1979, analysis of work accomplishment reports showed that every dollar's worth of expenditure on YACC would have cost $1.40 if the same work had been performed using regular methods. In other words, regular agency budgetes would have to be increased by 40 percent more than is now being spent on YACC to perform the same work. In addition, it is unlikely that the same types of individuals would be employed under regular agency programs as are now enrolled in YACC given civil service procedures. Thus, not only would regular programs cost more, but they would also not have the social benefit of the YACC program in serving unemployed, out of school young people in areas of high unemployment.

YACC enrollees perform important work. Examples are: oil spill control and clean-up, repair of hurricane and other storm damage, forest fire control, along with such on-going projects as reforestation, trail clearing and the like. YACC, in the last two and one half years, has had a visible impact on the conservation of natural resources and the reduction of the enormous backlog of conservation work.

Question: Why is the unit cost so high?

Answer: The increased unit cost for FY 1981 is due to several important factors:

1. Enrollees are paid the minimum Federal wage which will increase from $3.10 per hour to $3.35 in FY 1981,

2. The supervisory staff are federal employees and their wages will increase approximately 7 percent;

3. Due to inflation, the cost of materials, and supplies, including fuel, has increased drastically.

Question: What are you doing to bring more economically disadvantaged, more blacks and more women into the program?

Answer: The DOL has encouraged the Departments of Agriculture and Interior to serve more equitably those youth 16-23 most in need of manpower services. In FY 1979 the program served a total of 67,200 youth of which approximately 40 percent were disadvantaged, 42 percent were high school dropouts, 35 percent females, and 11 percent black.

As a matter of policy for FY 1981 the Department is requesting that the agencies redistribute the slot levels among the States so that enrollment opportunities for youth 16-23 will be equitably distributed based on the level of need in each State.

It should be noted that the YACC legislation prohibits the targeting of any specific group such as economically disadvantaged, blacks or women. The mandate promulgated by the law is that all youth to the extent possible are equitably served.

SUPPORTED WORK DEMONSTRATION PROJECT

Question: Results of a massive 5-year study, known as the National Demonstration Project, were released last week. It appears that, while significant employment gains were made by welfare mothers, high school dropouts and ex-convicts showed no significant long-term benefit from the program. Don't these findings call into question the value of your new proposal to attack youth unemployment?

Answer: The National Supported Work Demonstration is an intensive work experience program which was created to determine whether a significant number of hard core unemployed could be brought into the labor force and induced to stop engaging in socially destructive or dependent behavior. Target groups which participated in the program were women who had been on Aid to Families with Dependent Children for more than three years, ex-drug addicts, former law breakers and ex-convicts, and young school dropouts, often with records of delinquency. The program provided these individuals with work experience of a year or so, under conditions of gradually increasing demands, close supervision, and of work in association with a crew of peers.

Results of the program, after five years, showed that it was most effective in enhancing the employability and earnings of women who had been long-term AFDC recipients. The program also had an impact on a significant segment of the ex-addict population, who did better in getting jobs and in earnings than numbers of a control group who were not in the program. In addition, the ex-addicts in the program were less prone to commit drug-related and other crimes than those who were not.

The program was found to have a marginal impact on ex-offenders. They did not show less criminal behavior, and their rate of employment and earnings was only slightly better than those of ex-offenders who did not participate.

For the youth group -- school dropouts between the ages of 17 and 20, with one of every two enrollees having had a record of delinquency or crime -- supported work had no significant long-term impact on the earnings, employment, criminal activity or drug abuse. The data do suggest, however, that the younger segment of the youth group benefited more from the program. Many youth find it difficult to decide what kind of work to do and, when they do, to carry out their plans. Thus, they tend to seek short-term experiences, either in or out of work, and many quickly tire of their jobs. This attitude makes the discipline and routine of supported work unattractive to them.

A modified supported work program for youth is currently being conducted at several sites. It includes these additional elements: remedial education, skill training and support services. It is possible that such an enriched model of supported work may prove more effective for certain youth groups.

We do not believe that the Supported Work findings call into question the value of the Administration's youth proposal. To begin with, work experience is only one of a number of options available under the proposal to serve the dropout population. Secondly, work experience under the youth proposal differs from that under the Supported Work Demonstration. For example, work experience would be of the enriched variety and would be carefully linked to education (for in-school youth) and development of basic literacy and computation skills (for out-of-school youth). Finally, there are many elements in the proposed program that were not present in the Supported Work Demonstration, including performance standards for program operators, and special incentive grants.

TRAINING OF WELFARE MOTHERS

Question: What efforts are you making to increase enrollment of welfare mothers in employment and training programs?

Answer: All AFDC recipients 16 years of age or older are required to register with the Work Incentive (WIN) program, unless legally exempt. In FY 1979, approximately 2.2 million persons were registered in WIN at some time during the year. About three-fourths of WIN registrants are women, the great majority of whom are mothers.

The legal exemptions from WIN relate to a person's ability or readiness for work (factors such as illness, incapacity, or having children under 6 years of age). However, exempt persons may volunteer for the program. Currently, about 17 percent of WIN registrants are volunteers. A special demonstration project in Denver is attempting to increase the number of such volunteers.

In order to get the most "mileage" out of its funds, WIN has been emphasizing a policy of tapping into other program resources as much as possible in arranging for employment and training services for WIN participants. These other programs include CETA, Title XX, Vocational Education, Vocational Rehabilitation, and Basic Educational Opportunity Grants. About 40 percent of all WIN registrants in work and training components are being served in programs other than WIN.

WIN is also undertaking special demonstration projects providing special services to teenage AFDC mothers.

With regard to other employment and training programs, the CETA Amendments of 1978 (Public Law 95-524) more sharply targeted CETA programs and services on those most in need, including welfare recipients. Under the reauthorized CETA, nearly all CETA programs are limited to the economically disadvantaged. The definition of economically disadvantaged in Public Law 95-524 automatically qualifies a person or family member who receives cash welfare payments under a Federal, State, or local welfare program. Within the overall eligibility criteria, CETA prime sponsors are permitted under the Act to set specific clientele priorities in accord with the needs of their specific areas. Welfare recipients, including welfare mothers, are one of the major priority target groups in CETA programs. The proportion of welfare recipients in CETA programs has increased since the CETA reauthorization; in FY 1979, nearly half a million of the participants served under CETA Titles II and VI were welfare recipients.

The Administration's welfare reform proposal would increase services to welfare recipients under CETA. Specifically, a new Part E in Title II of CETA would provide job search assistance programs for AFDC and WIN participants and, if the job search is unsuccessful after an eight week period, would provide work and training oppor-

tunities for the principal earner in a family with a child (in many cases this would be a welfare mother). These new provisions would become effective in FY 1982.

Sixteen welfare demonstration projects, for which the Administration has requested $281 million in FY 1981, are testing the concepts in the welfare reform proposal.

TRAINING OF SKILLED WORKERS IN CETA PROGRAMS

The Wall Street Journal, using Labor Department data, indicates the Nation is facing a severe shortage of machinists and tool and die workers.

Question: Why can't we, with a $10 billion CETA program, train enough skilled workers?

Answer: We are now training substantial numbers of skilled workers under CETA and have undertaken a major program under Title VII to expand our capability in this area. In FY 1979, an estimated 5,000 persons received training for entry level jobs as machinists under Title II. In addition, national programs under Title III are providing training opportunities for over 1,700 persons as tool and die makers and related skilled craft workers.

We are now in the process of implementing the Private Sector Initiatives Program (PSIP) which will provide a new and additional source of training for skilled workers. We are basing the PSIP effort on our successful experience with an earlier skill training program (STIP) which demonstrated the ability of CETA and the private sector to provide training for highly skilled technical jobs. When it is in full operation we expect PSIP to provide skill training for over 100,000 persons.

Although apprenticeship has proven to be a highly effective system for developing skilled workers, we are concerned that its potential has been largely unrealized outside of the construction industry. We are working closely with various trade associations and unions to secure adoption and expansion of the apprenticeship system across a broad spectrum of industry. With respect to the shortfall between the projected need for machinists and tool and die makers and the apprenticeship completions in these trades, it should be noted that other sources such as vocational schools also provide training for these occupations.

NUMBER SERVED BY CETA

Question: Your budget projects an overall unemployment rate of 7.4 percent for fiscal year 1981--which means at least another million people will be unemployed over the current jobless level. Since your budget proposes to serve only 200,000 more people in fiscal 1981, doesn't this mean that you will actually be falling farther behind?

Answer: What you say is arithmetically correct about us "falling behind"; there will be a slight decline in the ratio of persons served in Employment and Training Administration (ETA) programs to the total numbers of people experiencing unemployment between 1980 and 1981. However, I don't think that is the best or

most appropriate way to look at our program levels. The 1978 amendments have focused CETA programs on the economically disadvantaged and structurally unemployed. Although the problems of this population are intensified during economic downturns, its size may not increase appreciably since individuals with structural problems have difficulties in the labor market during good times and bad. Seen in this light, the 200,000 rise in persons served--reflecting the projected expansion in the number of youths served in the Administration's new Youth initiative--actually represents an increase in our penetration of the CETA target population.

Question: What will be the rate of youth unemployment in fiscal 1981, compared to the current level?

Answer: As far as the youth unemployment rate is concerned, if past patterns tend to hold--and I see no reason why they should change substantially--the unemployment rate for teenagers will probably average around 19 percent during fiscal 1981. If the concept of youth is broadened to include all those 16-21, the rate would probably be about 16.5-17.0 percent. During calendar 1979, the teenage rate was 16.1 percent and the 16-21 rate was 13.9 percent.

CETA TRAINING IN LOW WAGE INDUSTRIES

Question: Why hasn't the field memorandum that is necessary to implement CETA training in low wage industries, under 123a, been issued?

Answer: The Department has been undertaking careful deliberations with various groups that are specifically concerned with the implementation of this provision. Given the possibility of abuses of training in low wage industries, we have solicited input from unions, the business sector, prime sponsors and Congressional Staff. This consultation process and resolution of concerns has caused the delay in finalizing and implementing the directive.

Question: When do you expect the memorandum to be issued?

Answer: We expect the directive to be issued by the end of March 1980.

Question: The 1978 CETA Amendments direct you to examine closely individual job requirements in the sewing industry to determine whether training and employment for some sewing machine operator jobs would lead to significant improvement in the skills and employability of unemployed and disadvantaged persons. What have you done in response to this directive?

Answer: The Field Directive will contain procedures that will allow for departmental review of any proposal for training of sewing machine operators in the garment industry. Such proposals will, among other criteria, specifically be reviewed for the wage to be paid the participant at completion of training, a description of the training, the length of the training, and the prospects for employment in the occupation.

Question: Why is it that as of today neither a single sewing machine operator has been trained nor a contract approved in the field?

Answer: Regional offices have advised prime sponsors that no sewing machine operator training can be funded until the Department issues the Field Memorandum setting forth the required documentation that proposals must address.

CETA CARRYOVER FUNDS

Question: Last year, there was a lot of debate about the level of excess, unspent CETA funds you had carrying over from one fiscal year to the next. What amount of funds do you anticipate will be carried into fiscal 1982, for each title of CETA?

Answer: The Department anticipates the following amounts of obligated but unspent funds will carry over into fiscal year 1982:

(In Millions)

Title II, B and C	$840
Title II D	$502
Title III	$343
Title IV	$181
Title VI	$593
Title VII	$ 79
Carryover from undistributed outlay reduction in 1981	$642
Total	$3,190

Total does not add due to rounding.

Question: What are the reasons for the large amount of CETA carryover funds?

Answer: For sound management reasons, a certain amount of carryover is necessary and desirable. Given the highly complex and decentralized nature of the CETA system with its 473 prime sponsors and 50,000 subgrantees, it would be impossible to operate the system in such a manner that exactly all the funds would be expended by the end of each fiscal year. Even if this were not the case, it would not be desirable from a programmatic standpoint, due to the fact that CETA appropriations are historically late and that it takes 6-8 weeks to get money into the system once appropriated. If prime sponsors were forced to expend all of their funds by the end of the fiscal year, they would be forced to contend with massive layoffs and serious disruptions of the programs at the local level. Thus, in recognition of these potential problems, the existing CETA reallocation regulations embody the concept of "reasonable carryover", which allows prime sponsors to retain up to ten percent of their allocation without them being subject to reallocation at the end of the year. This ten percent normal carryover is built into the Department's PSE budget request.

Question: What is the lowest possible level of carryover, without actually damaging program services?

Answer: In a decentralized system such as CETA, the need for carryover funds would vary with the design of each local prime sponsor's program. To recognize this variation, and the potential problems mentioned above, CETA reallocation regulations allow prime

sponsors to carryover ten percent of their allocation before being subject to reallocation.

Question: For the record, explain your new definition of carryover.

Answer: The "new" definition of CETA carryover is an attempt to distinguish between funds that are available for services in the following year, as opposed to funds which have been obligated and expended by the prime sponsor but have not yet been reported as a federal outlay.

Available funds which are included in the new CETA carryover definition are:

a) Funds that are unobligated at the Federal level--less than 2.1 percent of all CETA funds in FY 1979.

b) Funds obligated to prime sponsors by the Department but which are not obligated by them. The CETA law allows prime sponsors 2 years in which to expend (and obligate) their funds; it is estimated that most of the funds are in fact obligated by the prime sponsors.

c) Funds obligated by the prime sponsor but not expended. Due to late appropriations, local contracting procedures, and the timing of certain kinds of activities (e.g., nurses training programs are designed to coincide with the annual certification exam schedule), not all 12 month contracts begin on the first day of the fiscal year, but rather, they bridge fiscal years. This results in some funds being obligated but unexpended, although the funds are committed for services in the following year.

Question: Is there a case for increased funding for PSIP above the FY 1981 request of $150 million?

Answer: Yes. The Department's request is based upon the need to maintain the program at its designed level. At this level of approximately $400 million, including carryover, reallocations and new budget authority, many prime sponsors receive the minimum allocation which we consider to be essential to mount a viable program. Were increased funding to be provided, it would not be necessary to establish a minimum allocation amount. Additionally, increased service-years could be provided, and more economically disadvantaged persons would be placed in permanent unsubsidized employment.

Question: Why do you need ten percent carryover in the CETA public service jobs program?

Answer: Carry forward funds recognize actual operating situations. These include: (1) the impossibility of operating programs in such a manner that exactly all funds will be expended by the end of the fiscal year; (2) the fact that some funds are committed in subgrants and contracts which will continue on into the next fiscal year; (3) the desire by prime sponsors to have some funds on hand to guard against the uncertainty of the appropriation process (The carryover funds enable the prime sponsors to continue operations for a reasonable period even without the next year's appropriation.); and (4) the fact that some funds are carried forward by prime sponsors who are able to carry out their approved plans at a lower than projected

administrative cost. Ten percent carryover is considered reasonable by the Department in light of these actual operating situations.

Question: What hard evidence do you have that any reduction in carryover funding below ten percent would actually hurt the program, cutting jobs?

Answer: A reduction in the amount of carryover would be reflected in a reduced budget. A reduced budget means that fewer positions will be planned. There would always be carry forward for the reasons indicated above. In addition, fewer positions planned means that fewer individuals will be served.

EMPLOYMENT AND TRAINING - REALISTIC OUTLOOK

Question: It appears the increases you plan for fiscal 1981 are primarily for programs lacking renewed authorizing legislation.

Isn't it true there will be virtually no increases for fiscal 1981, if the unauthorized employment and training programs are forced to operate at current levels under a continuing resolution?

Answer: The budget request for Fiscal Year 1981 basically maintains the 1980 end of year enrollment levels in employment and training programs. The exceptions are: energy saving projects for Job Corps, $10,000,000; a net increase in National Programs, $3,558,000; an increase in Technical Assistance and Training, $3,500,000; and an increase in Research and Development funding, $2,000,000.

TARGETED JOBS TAX CREDIT

Question: Please describe your experience to date with the Targeted Jobs Tax Credit Program.

Answer: The Department is very pleased with our experience thus far with Targeted Jobs Tax Credit (TJTC). Our projected program goal is 250,000 certifications by the end of FY 1980. As of January 31, 1980 a total of 141,063 individuals have been certified under this program.

Recent data presented below indicate a monthly average of more than 27,000 certifications.

November	19,843
December	30,712
January	32,332

If we maintain this activity level, we can reasonably expect to meet our program goal in FY 1980.

As with any new program, there were some start up issues, including:

- Program administrative and operational tasks are shared among many local organizations, thus making good coordination essential and program accountability difficult.

- Efforts to involve employer groups such as Private Industry Councils, NAB, Job Service Employer Committees in marketing the program fell short of expectations.

- Difficulty on the part of field personnel to adequately explain the complexities of the tax credit program to employers.

The Department has undertaken the following actions to address these concerns. To bring about better coordination and accountability among involved agencies, we have issued a handbook which outlines each agency's role and responsibilities for the TJTC program. Also, a policy letter was issued which revises the TJTC vouchering process to better integrate this with regular placement activities.

Also, a comprehensive marketing package has been developed and a contract let which encompasses the intensive marketing of TJTC. Further, since the computation of the tax credit is complex, it was felt that IRS, not SESA staff, should provide employers with necessary tax credit information. Therefore, State and Regional TJTC Coordinators are encouraged to work closely with IRS representatives and have these staff accompany them on field visits to provide accurate and complete TJTC tax credit information to employers.

However, as indicated above, with each succeeding month since its implementation in May, 1979, TJTC has grown beyond our projections in terms of number of eligible individuals vouchered and certified.

Question: How much money was invested and how many persons benefitted?

Answer: The program was provided with $10.0 million in CETA Title III Discretionary funds in FY 1979 and $14.0 million of CETA Title VII funds in FY 1980.

As of January, 1980, 249,928 individuals have been vouchered and 141,063 individuals have been certified under the TJTC program.

Question: How much tax revenues are estimated to be paid out under the TJTC Program?

Answer: The Department's projected cost of TJTC for FY 1980 in terms of gross tax expenditures is $125 million. This figure was derived on the basis of the following assumptions:

- there will be a total of 250,000 TJTC certifications by the end of FY 1980;

- the average annual wage paid to eligible workers will be $8,000; and

- the average length of job tenure ranges from 50 percent on the job after 8 months to 20 percent on board after 24 months.

Several other offsets to program costs could be considered. These include additional payments of income and social security taxes, and reductions in Food Stamp and Medicaid payments. At this time, these offsetting costs can only be roughly estimated, as follows:

- additional income taxes paid - 1.2 percent

- additional social security taxes paid - 4.5 percent

- reduced Food Stamp payments - 2.3 percent

- reduced Medicaid payments (Federal share) - 1.2 percent

Question: There does not seem to be much publicity about this program in the new media. What are you doing to let the public know about the existence and availability of this program?

Answer: The Department has undertaken extensive publicity efforts on behalf of the TJTC program. These include the following activities already in place:

- TJTC advertisements have been distributed to 42,000 magazines.

- Radio spot announcements have been distributed to 6,000 stations. Additionally, 2,000 spot announcements have been produced in Spanish and distributed to Spanish-language radio stations. A million copies of the New Initiatives brochure were reprinted and distributed to all State Employment Security Agencies.

- The January issue of "Personnel Administrator" magazine had an article on TJTC.

- Fact sheets have been prepared including:

- Program Fact Sheet on TJTC and WIN in February 1979,

- USDOL Program Highlights - Employment Tax Credits in January 1979.

In addition, several other TJTC publications and public relations efforts are underway:

- A comprehensive marketing package has been developed for use by State Job Service and CETA job developers and will be distributed in March 1980.

- A 10-second TV spot announcement and a 30-second spot announcement are to be issued shortly. (The 10-second TV spot won the New York Film Critics Award for best in its category.

- Arrangements have been made for DOL personnel to discuss TJTC on talk shows and to make personal appearances to publicize the program.

- Direct mail package for community based organizations and personnel directors of 83,000 businesses--target date mid-June; will consist of a cover letter from Labor Secretary Marshall, Fact Sheet, testimonials by employers and a TJTC Pamphlet.

- Media Information Kit to be mailed to all daily newspapers--target date mid-June. Contents: feature article with Secretary Marshall's by-line, general news release, one page commentary, Fact Sheet on TJTC and WIN, TJTC-WIN Pamphlet, cover letter from Secretary Marshall, editorial cartoon and case histories (testimonials) of employers.

- Two posters to inform target groups of program (one directed at youth; the other to the other target groups)--target date mid-June.

Question: How do Prime Sponsors handle the Targeted Jobs Tax Credit Program in comparison to how they handle other programs, such as PSIP?

Answer: The Targeted Jobs Tax Credit (TJTC) is a part of the Administration's private sector initiative effort. The Prime Sponsor uses it as an employer incentive for placing CETA trained participants in private sector jobs. About half of the Prime Sponsors have delegated to the State Employment Security Agencies vouchering responsibility for job ready individuals who need no CETA services. The State Employment Security Agencies are the only agencies with certification authority except for co-op education.

SCOPE OF CETA AUDITS

Question. Does the Inspector General's office now have enough staff to audit all CETA prime sponsors at least every two years?

Answer. By Fiscal Year 1981, the Office of Inspector General should be within the two-year cycle for prime sponsor audits assuming that there is no substantial increase in funding for the CETA program and that the audit program of the Office of Inspector General continues to focus heavily on this program at the expense of other Department of Labor programs' agency operations.

Question. What percent of CETA funds are actually spent by subgrantees and how often are they audited?

Answer. It is estimated that 70 percent of CETA program funds are spent at the subgrantee level with 30 percent of the funds being spent at the prime sponsor level. The prime is required to have the subgrantees audited on a two-year cycle. In the past, the subgrantee and prime sponsor were rarely audited by the same audit organization. In Fiscal Year 1980 the Office of Inspector General is starting to institute a unified audit concept, which means that the prime sponsor and a representative sample of subgrantees will be audited by one audit organization. Using this approach, the Office of Inspector General will have an auditor's opinion on the entire operation.

Question. How many CETA subgrantee audit reports are received by the Labor Department each year, and how much time is spent by Regional Office staff monitoring what happens to these audit reports?

Answer. In Fiscal Year 1979, the Office of Inspector General received 13,750 subgrantee reports. In Fiscal Year 1980, the Office of Inspector General estimates that it could receive up to 25,000 of which 9,000 subgrantee reports are expected to be reviewed. The Office of Inspector General Regional Audit Offices spend between 12 to 14 percent of their staff time reviewing and monitoring subgrantee audit reports. After review, the more significant reports are issued to the Employment and Training Administration for informational purposes. Ultimately when the prime sponsor is audited, all unresolved subgrantee reports are included in the audit report on the prime sponsor.

Question. How does the Labor Department review the quality of prime sponsor audits of their subgrantees?

Answer. The Office of Inspector General reviews all subgrantee audit reports for adherence to the General Accounting Office audit standards. The quality control program includes reviewing a percentage of the auditor's workpapers and performing a percentage of on-site reviews. As a result of this overall effort, approximately 10 percent of all subgrantee audit reports are rejected because of substandard work.

INSPECTOR GENERAL'S REPORT FINDINGS

The Semi-Annual Report of the Department of Labor (DOL) Inspector General said that one of the most significant problems found in your grant programs was that of "ineligible participants."

Question: What is the reason for this continuing problem?

Answer: We do not believe that there is a continuing problem with ineligible participants. The referenced report by the DOL Inspector General covered audit reports issued between April and September of 1979. We assume that most of the questioned costs related to ineligibles pertain to participants enrolled prior to the implementation of strict new requirements on eligibility determination and verification. These new requirements went into effect after final publication of regulations on April 3, 1979. It should also be noted that only seven percent of the questioned costs from the audit reports issued was related to ineligible participants.

Question: How extensive is the problem of ineligible participants? People? Money?

Answer: During the period in question (April-September 1979) the OIG issued 55 audit reports on State and local CETA programs which questioned $42.1 million. (Questioned costs are those costs for which there is either a lack of documentation to support the costs' allowability, or for which the documentation showed that the cost was unallowable.) Of the total dollars questioned, seven percent was related to ineligible participants.

Question: Didn't you develop new procedures last year to deal with ineligibles? Aren't they working?

Answer: Yes, subsequent to reauthorization the Department issued major requirements and procedures for eligibility determination and verification systems. Prior to this, guidelines were quite limited. All indications are that the new requirements have had a significant impact on the ways prime sponsors handle eligibility determination, which should result in a very significant decrease in ineligibles.

HOUSE GOVERNMENT OPERATIONS COMMITTEE REPORT ON CETA

A report on CETA issued last year by the House Government Operations Committee charges that the Department is hesitant to challenge prime sponsors and deficiencies often go uncorrected. The report says only one prime sponsor has been closed down in five

years of CETA operations and "very little money has been returned to the Treasury" even where improperly spent.

Question: What is your response to this charge?

Answer: Regional Offices often approve annual plans conditionally or in part until they conform with the law, the regulations and other federal requirements because of the Department's strong commitment to the people served by the CETA program. During the past three fiscal years, the Department conducted an annual onsite indepth review of CETA operations to identify problems and issues with prime sponsors. These assessments provide the starting point for improving performance so that deficiencies may be corrected. This action taken in conjunction with recent ETA issuances on debt collection which require aggressive action should provide positive results in collection of debts. DOL agrees with the report regarding the need to obtain cash repayment where the situation warrants and the attendant public exposure of grantee officials who have failed to prevent misspending of grant fund's appropriate. The Department's full response to the Committee's Report provides a more detailed answer to this and other related issues.

Question: Is it true, as the report alleges, that biannual audits are called for in the regulations but that some prime sponsors have never been audited? How many?

Answer: Yes, as of the beginning of FY 1980, there were a total of 52 prime sponsors who had never been audited by or for the Department. This figure, however, includes 21 new primes which have not been in operation long enough to warrant an audit.

The 31 prime sponsors who have been in operation for two years or more, and had never been audited, are nearly all located in our Chicago Region, where, until recently, the backlog of unaudited primes was quite critical. By making audit resources available from all of the regions, we have been able to eliminate this backlog; all of the 31 prime sponsors are scheduled to be audited this year according to our work plan.

Question: To what extent are the 50,000 CETA subgrantees not audited by prime sponsors?

Answer: All subgrantees funded over $100,000 and a sample of 25 percent of subgrantees funded under $100,000 must be audited by CETA prime sponsors.

Question: What percentage of disallowed expenditures is ever paid back?

Answer: The Department seeks reimbursement for all disallowed costs. A debt may be deemed uncollectible and may be compromised or terminated if the following conditions exist: it involves no indication of fraud; repayment has been demanded in accordance with the Department's "Debt Collection Methods and Procedures;" to the extent feasible, offset or adjustments in payments has been undertaken; and a determination has been made that further efforts to collect the debt would prove futile. When these conditions exist, a Regional Administrator may compromise or terminate a debt for $15,000 or less, and the Comptroller for ETA may compromise or terminate a debt for $20,000 or less. Debts in excess of $20,000 can only be compromised or terminated by GAO.

Another option in debt collection is litigation, which involves a civil action by the Department of Justice to collect the debt. This option, however, takes a substantial amount of time to determine

whether the debt will be repaid, and precludes our ability to estimate what percentage of disallowed expenditures is paid back.

Question: Do you ever make awards to exemplary programs as an incentive to other prime sponsors to do a better job?

Answer: The Department is in the process of developing a system for recognizing exemplary programs. The Department feels that such a system is appropriate; however, the Department also feels that it is necessary to assure that recognition granted relates to specific achievements. In this respect we intend to develop a system which will provide recognition for specific activities. The specific form for recognition is still under study. Consideration is being given to different types of recognition ranging from letters of commendation to special consideration for discretionary funds, depending on the significance of the achievement.

FINANCING FISCAL YEAR 1980 PUBLIC SERVICE JOBS

Your latest data shows public service jobs enrollment continue to slip below your expectations, resulting in a shortfall in spending of over $800 million. Yet, you indicate the entire $800 million is still needed since you underestimated the amount necessary to finance these jobs in the Fiscal 1980 appropriation.

Question: Specifically, where were your estimates off, and by how much?

Answer: The amount needed to finance the approved level of PSE in Fiscal Year 1980 was not underestimated. However, the amount of funds which would be available to finance these jobs was overestimated. This was primarily due to the fact that the original budget estimate relied on the estimated carry forward on an outlay basis. Over $700,000 of the estimated carry forward on an outlay basis was not in fact available for use during Fiscal Year 1980. These funds were used to pay for services provided during Fiscal Year 1979, but not yet paid for as of the end of the fiscal year.

Question: How reliable are your new CETA cost estimates -- or can we expect future massive revisions?

Answer: The Department does not anticipate any major revisions in the cost estimates during the balance of Fiscal Year 1980.

USE OF CETA PUBLIC SERVICE JOBHOLDERS IN PROJECTS OF LASTING BENEFIT

A recent report you sent us seemed to say that you don't believe CETA public service jobholders can be used to any great extent to work on projects that are of lasting benefit to the nation.

Question: Why do you feel this is so?

Answer: The report spelled out four reasons why it may be difficult to utilize PSE positions for projects that are of lasting benefit. Basically those points are that: (1) such projects may not be identified as priority projects by the local prime sponsors. The prime sponsors determine which projects will be funded based on their analysis of the needs of the local labor market. To require

absolutely that the prime sponsor use available funds for capital improvement projects would be inconsistent with the Act; (2) the purpose of CETA is to assist economically disadvantaged unemployed and underemployed individuals obtain and retain appropriate employment. CETA programs are therefore designed to increase the employability of the participants. Projects designed to be of lasting benefit to the nation may or may not achieve this purpose and further it is important to design projects so that those most in need can qualify to fill the positions created; (3) this may also conflict with the statutory requirement that prime sponsors provide a significant percentage of the available funds to private non-profit organizations. Such organizations do not operate national capital improvements projects; (4) finally, as indicated in the report, a requirement that prime sponsors operate capital improvement projects would be inconsistent with the statutorily established local decision-making process.

Question: What studies have you done to arrive at the statement that "the funding of capital asset projects may not be a high local need"?

Answer: The Department did not intend to imply by the above statement that a study had been conducted. Rather the statement is explanatory in terms of the first reasons cited above as to why the Department feels that PSE participants will not be used to any great extent to work on projects that are of lasting benefit to the nation. That is, without a direct requirement that such projects must be funded, local prime sponsors may determine that such projects are not a high local priority.

Question: What is your view as to making greater use of CETA public service jobholders to work on projects that do give the nation lasting benefit? Hasn't this sort of thing been done in the past?

Answer: Such projects have indeed been operated in the past and, in fact, are still being operated under CETA. Our report to the Congress on this issue included examples of some of the projects which have been operated under CETA. The Department feels that such projects are appropriate and can be very useful. However, the Department does not feel that direct requirements should be established requiring such projects. This would be inconsistent with the local decision-making requirements of the Act and would not necessarily be in the best interests of the CETA participants. The Department feels that the positions developed for participants should be those which will most assist the individual in obtaining permanent unsubsidized employment. The local prime sponsor is in the best position to determine the types of local employment which are most likely to achieve this goal.

Question: Although some PSE participants do work on environment and conservation projects, doesn't this conflict with the increasing role of the Young Adult Conservation Corps and the Youth Conservation Corps?

Answer: The Department does not feel this is the case. First, these programs basically serve a different clientele. Secondly, and most important, the extent of the projects operated by the regular PSE projects in these areas are not so great as to interfere with the work and the goals of the youth program.

INVOLVING THE PRIVATE SECTOR IN CETA

Question: What has the Department learned about the most promising ways to increase the role of the Private Sector into the CETA system?

Answer: More and more private enterprises are beginning to find a niche in the CETA system which helps them to work effectively with government to reduce unemployment and increase their company's profits. Private sector involvement with the government can be attributed to factors listed in the following categories: Marketing, the Private Industry Council (PIC), economic development, and effective linkages.

In the area of marketing, the private sector has to be encouraged to enter into a relationship with the government. CETA has had to be sold hard to industries which were previously closed to disadvantaged persons. Company top executives had to become committed to hire the disadvantaged, but it is taking time and it requires using a methodical plan to attain our goals, including: Writing articles and advertising in the most well read business magazines, and presenting CETA as a successful business venture which can increase company profits; and using organizations such as NAB, HRDI and public interest groups which have credibility in the business world to show how effective and profitable CETA programs are. These organizations provide technical assistance to the businesses and stress the flexibility of the program.

The Private Industry Council (PIC) provides business and industry the opportunity to input to a Federal employment program, and it reinforces their commitment to reduce unemployment. It allows major corporations to be out in front as leaders. PIC's develop innovative training programs to hire the disadvantaged. Government handles the psychological dimensions of training (social, educational, personal) while business handles the skills training. Labor Market Information (LMI) and employers surveys have contributed to the funding of training programs which are in response to employers' present and future employment needs. PICs have been screening and introducing business to those candidates who are most likely to succeed and show the qualities of job readiness. PIC's have reduced any inconvenience to industry resulting from accepting reimbursement for carrying out training programs or hiring the disadvantaged.

Economic Development is a multi-faceted process. Urban regions foster private sector involvement more than the rural areas. There is a private sector nucleus existing in the urban areas with which to build government/private sector partnerships. On the other hand, CETA's enticement to the rural areas is that CETA funds can be used to stimulate and support rural economic development. The most successful local development strategy for rural areas is the one which emphasized the integration of new enterprises with existing firms. This strategy attempts to maximize the amount which local firms buy from and sell to each other. The development of rural regions' resources creates jobs. Since the PIC program depends heavily on the nature of local leadership and involvement, it is explained to local areas how CETA can foster local economic development through improving local real income, and training local residents and ensuring that their skills are used.

Effective Linkages - CETA programs are being integrated with other Federal economic and community development programs. Labor Unions are permitted to move into more positive participation in CETA efforts.

Effective coordination between government and industry within and between various agencies and levels of government have proven to be a great catalyst to private sector involvement.

EFFECT OF REDUCED FUNDING FOR PRIVATE SECTOR INITIATIVES PROGRAM

Question: You request $150 million for the Private Sector Initiatives Program in Fiscal 1981. What would be the effect of reducing this level of funding? Would prime sponsors provide their own money to make up the difference?

Answer: PSIP is designed to operate at the $400 million level. Nearly 150, or thirty percent of the 473 CETA prime sponsors, receive minimum allocations of $200,000. Anything less provides too little for administrative expenses (limited to 20 percent) to operate the Title VII program. Thus many prime sponsors would be otherwise unable to mount this major administrative initiative, designed to dramatically restructure the CETA system in all prime sponsor areas.

If the level of funding is reduced, we would expect some prime sponsors to provide funds from other titles of CETA in order to continue a viable program. In other areas, however, scarce resources may already have been committed. A reduction in the funding level would, most likely, result in abandonment of Title VII efforts in such areas.

Question: Would the effect of reduced funding be only psychological--or substantive as well?

Answer: Most importantly, our credibility with the business community, already taxed by previous funding uncertainties, would be further diminished by insufficient funding of the Title VII program. The end result would be to effectively discourage the cooperation and participation of the private sector in designing and operating employment and training programs for economically disadvantaged persons under Title VII and throughout the CETA system.

Substantive effects in terms of program operations can be expected as well. Title VII is designed as a formula allocation program for all CETA prime sponsors areas. Many now receive a "bare minimum"--an allocation level that marginally permits a viable program. Anything less jeopardizes the entire program because of the inefficiencies of small-scale operations.

Question: You project fiscal 1980 outlays of $164 million for PSIP, but concede this figure could be far off the mark. Why all the uncertainty?

Answer: Our projected FY 1980 outlay estimates of $164 million are estimates, based upon no previous operational experience with this type of program. It is a reduction from our original projection of $280 million, revised due to the late startup of the program because of the delayed funding. However, these estimates could be far off the mark.

Other private sector programs, including STIP and HIRE, were categorical in nature and designed at the national level. Yet even this control over these programs did not enable the Department to accurately predict program outlays.

PSIP, on the other hand, offers the private sector the opportunity to design programs that meet local needs. The Department has only limited control over this decategorized, decentralized program. Hence our uncertainty about the projected outlay estimates that have been provided.

PRIVATE SECTOR INITIATIVES PROGRAM

Question: What does Private Sector Initiatives Program (PSIP) do that is not accomplished under CETA Title II B? Is there duplication?

Answer: What it is intended that PSIP do that is not accomplished under Title II B is to demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community, including small business and minority business enterprises, in employment and training activities under the Act, and to increase private sector employment opportunities for the economically disadvantaged. The key to accomplishing this is the private industry council (PIC), which is composed of a majority of representatives from business and industry. Together with the CETA prime sponsor, the PIC may elect to provide the same activities that are authorized under Title II B. These activities, including on-the-job training (OJT), however, are designed to augment the prime sponsors' existing programs, while at the same time achieving a higher level of private sector input in their development and operation. Ultimately, the idea is to integrate the best of Title VII into the whole of CETA, thereby eliminating the need for a separate, identifiable program authorized under a separate title under the Act.

Question: There has been some suggestion that on-the-job training be taken out of CETA Title II B and put it into the Private Sector's program -- or vice versa. What is your view on this?

Answer: The suggestion to take OJT out of Title II B and place it in PSIP -- or vice versa -- is somewhat misguided. The important point to make is that the experience gained in Title VII with any activity -- whether it be OJT or classroom training -- and the private sector be carried over, in the long term, to regular CETA activities. In this way, the demonstration nature of PSIP will be fully realized.

PRIVATE SECTOR INITIATIVES PROGRAM - ORGANIZATIONAL EFFORTS

Question: Although 447 of the 470 prime sponsors have established private industry councils, I note that apparently only ten have appointed chairpersons for those councils. Can that be true?

Answer: We apologize for not making clear that, of the 447 prime sponsors who have established private industry councils, all have appointed chairpersons. However, of the remaining 23 prime sponsors who have not yet established private industry councils, ten prime sponsors have at least appointed a chairperson.

Question: What is the reason that some prime sponsors purposefully delayed Private Sector Initiatives Program (PSIP) development?

Answer: Some prime sponsors purposefully delayed PSIP development because of uncertainty about the timing and amount of funding under Title VII. They were concerned that local enthusiasm generated in the business community would be dampened if little or no resources were provided. Rather than lose their credibility with the business community, some primes elected to delay that startup of PSIP until funding was available.

Within four months of the time that funds were provided for implementation of PSIP, nearly 90 percent of the CETA system had developed PICs, the vehicle for implementation of the program. Nearly one-third of the prime sponsors/PICs submitted plans for FY 1979 that were approved by our regional offices. The dispatch with which these actions occurred demonstrates prime sponsors' overwhelming support for PSIP.

Question: How extensive was this?

Answer: No formal report has been made on the extent to which prime sponsors engaged in this activity. At a time when primes were actively soliciting the direct involvement of the business community in employment and training programs for the disadvantaged population, some primes thought the business community would interpret lack of funding as lack of support for the PSIP concept. Thus, they feared a loss of credibility in the business community and felt that it was better to delay implementation of the PSIP concept until adequate funding was provided.

Question: What is the state of private sector enthusiasm for the PSIP program?

Answer: Initial belief in the program and cautious enthusiasm are indicated by the fact that over 450 private industry councils have actually been formed. Business is cooperating with the CETA system, offering suggestions for improvements, and in several areas, volunteering the use of their facilities as well as their time to put suggestions into operation. Another indication of private sector enthusiasm is coming from the trade association sector, which has cooperated in advertising the program to its constituents through journals and newsletters. They have invited Department officials to make presentations to their groups, and in general have been highly responsive to the PSIP concept.

A third indication of enthusiasm is the positive newspaper coverage that has begun to occur, including major publications such as the New York Times.

Question: When will those who are to benefit from the program actually begin receiving training?

Answer: In many areas training programs are already underway, and in some areas placement of initial participants has taken place. The Department anticipates that all PIC's will be fully operational by the third quarter of FY 1980; i.e., programs will be underway in all prime sponsor areas.

Question: How much time do you estimate it will take from the point at which prime sponsors receive PSIP money until the PICs are formed and students begin receiving training?

Answer: A PIC may be established in a relatively short period of time, as evidenced by the fact that once the Congress made funds available for startup activities late in FY 1979, nearly 90 percent of the CETA system responded by putting PIC's in place within four months. Once established, however, PIC's must begin the lengthy processes of planning and institution building. For example, PIC's must conduct or otherwise obtain a labor market survey; identify skill shortages in the area; design, develop, and implement training programs to address these needs; develop a process for and proceed toward selecting program operators; and provide for a system to be used in monitoring programs to ensure that the PIC's objectives will be achieved. All of these time-consuming activities must take place before the actual training of program participants begins.

Prime sponsors cannot receive PSIP funds until the PIC is formed. The PIC must concur in the plan submitted by the prime sponsor to

the Department. Once the plan is approved, funds are obligated for local Title VII programs.

Once the plan has been approved and funds provided, training can begin as soon as obligated by the PIC/prime sponsor into contracts and subgrants with local service delivery agents.

FUNDING FOR OIC PROJECTS

Question: Why do you plan to reduce funding for Title III OIC projects from $4.3 million to $1 million, a drop of $3.3 million?

Answer: The figures quoted above relate to the dollar amount obligated to our Title III funding agreements with OIC (Opportunities Industrialization Centers) in FY 1979 (i.e., $4.3 million) as compared to the amount obligated in FY 1980 (i.e., $1 million). The lower figure for FY 1980 in no way reflects a reduction in OIC's level of activity or rate of dollar expenditures. It simply reflects an administrative arrangement whereby the Department was able to defer full renewal of the funding agreement until FY 1981, with no reduction to OIC's level of operation in FY 1980.

Question: What will be the total funding level in FY 1980 -- $5.4 million? What will be the total funding level in FY 1981?

Answer: As far as CETA Title III resources are concerned, the FY 1980 obligations to the OIC funding agreement will be slightly more than $1 million. However, as this funding agreement includes almost $4 million in CETA Title III funds that were obligated in FY 1979, OIC expenditures during FY 1980 will be at a much higher level than the amount that will be obligated to them from FY 1980 resources. Our projection of OIC's FY 1980 dollar expenditures from CETA Title III resources is in the range of $4.5 million. In regard to FY 1981 funding from CETA Title III, we are not prepared at this time to quote an exact figure for either dollar obligations or expenditures. We can say, however, that it is our preliminary intention to allocate sufficient resources to maintain OIC at their current level of operation.

Question: How will OIC use the Fiscal 1980 funds?

Answer: OIC will continue to provide technical assistance to their local affiliates by assisting them in sustaining local operations; improving the management of OIC affiliates; developing new OIC's; providing direction and fiscal management guidance to local OIC's; sustaining and developing linkages with other community based organizations, public interest groups, industry and other business supporters, the clergy, labor organizations and academia; providing information to OIC's about new legislation, changes in regulations and trends in Federal employment and training policy; providing training for OIC staff and OIC affiliate staff through the Opportunities Academy of Management and Training; and organizing regional conferences, national convocation and area workshops.

Question: How many classrooms will be set up with this money?

Answer: With the $500,000 allocated to their Academy, OIC will conduct approximately 133 classroom trining sessions in various aspects of managing and administering employment and training programs. The duration of these classroom training sessions is usually from 3 to 5 days and the average class size is 15.

Question: How much of this money will be used to run the OIC Academy in Philadelphia and how will these funds be used?

Answer: The OIC Academy will receive $500,000 of the DOL funds to provide training to community based organizations operating employment and training programs.

Since its founding in September 1974, the Academy has provided training to local OIC affiliate staff in the broad areas of program operation, developing operational and economic resources and other services. Under the current contract, training will be provided in the following areas:

I. Employment and Training Services to Targeted Populations

1. Services to Special CETA Target Populations.
2. Employment and Training Services for Disadvantaged and Unemployed Youth.
3. Employment and Training Services to Ex-Offenders.
4. Employment and Training Services to Limited English Speaking Populations.
5. Employment and Training Services to Ex-Substance Abusers.
6. Employment and Training Services to Older Workers.
7. Employment and Training Services to Veterans.

II. Private Sector/Community/Government Partnership

1. Industrial Involvement in Employment and Training Programs.
2. Private Industry Councils - Employment and Training Services and Industry.
3. Community Involvement in Employment and Training Planning.
4. Employment and Training Services and Public Service Employment.
5. The Role and Effect of Federal Employment and Training Programs on Poor and Disadvantaged People.

III. Effective Delivery of Client Services

1. Adult Basic Education
2. Affective Training
3. Counseling the Disadvantaged
4. Job Development for the Disadvantaged
5. Motivating the Disadvantaged to the Need for Employment and Training.
6. Open Entry/Exit Skill Training
7. Pre-Vocational Training for the Disadvantaged
8. Vocational Instruction

IV. Employment and Training Program Management

1. Board Development for Employment and Training Service Providers.
2. Employment and Training Management Information Systems.
3. Employment and Training Management for Special CETA Programs.
4. Employment and Training Planning and Policy Determination.
5. Employment and Training Program Evaluation.
6. Program Planning, Design and Implementation.

Training is conducted in Philadelphia as well as in other cities throughout the nation.

Since October 1, 1979, training has been provided in the following subjects:

Adult Basic Education
Motivation
Vocational Instruction
Affective Education Training
Manpower Planning and Policy Determination Counseling
Program Planning, Design and Implementation
Job Development
Employment and Training Services to Youth
Manpower Information Systems
Employment and Training Services to Ex-Offenders
Open Entry - Open Exit Skill Training
Employment and Training Services to Ex-Substance Abusers

It is planned to offer these courses on an as requested basis throughout the year.

Question: How many people have been trained by the Academy and how many are expected to be trained in FY 1981?

Answer: Since it was established in 1974, the Academy has trained approximately 7,000 persons who are engaged in the administration and management of employment and training programs. Given adequate financial resources in FY 1981, approximately 1,000 more individuals would receive training during that year.

REALLOCATION OF EXCESS PUBLIC SERVICE EMPLOYMENT FUNDS

Our fiscal 1980 conference report directs the Secretary to give consideration to reallocating some portion of unutilized public service jobs money to areas experiencing severe unemployment.

Question: What have you done to implement this Congressional directive and with what results?

Answer: The Department took the Senate recommendation that excess funds carried forward from Fiscal Year 1979 into Fiscal Year 1980 be provided to areas with high unemployment into consideration at the time the decision was made with respect to the reallocation of the excess funds. All title VI excess funds carried forward from Fiscal Year 1979 into Fiscal Year 1980 ($205,722,064) were in fact provided only to areas with an unemployment rate of at least 6.5 percent.

Question: Were major cities the biggest beneficiaries of targeting these funds?

Answer: Major cities did benefit from this decision. However, many rural areas with high levels of unemployment also benefitted.

Question: What was the effect in Seattle and Philadelphia?

Answer: The City of Seattle did not qualify for any of these redistributed funds. The City of Philadelphia received $9,271,070 in Fiscal Year 1980 Title VI discretionary and excess Fiscal Year 1979 Title VI funds carried forward into Fiscal Year 1980. The Department combined the Fiscal Year 1980 discretionary funds with the carry forward funds before making the distribution in order to provide the maximum assistance possible to these areas with substantial unemployment. Approximately two-thirds of the $9,271,070 provided to Philadelphia was excess carry forward funds.

AIRLINE DEREGULATION ACT

Question: What do you estimate will be the eventual Federal cost to pay unemployment benefits and allowances to which former airline employees would be entitled?

Answer: It is our estimate that there will be no need to pay unemployment benefits and allowances under the provisions of the Airline Deregulation Act, as we believe that the stipulations in the Act will not have an adverse effect on employment situation in the airline industry.

Question: How much would it save the Federal government if the triggers in the "monthly assistance computation" were made to apply to the "duty to hire protected employees" section of the Airline Deregulation Act of 1978?

Answer: Currently the Airline Deregulation Act requires that all airline employees furloughed or terminated who satisfy certain eligibility requirements be afforded "protected employee" benefits. Pursuant to this, the UIS and ES have requested $100,000 and $400,000 respectively in FY 1981 to administer their responsibilities under the Act. With respect to the $400,000 requested, the ES is required under the Act to publish a national listing of current job vacancies with certified air carriers and to maintain a national center to provide priority referrals of eligible workers to airline industry vacancies. The projected cost for maintenance of this center in 1981 is $160,000. Therefore, the maximum savings possible would be some share of the remaining $240,000 if the "protected employee" benefits become subject to the "monthly assistance" trigger. With respect to the $100,000 requested, the UIS is required to determine whether individuals qualify as "protected employees" and are thereby eligible for first right of hire protection. Application of the aforementioned trigger to these benefits could result in savings ranging from the full $100,000 requested to a minimum of $50,000. The maximum savings would be realized if the trigger point is not reached in FY 1981; the minimum would result if approximately ten percent of the employees in the industry are furloughed in conjunction with a trigger "on".

Since we have had no program experience as yet under the Act, it is not possible to project beyond these rough estimates.

Question: When will regulations be issued to carry out the employment protection provisions of the Airline Deregulation Act?

Answer: The draft regulations, which were reviewed in both houses of the Congress in the fall of 1979, have been redrafted and are now in the final stages prior to publication. It is expected that the regulations will be published soon.

Question: Is your request of $500,000 a realistic figure for administration of this law, through the 2,400 local Employment Service agencies?

Answer: Having no past experience to draw from, this figure represents our best estimate, based on projected workloads, of the cost of the administration of this law in 1981. Only actual experience will demonstrate how realistic our estimates are.

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Question: Why is there no request for benefits and allowances to which unemployed airline workers are entitled by law?

Answer: The payment of benefits and allowances to unemployed airline workers is contingent upon a declaration by the Civil Aeronautics Board (CAB) of a qualifying dislocation. A qualifying dislocation is a bankruptcy or major contraction of an air carrier, the major cause of which is deregulation. As the CAB has yet to consider or declare any qualifying dislocations, the Department feels that it is not yet appropriate to request funds to cover benefits and allowances.

Question: Why is there no request for the Labor-Management Services Administration, which your budget justification states administers the first right of hire provisions of the Airline Deregulation Act?

Answer: There was no request made in our budget justification because the workload had not yet materialized.

SCHWEIKER AMENDMENT

Question: How many workers are currently exempted from OHSA by the amendment sponsored by Senator Schweiker, which was attached to the fiscal year 1980 Labor-HEW appropriations bill?

Answer: That amendment, as approved by the Conference Committee and incorporated by the Continuing Resolution as a result of House action, exempts 1.6 million or 37 percent of all covered establishments, which employ 5.2 million employees, from safety inspections with important exceptions for investigations of accidents, fatalities, imminent dangers and employee complaints.

Question: How many workers would be exempted from the new OSHA bill introduced by Senator Schweiker, S. 2153?

Answer: The bill introduced by Senator Schweiker, S. 2153, could exempt 43.3 million workers from safety inspections, with exceptions for investigations of catastrophes and imminent dangers and, to a limited extent, of complaints.

Question: What are the major differences between Senator Schweiker's new OSHA bill and the appropriation rider enacted for fiscal year 1980?

Answer: The Schweiker appropriations rider exempts only small businesses, those with 10 or fewer employees. The exemption in the Schweiker bill would apply to all businesses regardless of size.

The basis for exemption, i.e. the test of a so-called "non-hazardous" establishment, in the Schweiker appropriations rider is based on the injury-illness incidence rate of the industrial category in which that establishment falls. The test of a so-called "non-hazardous" establishment in the Schweiker bill would be based on that establishment's individual record of lost workday injuries for the preceding calendar year.

Another important difference between the Schweiker rider and the Schweiker bill is that the latter would severely restrict OSHA's response to complaints from workers in exempted establishments. The agency would no longer be able to respond to a call for help from a worker in an exempted establishment unless the employer failed to give satisfactory assurances. That restriction is not present in the Schweiker rider.

A further difference between the Schweiker rider and the Schweiker bill is that with respect to workplaces which may be inspected in the first place, the bill would impose several broad restrictions on OSHA's authority to assess penalties for violations of the Act, whereas the rider restricts the assessment of penalties only for violations found as a result of an investigation of a worker's complaint. In complaint inspections, the rider permits assessment of penalties only for willful violations and for other violations not corrected within a reasonable abatement period. The bill, on the other hand, would treat penalties differently for exempted establishments, that is, those firms which, under the bill, qualify for exemption from general schedule safety inspections. Small exempted firms (with ten or fewer workers) would be exempt from all penalties for safety violations found in the course of those inspections permitted in exempt establishments. The bill would provide the same exemption from penalties for larger exempt firms if they maintained an advisory safety committee and a "regular" consultation program. The bill would also restrict penalties for non-exempt employers who maintained advisory safety committees and regular consultation programs - - to $700 for a serious violation and to $300 for an other-than-serious violation.

COLLECTIVE BARGAINING

Question: What is the outlook for collective bargaining in 1980?

Answer: While the petroleum refining industry has been struck by the Oil, Chemical and Atomic workers since January 8, we do not assume this dispute reflects the bargaining outlook for the remainder of the year. There have been positive signs indicating the desire on the part of both management and labor to peacefully resolve their differences without having to resort to work stoppages. The steel negotiations are being conducted under the Experimental Negotiating Agreement which provides for major issues being submitted to arbitration if agreement cannot be reached by April 14. Therefore there is no possibility of a nation-wide steel industry strike. However, the union retains the right to strike single plant facilities over local issues. In addition, representatives of East and Gulf Coast ports and the International Longshoremen's Association have agreed to begin their negotiations in early May with a July 1 target date to reach agreement on major contract terms. This is three months prior to the October 1 expiration date of these agreements.

Question: What types of industries have contracts that expire, effecting how many workers?

Answer: During 1980, contracts covering some 3.7 million workers will expire. This is approximately 40 percent of total U.S. workers covered under major collective bargaining agreements and about the same number covered under contracts which expired in 1979.

The first major expiration of 1980 involved contracts between the petroleum refining industry and the Oil, Chemical and Atomic workers, which expired on January 8 under a contract reopener provision negotiated in 1979. Some 60,000 workers have been on strike since January 8. However, Federal mediators are continuing their efforts to bring about a resolution to this dispute while most refineries are being operated by supervisory personnel.

For the rest of the year major contracts covering workers in the glass container, aluminum, nonferrous metals, steel, communications, East and Gulf Coast longshore and aerospace industries will be expiring. Currently, negotiations are already underway between the steel industry and United Steel Workers. The Glass Bottle Blowers have ratified new contracts covering some 12,000 workers at Owens-Illinois. These contracts are expected to set the pattern for an additional 65,000 workers throughout the glass container industry with contracts expiring this year.

Question: Do you anticipate more widespread inclusion of automatic cost-of-living adjustment clauses, and what impact will this have on inflation?

Answer: We expect that, because of the current inflation levels, unions will place high priority on negotiating cost-of-living clauses or improvements in those already contained in collective bargaining agreements. Approximately 60 percent of the workers covered under contracts expiring in 1980 are already covered by such clauses. While contracts with Cost-of-Living clauses tend to produce larger total wage increases, those contracts also tend to be of longer duration, thereby providing a more stable industrial relations climate.

WOMEN IN CONSTRUCTION

Question: What is your response to charges by the Associated General Contractors of America that the Office of Federal Contract Compliance Programs has unrealistic and unworkable goals and time-tables concerning hiring of women in construction trades?

Answer: It is our experience that goals and timetables represent the best way to increase employment opportunities. In order to set proper goals for females who are clearly being denied employment opportunities in the construction industry, the Department considered a number of methods for establishing goals. Because little data existed for setting these goals, the process was difficult. The best available data indicated that women were five percent of the labor force with craft and kindred skills and 1.2 percent of the experienced construction labor force. The first year goal of 3.1 percent was believed to be both reasonable and attainable in our view. The modest following years' increases of five percent and 6.9 percent were in recognition that an increased awareness of opportunities and new interest in the industry would result from the goals and required affirmative action. There was a recognition of the duties faced by contractors when trying to meet the goals. That is precisely why the required affirmative action steps were also included in the regulations. Even if the goals, which are <u>not</u> quotas, are not met, a contractor will still be judged in compliance with proof that a good faith effort was made to meet the goals and that the required affirmative action steps were taken.

There is no dispute that more women are interested in these new opportunities. The Department's funding of outreach programs and apprenticeship training programs and the increase of women in these programs since apprenticeship goals for women were published in May 1978, has resulted in enlaging the number of available and interested women. The apprenticeship goals for women help in providing one of the resources for contractors to recruit women in order to obtain compliance. The OFCCP regulations encourage contractors to utilize BAT programs as one possible resource for women craftworkers. However, many women workers will enter the industry through other channels, just as male workers have joined the construction workforce without first being apprentices.

Question: Would you be willing to conduct cost impact studies and research, as suggested by the Contractors Association, to define reasonable goals and timetables for women in construction?

Answer: In June 1979, the Secretary invited representatives of 22 outside organizations from every segment of the construction industry to work with DOL agencies, primarily OFCCP, in a review of its construction policies and procedures. One of the objectives was to help establish a permanent goal-setting mechanism for women after reviewing the existing goals and timetables.

After an indepth look at all readily available data, the working committee agreed additional information was necessary. OFCCP committee itself to conduct more research or have it done. Because no agreement was reached on what should be included in the research at the last meeting in December, each organization was asked to express its views to the Director of OFCCP. That has been done and OFCCP is now in the process of determining the extent of the research project and how it will be done.

SUBCOMMITTEE RECESS

Senator SCHWEIKER. The subcommittee will recess until 2 p.m. on March 4, when it will continue with the Department of Labor appropriations.

Thank you.

[Whereupon, at 4:10 p.m., Monday, March 3, the subcommittee was recessed, to reconvene at 2 p.m., Tuesday, March 4.]

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

TUESDAY, MARCH 4, 1980

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

The subcommittee met at 2:10 p.m. in room 1114, Everett McKinley Dirksen Senate Office Building, Hon. Thomas F. Eagleton presiding.

DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

STATEMENT OF DONALD E. ELISBURG, ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS

ACCOMPANIED BY:
- WELDON J. ROUGEAU, DIRECTOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
- EVERETT P. JENNINGS, DEPUTY DIRECTOR FOR PROGRAM OPERATIONS, OFFICE OF WORKERS' COMPENSATION PROGRAMS
- HENRY T. WHITE, DEPUTY ADMINISTRATOR, WAGE AND HOUR DIVISION
- CHARLES E. PUGH, DIRECTOR, OFFICE OF PROGRAM DEVELOPMENT AND ACCOUNTABILITY
- JOSEPH V. BROWN, JR., DIRECTOR, DIVISION OF BUDGET AND FINANCE
- WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
- MARY ANN WYRSCH, DIRECTOR, OFFICE OF BUDGET
- CRAIG A. BERRINGTON, DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS

INTRODUCTION OF ASSOCIATES

Senator EAGLETON. The subcommittee will come to order. This afternoon we will be discussing the budget requests for the Employment Standards Administration, the Bureau of Labor Statistics, and departmental management.

We will begin with Assistant Secretary Elisburg. Mr. Secretary, would you please introduce your colleagues and then proceed.

Mr. ELISBURG. Thank you. Good afternoon, Mr. Chairman. If I may introduce my colleagues: Starting on my right is Mary Ann Wyrsch, Director of the Department's Office of Budget; William Reise, who is

the Department's Comptroller; Joseph Brown, who is the budget officer for the Employment Standards Administration; Charles Pugh on my immediate right, who is the Director of the Office of Program Development and Accountability for ESA.

On my far left is Henry White, who is the Deputy Administrator for the Wage and Hour Division. Next to him is Everett Jennings, who is the Deputy Director of the Office of Workers' Compensation Programs.

On my immediate left is Mr. Weldon Rougeau, who is the Director of the Office of Federal Contract Compliance Programs. I think I've got everybody.

Very briefly, I will tell you that we have both a direct appropriation request here as well as a supplemental for fiscal year 1980, and a series of different requests relating to both salaries and expenses and a special benefits fund to pay black lung payments. Also, there are supplementals relating to both black lung disability trust fund, FECA and the contract compliance program ADP operations, all of which are explained in the formal statement.

PREPARED STATEMENT

If I may offer my formal statement for the record, Mr. Chairman.

Senator EAGLETON. Your prepared statement will be inserted in the record at this point.

[The statement follows:]

Statement of Donald Elisburg

Mr. Chairman and Members of the Committee, I will discuss the Fiscal Year 1981 Budget Request for Salaries and Expenses for the Employment Standards Administration, a Supplemental Appropriation for Salaries and Expenses in Fiscal Year 1980 for the Federal Employees' Compensation Program and the Federal Contract Compliance Programs, and a Supplemental Appropriation for the Black Lung Disability Trust Fund in FY 1980. I will also discuss the Special Benefits accounts later in this statement.

The FY 1980 Salaries and Expenses Supplemental proposes $2,707,000 over the FY 1980 appropriation. No additional positions are requested. The FY 1980 Supplemental for the Black Lung Disability Trust Fund requests an additional $494,347,000, of which $443,517,000 is to pay for additional claimant benefits. The FY 1981 Salaries and Expenses account provides for 5,191 full-time permanent positions and $200,676,000. The FY 1981 Special Benefits Fund request is for $1,001,335,000, of which $384,193,000 is a direct appropriation, with $617,142,000 being reimbursed from other Federal agencies. The FY 1981 Black Lung Disability Trust Fund request is for $935,000,000.

Fiscal Year 1980 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 three 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.

Workload growth rates are moderating after a period of rapid and substantial growth following the enactment of 1974 amendments to the Federal Employees' Compensation Act. Though stabilizing, annual workloads remains much higher than pre-amendment levels. Injuries reported in FY 1979 were 85 percent higher than those reported in FY 1973. The number of long-term compensation recipients grew by 56 percent over the same period. Claims filed under the 45-day continuation of pay provision totaled 94,118 in FY 1979, compared to just over 30,000 filed the first year after the amendments.

The FY 1979 Supplemental Appropriation Act provided an additional 365 staff years of effort and $8,218,000 for the Federal Employees' Compensation program. The full-time permanent positions were used to process ongoing workloads. The temporary personnel provided intensive short-term effort to reduce workload inventories and stabilize program operations. While the program is stronger than it was two years ago, continued effort and improvement is needed. The process of documenting, evaluating and adjudicating claims is one which cannot be short-cut, particularly if the interests of the government and claimants are to be protected. Our current (Level I) ADP capabilities are being improved as much as possible, but the system is becoming technologically obsolete. Our limited ADP capabilities increasingly hinder better program performance.

The Employment Standards Administration is requesting an additional $1,500,000 to complete development and pilot testing of an enhanced (Level II) automated data processing system. Costs to provide current ADP services will require all of the funds presently available for ADP. Without the additional resources requested, ESA cannot meet the planned 1981 date for nationwide implementation of the improved system.

FY 1980 Supplemental Request - Federal Contract Compliance

ESA is requesting a supplemental FY 1980 appropriation for the Federal contract compliance program in the amount of $1,207,000 and no positions. The proposal would provide funding to complete and implement the tracking and management information system to monitor compliance activity in the construction industry.

Original planning assumed that reporting and management information for the construction industry could be obtained through the same mechanism developed for non-construction contactor compliance reviews. However, a more sophisticated data processing support capability is now required for construction due to three consent decrees to which the Department is now subject. Because of the timing of the consent decrees and the complexity of the reporting requirements imposed, system parameters and funding requirements could not be finalized in time for inclusion in the FY 1980 budget request. A supplemental appropriation for FY 1980 is needed to augment base level funding to complete and implement this component of the OFCCP information system.

This system will produce reports on the aggregate number of hours worked in each construction trade by geographic area, by protected group, and by male and female workers. Also included will be a substantial contractor data base which will be vital for operations and also a valuable aid in targeting enforcement activity on a "worst-first" basis. The information generated will satisfy court-ordered reporting requirements.

Fiscal Year 1980 Supplemental Request - Black Lung Disability Trust Fund

The Employment Standards Administration is also requesting a $494,347,000 Supplemental Appropriation for the Black Lung Disability Trust Fund. Benefit costs will increase $443,517,000 because of the number of claims that were approved in FY 1979, and also because more claims are now expected to be approved in FY 1980 than were estimated one year ago. Interest costs will increase $50,830,000 as a result of larger advances required from the General Fund. Supplemental benefit funds will be needed beginning about May 1,1980.

Fiscal Year 1981 Budget Request - Improving and Protecting Wages

I would now like to discuss the components of the FY 1981 Budget for Salaries and Expenses. The request provides 1,720 positions and $65,902,000 for all programs funded under the budget activity Improving and Protecting Wages, a decrease of 36 positions and $1,144,000 below the FY 1980 level. These programs include administration and enforcement of minimum wage, overtime and child labor laws, prevailing wage standards, fringe benefits, and

overtime compensation on Federally funded contracts, standards for migrant farm workers, and wage garnishment protections. The resources proposed for FY 1981 will enable ESA to assure that complaint inventories and standards of performance are at acceptable levels. Program results in FY 1979 were at record levels with over $135,000,000 in back wages found owed to 680,000 workers under the Fair Labor Standards Act and the various government contract labor standards laws administered by ESA. Employers agreed to pay $81,000,000 of this amount to almost 527,000 workers. Back wage findings under the government contract labor standards program amounted to $11,300,000 owed to 40,000 workers. Employers agreed to pay $7,700,000 of this amount to 35,000 workers. More than 2,000 construction wage surveys were conducted by ESA during the year. Under the Child Labor Laws almost 13,000 minors were found illegally employed.

FY 1981 results will, in most instances, approximate or surpass those of FY 1979. It is expected that a total of 76,700 compliance actions will be conducted resulting in $130,000,000 in back wages being owed to 700,000 workers. Underpayments in the government contract labor standards program will amount to $16,000,000 involving 60,000 workers. Approximately 3,000 construction wage surveys will be conducted by ESA, assuring a sound data base for issuing wage determinations. Approximately 13,000 minors will be found illegally employed. The year-end inventory of complaints will be at 33,000 representing a five month inventory as anticipated in FY 1981 levels of production.

In the initiative to eliminate the economic incentives for employers to hire undocumented workers, we will conduct 14,500 investigations. In the agricultural sector, this effort will be undertaken in conjunction with our regular enforcement of the Farm Labor Contractor Registration Act. The use of "strike forces" has become an effective tool for the Employers of Undocumented Workers program in areas and industries known to have high concentrations of undocumented workers. These efforts have received a considerable amount of publicity, making our enforcement efforts highly visible.

Emphasis will continue to be placed on working with the Immigration and Naturalization Service (INS) in order to obtain data both from the Service and detainees in INS Detention Centers which will aid ESA in scheduling firms for investigations.

We are seeing more 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, and we are continuing to target our enforcement efforts where there is a high likelihood of violations. Emphasis is also being placed on bringing repeat violators into compliance. Under the provisions of a Federal court order, the Department of Labor is proposing regulations which set forth procedures for the coordination of enforcement activities relating to migrant farm workers. The regulations will apply to all Department of Labor agencies responsible for migrant farmworker activities. The regulations also provide for the designation of 20 ESA Farm Labor Specialists to be assigned to those offices that have significant amounts of farmworker activity. These specialists will be responsible for overall coordination of all ESA agricultural activities including making investigations of farm labor contractors.

In the prevailing wage determination programs, we are stepping up our construction wage survey program in order to issue timely and accurate wage schedules for inclusion in government contract documents. As part of our effort to seek more effective ways to administer these programs, we are planning a revision of the present regulations for the Administration of the Davis-Bacon and Related Acts and the Service Contract Act. Proposed regulations were published for comment in the Federal Register in December 1979.

Elimination of Discrimination in Employment

Under the activity, Elimination of Discrimination in Employment, the FY 1981 request totals of $54,997,000 and 1,482 positions. The proposal reflects a steady state level of funding for operation of the Office of Federal Contract Compliance Programs. There is a modest increase of $293,000 to complete implementation of the construction information reporting system.

We are proud of the strides which have been made in the Contract Compliance Program under the consolidated framework set up by the President's Reorganization Plan No. 1. In a little more than a year, we have come from a bare bones organizational structure to a viable enforcement program. In addition to the more than 300 vacant positions which were transferred from other agencies, we discovered that many of the personnel transferred were not adequately familiar with all aspects of the compliance process or with all the different industries which require compliance reviews. Extensive training has therefore been provided to the many new staff and to existing staff to assure the level of quality work which is mandatory in this program.

Overhauling and streamlining of governing regulations is also well underway. These changes are aimed at cutting down on contractors' paperwork, clarifying the EEO and affirmative action requirements, and making the whole process easier both for the contractor and for the enforcement staff, without lessening the protections against job bias.

The enforcement program is showing the results of the organizational and structural improvements which have been made, and during this fiscal year will reach full stride as staffing will reach full strength and training and experience levels improve further. Targeting systems have been devised which focus enforcement resources on specific industries where there is job growth potential or where generally there has been a history of underutilization of minorities and women. Where possible, we also link together the specific job requirements of contractors with local training and placement programs, tying together the supply of workers with the job demands of contractors.

A number of significant enforcement actions involving major employers have been completed or are underway. In the past year, OFCCP conciliated disputes with over 175 employers, obtaining almost $14.5 million in total financial commitments to equal employment opportunity and affirmative action. We expect this trend to continue and grow. The consolidated contract compliance affirmative action program is now the most effective it has ever been, and is having a meaningful impact both on increasing the numbers and upgrading the employment status of minorities, women, handicapped workers and veterans.

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 for FY 1981 totals 1,696 positions and $62,589,000. This represents an increase of $2,064,000 above the FY 1980 funding level. No new positions are requested.

The top priority for the Federal Employees' Compensation Program is to provide better claims service to employees and improve quality control in the claims adjudication process. Significant qualitative improvements were made in FY 1979. Revised claims and medical procedure manuals were implemented, and will improve the uniformity of future claims adjudication. The Automated Compensation Payments System was developed in FY 1979, and will be added in FY 1980 to the Level I ADP system currently supporting district office operations.

As the rate of increase in incoming workloads moderates and Level I ADP improvements are implemented, we expect to achieve a better balance in FY 1980 between initiating adjudication of new cases and completing adjudication of earlier cases. This balance can be maintained in FY 1981 if the enhanced ADP system (Level II) is implemented nationwide. Level II will expedite claims processing by making needed claims adjudication data available to multiple users at the same time, will facilitate detection of fraud and will, and also increase management control of workload distribution. Timely implementation will require $1,500,000 in supplemental FY 1980 resources as I noted earlier, and a $2,004,000 enhancement in FY 1981. We expect to close 205,000 FEC cases in FY 1981, and review 40,000 long-term cases on the roll to verify whether benefit entitlement should continue.

In the Longshore program, the rate of inflow of new claims stabilized after a major upswing in FY 1978 and is expected to remain relatively constant through FY 1981. Despite the increased workloads, we will be able to maintain the present level of performance through increased productivity, but the higher level of incoming cases will not permit a significant reduction in the inventory. We expect to close almost 55,000 lost-time cases in FY 1981, and conduct 10,700 informal conferences.

I am very pleased with the progress we have made in the Black Lung program. As you are aware, the Black Lung Benefits Reform Act enacted in March 1978, brought about major changes in program operations and workloads by extending coverage of the law to a significantly larger number of miners, and by mandating review of all pending and previously denied claims. As of March 1978, approximately 5,550 disabled miners or their survivors were receiving monthly compensation and/or medical benefits from the Department of Labor. By mid-February -- 24 months later -- almost 165,000 claimants were determined eligible to receive benefits from the Department of Labor.

During Fiscal Year 1981, we expect to further decentralize program operations and to eliminate completely the primary processing inventory of all previously denied or pending claims filed since 1969. This will require 157,500 initial findings in 1980 and 52,400 in 1981, and will increase the number of claimants receiving monthly benefits to 180,000 by the end of FY 1981. As we complete primary processing of all previously denied or pending claims in 1981, we will place additional emphasis upon reviewing claimant and mine operator appeals of earlier adjudication decisions--20,000 cases are expected to be processed for conferences, and 16,000 for formal hearings in 1981.

Program Development and Accountability

In the activity titled Program Development and Administration, which includes ESA's management, research, and support functions, the FY 1981 Budget request calls for a total of 293 positions and $17,188,000. Resources in this activity have remained essentially stable despite a substantial expansion in new initiatives in the number and scope of ESA operating programs. These include extensive research studies planned for each of the three major program areas. The major areas of effort include several new initiatives in the OFCCP program designed specifically to improve program targeting and operational effectiveness. In the workers' compensaton programs, new projects will be aimed at improving the Federal and State workers' compensation systems and the management of ESA-administered programs.

The Wage-Hour program will feature research regarding the effect of the minimum wage on employment and inflation, a study of the effects of pesticides on agricultural workers under 16 years old, and Congressionally mandated evaluation of the impact of the Age Discrimination in Employment Act Amendment (Section 5).

Integral also to strengthening the effective management and direction of ESA programs are our efforts to conduct a vigorous on-going accountability review process, emphasizing the achievement of measurable program goals and conformance to quantity and quality performance standards. This process, which involves ESA managers at all levels, has already helped to bring about significant improvement in ESA program performance.

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. There is a need for these projects due to the growing number of standards adopted at Federal and State levels as well as the expansion of Federal standards into what had previously been solely State domain.

Mr. Chairman, to summarize the Salaries and Expenses request for FY 1981, 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 Funds

Turning briefly to the Special Benefits account, the overall request for FY 1981 is $1,001,335,000 an increase of $174,799,000 over the FY 1980 estimate.

The account 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 bulk of the request, $997,663,000, is for the Federal Employees' Compensation program. These benefits are paid to Federal employees and certain other groups such as non-Federal law enforcement officers and Job Corps enrollees under extensions of the Act. The principal factors contributing to the estimated 21 percent increase in overall compensation costs over FY 1980 are the cost-of-living adjustment feature based upon the Consumer Price Index, along with the adjustment for the Federal pay

raise. The anticipated $19,468,000 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 sevices. An estimated $3,672,000 will be needed under the Longshore program to meet the Federal share of required benefit payments.

Black Lung Disability Trust Fund

The Black Lung benefits are now financed from a separate Black Lung Disability Trust Fund. This Fund was established under the Black Lung Benefits Revenue Act of 1977 and is 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 advances to the general fund with interest. Resources in the Fund are derived from an excise tax on the tonnage of mined coal, fines and penalties assessed the mine operators, and when needed, funds transferred from the Advances to the Unemployment Trust Fund and Other Funds appropriation account.

The Fund pays 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. The Fund also pays administrative costs of the Department of Labor, Treasury, and Health, Education and Welfare which are incurred in administering the benefits program and operating the Trust Fund.

In Fiscal Year 1981, we are requesting authority to expend $935,000,000 from the Black Lung Disability Trust Fund. An estimated $773,900,000 will be needed for the payment of benefits, $128,831,000 for interest accumulated on repayable advances, and $32,269,000 for the administrative expenses of the Departments of Labor, Treasury and Health, Education and Welfare.

Mr. Chairman, that concludes my formal statement. My staff and I are prepared to answer any questions you might have.

ESA FUNDS

Senator EAGLETON. How much of the Labor Department budget in gross dollars comes under your jurisdiction, Mr. Elisburg?

Mr. ELISBURG. Salaries and expenses, approximately $200.7 million. In addition, we have the various special benefit funds, both black lung and FECA, which come to approximately $1.9 billion.

Senator EAGLETON. So salaries and payroll, that's your staff and what have you, is $200.7 million. What are black lung benefits running? I don't mean to the penny.

BLACK LUNG BENEFITS

Mr. ELISBURG. Black lung benefits on an annual basis are running approximately $600 million.

Senator EAGLETON. What was last year's black lung benefit expenditure? What's the fiscal year 1980 budget for black lung benefits?

Mr. ELISBURG. Last year, for fiscal year 1979, we expended about $583 million for benefits.

Senator EAGLETON. Fiscal year 1979 was $583 million; fiscal year 1980 is what?

Mr. ELISBURG. $866 million.

Senator EAGLETON. $866 million, and fiscal year 1980 is $935 million?

Mr. ELISBURG. Yes, sir; the difference in that is that as we are getting the older claims paid, therefore reducing the amount of retroactive benefits that have to be paid.

BLACK LUNG SUPPLEMENTAL

Senator EAGLETON. That fiscal year 1980 figure of $866 million, does that include the supplemental that was mentioned by Secretary Marshall yesterday, something in the neighborhood of $400 million plus?

Mr. ELISBURG. Yes, sir; that includes the supplemental for $494.4 million.

Senator EAGLETON. So in the fiscal year 1980 bill itself there is only about $460 or so million for black lung benefits, is that right?

Mr. ELISBURG. That would be correct, $468 million

Senator EAGLETON. I didn't understand yesterday—maybe you can clarify it for me today—why our fiscal year 1980 figure was so low, therein necessitating a supplemental even larger than the budgeted figure itself, $494 million being larger than $460 million.

Mr. ELISBURG. It began with the budget cycle when the program was passed and first started up in early 1978. There was not the anticipation of either the numbers of claims being processed or the payout that we have been able to move forward.

In addition, as was discussed last year before the Congress when we asked for a supplemental for fiscal year 1979, a change in the regulations' interpretation by the Social Security Administration handling part B cases, resulted in a much higher approval rate than had been anticipated in the earlier budget process. That largely accounts for both the supplemental request of last year and this.

Senator EAGLETON. If I hear you, then, it's attributable to your doing things much more quickly and efficiently?

Mr. ELISBURG. As well as looking——

Senator EAGLETON. I would compliment you for that.

Mr. ELISBURG. Thank you.

Senator EAGLETON. But also, those people hearing the cases are being far more generous in their awards than was heretofore anticipated.

Mr. ELISBURG. There was a group of cases from the Social Security Administration that had a substantially higher approval rate than had first been anticipated; yes, sir.

Senator EAGLETON. Now, the other major program is FECA benefits, right?

Mr. ELISBURG. Yes, sir.

Senator EAGLETON. Give me those same 3-year figures on those. Give me fiscal year 1979.

Mr. ELISBURG. The figure for the current year is approximately at $1 billion even.

Senator EAGLETON. $1 billion? That's fiscal year 1980? The budget fiscal year 1981 is what?

Mr. ELISBURG. Fiscal year 1980 is $823 million, and fiscal year 1978——

Senator EAGLETON. 1979.

Mr. ELISBURG. 1979, I'm sorry, is $700 million.
Senator EAGLETON. $700 to $823 million to $1 billion even.
Mr. ELISBURG. Right.

LONGSHOREMAN AND HARBOR WORKER

Senator EAGLETON. What other major programs do you administer? We'll probe a little more specifically. But I just want to get a——
Mr. ELISBURG. Those are the two major programs accounting for large sums in benefits. The Longshoremen and Harbor Workers Compensation Act is a large benefit program also, but we do not pay those. They are paid by the insurance carriers and self-insured employers in the private sector. The Longshore fund we administer is a second injury fund and for payment of certain adjustments and benefits under the act.
So the major Federal payouts are for black lung and the FECA claimants. The rest of our ESA appropriation, of course, is for the Office of Federal Contract Compliance Programs, Wage and Hour Division, and OWCP operating funds.

BUDGETARY CUTS

Senator EAGLETON. Suppose Secretary Marshall convened all of his assistant secretaries. How many are there? Six, seven?
Mr. ELISBURG. Seven.
Senator EAGLETON. Convening in the room tomorrow morning and said: "Gentlemen and ladies, I just got a call from the President. As you know, he's going to recommend some budgetary cuts. He has told the Department of Labor we have got to cut a billion dollars."
I'll start with you, Mr. Elisburg—I'm Marshall. How much of that billion can you absorb?
Mr. ELISBURG. Well, I'd probably say I need a few hundred million extra. But the fact of the matter is that our program outlays for both the FECA and black lung are really the uncontrollable type items. They are mandated by Congress in terms of the benefits that must be paid.
Senator EAGLETON. I don't blame you for using that term. We all use that term. I understand that term,"uncontrollable."
Mr. ELISBURG. Frankly, you have two choices in those kinds of programs. Either you change the benefit structure to lower it or you follow an equally unacceptable course of action, which is to just delay the payments. You slow down the processing of claims and begin to get years behind and you get a tremendous uproar. So you really can't do that.

ENFORCEMENT PROGRAMS

The rest of the Employment Standards Administration programs are law enforcement operations. Any time you begin to look at these kinds of programs, the question is, what is the level of enforcement you're going to have in the civil rights enforcement, or the Fair Labor Standards Act, or those kinds of programs where we have far more business waiting for us than we can possibly handle now anyway.
So that's the dilemma in ESA programs. We don't have very much in the way of discretionary funds.

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Obviously, there are some things that one can slow down, but they don't amount to big, big dollars.

Senator EAGLETON. Secretary Marshall said yesterday for the total Labor Department budget that two-thirds of it was uncontrollable. Is anybody here today that was with the Secretary yesterday? Was that about right?

Mr. REISE. That was right.

BENEFITS CUT BY CONGRESS

Senator EAGLETON. Could we, in an appropriation bill—I'm not saying should we or that we will—could we, in an appropriation bill, cut benefits by putting in some language that—carefully worded, that said benefits heretofore paid on some kind of 100-percent factor, we have just decided we are going to pay off the claims in a timely way, but we will pay *x* percent of what would have otherwise been the award?

That's not legislative draftsmanship. We would cap it out at whatever percentage, in our wisdom or lack of it, we thought—80, 85, 90 percent. Could we do that?

Mr. ELISBURG. I suspect that what Congress gives in the first place, Congress can take back in the second with respect to entitlement programs. And, of course, I suppose there could also be a difference in future benefits for future claimants versus claims that are pending or claims that are already being paid.

For example, if you have a person on permanent——

Senator EAGLETON. I think a case can be made, even in an entitlement program, if these are entitlements, uncontrollables, mandated spending, whatever it is, even in an entitlement program, I don't know that anybody can force us to appropriate the money.

Mr. ELISBURG. I'd have to defer to learned counsel on that.

Senator EAGLETON. Yes; we could say, notwithstanding any other provision of law, we hereby ordain that this year's benefits for X will be *x* amount. If the President is faced with the grim reality of trying to come close to balancing the 1981 budget and Congress shares in that serious undertaking, if we can't do something on the uncontrollable accounts, I don't know how we can get all of that saving out of the controllable section of the budget.

We had a figure here the other day that if you take out the uncontrollables and then if you isolate defense, say that no cuts are going to be made there, indeed some add-ons probably will come there, it left the controllable amount something in the neighborhood of $52 billion.

So if you talk about a $20 billion budget cut, all that $20 billion would have to come out of that $50 billion, if uncontrollables remain immutable. Thus, in your budget the only way—if Marshall said, somehow, "Don, we've got to get $100 million out of you"—if you leave the uncontrollables alone you would have to cut your entire personnel salary business by one-half. You would have to discharge half your employees.

FECA BENEFITS

Let me ask several questions on FECA benefits. Federal FECA

benefits continue to soar. You've already given us the figures. It would be right at a billion in your proposed budget. If they continue to soar in this vein, what are they going to be 5 years from now? They are galloping upwards about 20 percent a year. Is that a rough figure, from $700 to $823 million to $1 billion?

Mr. ELISBURG. Mr. Chairman, I think they're increasing somewhere between 15 and 20 percent.

But I would like to observe that in a program of uncontrollables, this is an area of even more difficult uncontrollables. We think that in the last couple of years we have in fact been able to control the number of claims that are being filed. Doing better quality control on the cases and in reviewing people on the periodic rolls have saved some millions of dollars.

But the fact of the matter is that these increases, in the last several years, have been due almost exclusively, not to the increase in number of claims, but in the fact that our benefits are tied to the increase in Federal salaries, to the cost-of-living escalators that we must pay those who are on benefits, and the rising costs of medical treatment.

CONSUMER PRICE INDEX

Senator EAGLETON. Is the beneficiary of this program, is he or she permanently protected, CPI-wise? An award made in 1975, every year it's ratcheted upward CPI-wise?

Mr. ELISBURG. Yes, sir; every time the CPI goes up 3 percent for 3 consecutive months, we have to recycle everybody up to that cost-of-living change. They are permanently protected by that escalator.

Senator EAGLETON. And in the opinion of some of the economists, overly protected.

Some say that the CPI is, in this current day and age under current economic conditions, overly indulgent inflationwise, contrasted with reality.

Mr. ELISBURG. I have heard those discussions. We also have a provision in the FECA program that these cost-of-living escalators are not done on an annual basis but are done each time the CPI goes up which is now sometimes two or three times a year.

Senator EAGLETON. You recompute that?

Mr. ELISBURG. We're obligated to recompute it on the percentage increase over the current base month.

Senator EAGLETON. Quarterly, you must recompute?

Mr. ELISBURG. If the CPI didn't go up, we wouldn't have to. We have to recompute every time the CPI goes up 3 percent for 3 consecutive months. Let me ask Mr. Jennings to describe it.

Mr. JENNINGS. When the CPI goes up by 3 percent over the base month and holds that level for 3 consecutive months, a CPI increase is put into effect based upon the highest percentage increase during the 3 months. There might be in a given year one or two or none. It depends on the 3-percent increase.

Senator EAGLETON. Last year, you must have had about four last year.

Mr. JENNINGS. We have never had four. The most, to my knowledge, has been three in 1 year during the life of the program.

Senator EAGLETON. Was that last year?

Mr. JENNINGS. That was 1974. In 12 months, you can have three, possibly four, but to my knowledge, only one time have we had three.

Mr. ELISBURG. It is somewhat troublesome to us. First of all, it takes an awful lot of resources to do it. It's a big recomputation job.

INCREASED COST OF NEW RECIPIENTS

Senator EAGLETON. So you lay most of this off on the CPI?

Mr. ELISBURG. That and the increase in the Federal salaries, because new people coming on the rolls or new people that are injured are going to be compensated at a higher rate than people would have been the year before. And then the third element, which is a very expensive proposition, is, of course, the increased cost of medical treatment, which we pay.

Medical costs in this program escalate just like medical costs in every other program, and we have the same problems controlling those costs. However we try to do it, it's a difficult problem for us.

RECIPIENTS HOLDING OTHER JOBS

Senator EAGLETON. What progress, if any, has been made to control total disability payments to workers who get other jobs?

Mr. ELISBURG. Rather substantial. We have had two programs. First, prior to 1977, there was a period of almost 10 years when the cases of those people on permanent disability rarely were reviewed in a timely manner. We have, in the last 3 years, been through all of the older cases on the periodic rolls, and we now have a policy of reviewing each case annually to see whether someone has improved enough to return to work or has an earning capacity making it possible to adjust benefits.

I forget the exact figures, but we have saved millions of dollars in that process, around $9 million just from those reviews.

FRAUD CONTROL

The other program that we have underway with our Inspector General and other agencies is a fairly comprehensive effort at fraud control, which does not mean that we have a lot of cases. We have always said that the program isn't saturated with fraud cases, but there are enough that it requires a steady activity. There are some savings there, both with respect to people who are on the rolls who shouldn't be, as well as suggesting that some people may hesitate to file claims in the first place if they know that we are looking at them.

EFFECT OF INCREASED NUMBER OF MINERS

Senator EAGLETON. It's anticipated that the number of coal miners may double in the next 20 years. Currently, I'm told, there are 200,000. Some anticipate with enhanced use of coal, it can be 400,000.

How much higher would you expect the tab to rise for annual black lung benefit payments?

Mr. ELISBURG. Well, I'm not sure that one will follow from the other. And those of us involved in this program as well as mine safety and health certainly hope not.

We are really hoping that as the enforcement of the Mine Safety Act brings down dust level, the numbers of claims filed will come down. We're predicting a fairly steady state in the future of about 10,000 cases a year in the black lung program. We expect to be relatively current, without backlogs and so forth, by the end of this year.

I'm not sure I can answer how much it is going to cost in the future for the black lung program. We hope it will cost less, that the increases will be less percentagewise.

FARM LABOR CONTRACT REGISTRATION

Senator EAGLETON. Let me ask about the Farm Labor Contractor Registration Act. Currently, about 6,000 investigations are being performed annually under that act, and about 20,000 farm labor contractors apparently are registered. Are procedures being taken to concentrate investigations on the most serious violators by crew leaders, rather than on family farmers?

Mr. ELISBURG. This is a program, of course, that again did not have a lot of authority until recent years. We have done two things to improve our operation.

We have tried to routinize the registration process as much as possible, so that it is less burdensome to people and we're working more closely with the State employment services.

But with respect to your question on enforcement, we have developed what we are calling an enforcement or targeting strategy to concentrate our investigative efforts on the worst crew leaders in each region. These are the repeat violators, the people who are constantly violating court injunctions, who are in trouble with the U.S. attorneys offices, who don't pay their judgments. These crew leaders are the heart of the problem, and that's where most of our enforcement activity is going to be taking place.

We think that with limited resources that's the best place to put our emphasis.

MINIMUM WAGE STUDY COMMISSION

Senator EAGLETON. A major area of effort in the wage and hour standards program includes the study of the effects of the minimum wage on unemployment and inflation. This year's budget, I guess, contains a $1 million request for the Minimum Wage Commission—oh, that's under "departmental management."

Mr. ELISBURG. Well, yes; that's part of the departmental management budget.

Senator EAGLETON. Are you part of departmental management?

Ms. WYRSCH. We'll be talking about departmental management in the third part of the hearing. We can defer this discussion until then, or we can talk about it now.

Senator EAGLETON. Well, you are doing a study, right—a minimum-wage study?

Ms. WYRSCH. Yes; Senator it is one of the many studies under a whole series of studies being done by the Minimum Wage Commission.

Mr. ELISBURG. I guess I can explain it this way.

Typically, we in the Employment Standards Administration and Wage/Hour would be doing this kind of a study on an annual basis through the assistance of the Bureau of Labor Statistics. Because the Minimum Wage Study Commission has what amounts to a duplicate mandate, this year, we are deferring the handling of that study to the Minimum Wage Study Commission and BLS.

Senator EAGLETON. In the budget book under "ESA" on page 33, this big green book——

Mr. ELISBURG. That's a different survey.

Senator EAGLETON. Second paragraph down, "A Study of the Effects of the Minimum Wage on Unemployment and Inflation", that's page 33. It's indexed—well, under "ESA," I guess.

Do you see that? That talks about a study that apparently ESA is doing, and there's also another study that is being done over in departmental management. Am I correct in that assumption?

Mr. ELISBURG. Well, I guess to put it simply, it's a budget transfer item. Only one study is being done.

Senator EAGLETON. All right. Only one study is being done.

Mr. ELISBURG. Only one study is being done. And I think what we're confronted with here in the budget document are a couple of bookkeeping items.

Senator EAGLETON. OK; in any event, whoever is doing this study——

Mr. ELISBURG. It's only one study.

COMMENTS CONCERNING TIME MAGAZINE ARTICLE

Senator EAGLETON. It's one study. There was a recent article in Time magazine quoting an economist named Walter Williams of Temple University in which he alleges that the rising minimum wage guaranteed maximum unemployment for youth and unskilled workers and contributes mightily to inflation. He advocates, at the very least, a wage differential for youth—in fact, he goes so far as to say that the Federal law that is designed to protect the lowest skilled worker actually hurts him.

Does your minimum wage study address Professor Williams' school of thought?

Mr. ELISBURG. I believe that a series of studies, some done by us and some by the Minimum Wage Study Commission, in fact will address this issue. We, of course, have been on record as stating that we think that the research that's been done to date simply does not support the study that is quoted in the magazine.

Obviously, there are problems with youth unemployment, but the continued discussion about a youth differential is not going to solve the problems of the majority of the youth that are affected in the employment arena.

There are, of course, a number of different programs. The major ones under the Fair Labor Standards Act are the full-time and student/learner programs. Over half a million young people are working under those certificates, which do pay less than the minimum wage.

Senator EAGLETON. Who are they again?

Mr. ELISBURG. Students in schools and universities, working in retail

stores and fast food operations and colleges and universities under certificate.

Senator EAGLETON. And they can work a limited number of hours?

Mr. ELISBURG. Right. It's a limited number of hours.

Senator EAGLETON. Well, that's all I have for the moment, Mr. Elisburg.

QUESTIONS SUBMITTED FOR RESPONSES

We have other questions which we will submit to you for written answers.

And we also have a series of questions from Senator Schmitt and Senator Robert Byrd as well and Senator Hatfield. They will all be submitted to you.

Thank you very much.

Mr. ELISBURG. Delighted.

[The following questions were not asked at the hearing but were submitted to the Department for response subsquent to the hearing:]

Fair Labor Standards Act

Question. Beginning in fiscal year 1978, funds were appropriated to DOL to carry out a special Presidential initiative to reduce the economic incentive to employ undocumented workers, through increased directed enforcement of the Fair Labor Standards Act (FLSA) and the Farm Labor Contractor Registration Act (FLCRA). Yet, the majority of your undocumented worker FLSA investigations have been based upon complaints received from employees. As you know, it is commonly thought that undocumented workers will not complain about wages received because of fear of detection, apprehension, and deportation.

Wouldn't your emphasis on complaint investigations result in subverting funds provided for a specific purpose (undocumented worker program) just to reduce the complaint backlog in your regular FLSA program?

Answer. Early in our implementation of this program we recognized that EUW investigations should not be scheduled primarily as a result of employee complaints. Instructions were included in Wage Hour's Field Operations Handbook which outlined priorities in scheduling EUW investigations. Listed in order of priority, the following sources are used in scheduling EUW investigations: 1) complaints from detainees at INS Detention Centers, 2) leads received from local INS offices, 3) leads obtained from INS records at Detention Centers. The great majority of EUW investigations are to be scheduled as a result of the above sources. These sources may be supplemented with investigations of establishments which fall within targeted industry and geographic lists developed in cooperation with local INS officials.

Question. Wouldn't it have been better, from inception of the program, for your compliance officers to use Immigration and Naturalization Service (INS) records which pinpoint those establishments which consistently employ undocumented workers in lieu of such heavy reliance on complaint-based undocumented worker FLSA investigations?

Answer. From the inception of the program, close relations have been maintained with INS to develop leads on industries and localities, as well as specific establishments, to target for investigation. However, as with the implementation of any new program it takes time to "fine tune" those procedures which will insure the most efficient realization of program goals and most effective impact on the targeted area.

Undocumented Worker Underpayments

Question. You recently reported that, in the year ending July 31, 1979, 12,774 undocumented worker investigations were completed which resulted in findings of $21 million in illegal minimum wage and overtime underpayments affecting 139,000 workers. How many of these workers were undocumented aliens and to what extent did the underpayment actually apply to those undocumented workers?

Answer. The Wage and Hour Division has no statutory authority to identify individual undocumented workers under the Fair Labor Standards Act. Consequently, it is not possible to determine how many undocumented workers received back wages nor the amount of those wages. However, since our investigations are targeted at establishments where undocumented workers are employed, it is assumed that many of these workers were undocumented and that much of the underpayments applied to them.

Question. If you have not determined how many workers and findings apply to undocumented workers, how will you measure the impact this program is having in reducing the flow of undocumented workers into this country?

Answer. The relationship between the Wage and Hour program directed at employers of undocumented workers and the actual flow of undocumented workers into this country is only indirect. It would be virtually impossible to measure the impact of this program on the flow of undocumented workers as a result of this indirect relationship. The other diverse variables which affect this flow can not be sufficiently controlled in order to determine the effect of the Wage Hour program. If effective administration of the program continues, especially the close relationship and exchange of information with INS, the program should have a significant impact.

Lack Of Incentives To Stop Using Undocumented Workers

Question. Prior to the undocumented worker program, your compliance officers conducted investigations at establishments and found violations of minimum wage and overtime. Some of these same establishments were subsequently investigated by the Immigration and Naturalization Service and they found numerous undocumented workers being employed. Using this as a background, wouldn't you agree there appears to be little assurance that employers will stop using undocumented workers, even after violations are noted?

Answer. The fact that undocumented workers may have been found by INS subsequent to a Wage Hour investigation should not imply that in every instance additional undocumented workers were hired after Wage Hour's involvement. Such instances are only a very small sample of the number of investigations completed by the Wage and Hour Division. It is assumed that if employers are required to pay workers in compliance with the various labor standards statutes then there will be no incentive or economic advantage to using undocumented workers and employers will recruit from the local workforce.

Illegal Aliens

Question. How much is in your budget to expand the Wage and Hour Strike Force program aimed at forcing employers of illegal aliens to comply with Federal Labor Standards?

Answer. No funds were requested in the budget to expand the

Wage and Hour Strike Force program. Funds for these strike forces were taken from the base program.

Question: How does the Strike Force program work?

Answer. One of the underlying principles of the program directed at employers of undocumented workers is that the employment of undocumented workers has traditionally been concentrated in certain geographic areas and industries. The strike force approach is a concentrated enforcement effort in a limited geographic area and in industries where these are high concentrations of undocumented workers. Investigations are targeted specifically at employers suspected of employing undocumented workers. Strike force teams consist of relatively small groups of experienced Wage Hour Compliance officers. Certain strike force members have the ability to converse in foreign languages including Chinese and Spanish. Close coordination with the Office of the Solicitor ensures prompt filing of legal action by the Solicitor where appropriate.

Question. How much back wages have employers been found to pay, and how much has gone to illegal aliens?

Answer: For the period beginning September 21, 1978 and ending January 20, 1980, employers have agreed to pay nearly $17.7 million. Since the Wage and Hour Division has no authority under the Fair Labor Standards Act to inquire into a worker's status in this country it is not possible to determine the amount of back wages undocumented workers have received.

Question. Do your investigators contact the immigration authorities when they discover illegal aliens?

Answer. Compliance officers are instructed to be alert to any circumstances which indicate the employment of undocumented workers. Area Directors notify local INS officials of such indications. We have established a formal referral system with INS to do this.

Question. To what extent have employers stopped hiring illegal aliens as the result of Wage-Hour compliance actions?

Answer. This information is not available. However, it is our objective to remove the economic incentive for hiring undocumented workers by vigorously enforcing labor standards laws in those areas where large numbers of undocumented workers are believed to be employed.

FLCRA/Undocumented Workers

Question. Since being amended in 1974, the Farm Labor Contractor Registration Act has included strong penalty provisions to discourage farm labor contractors from hiring undocumented workers. Yet, in fiscal year 1977 and 1978, the number of undocumented worker violations uncovered by your investigators represented only about three percent of the total of all Farm Labor Contractor Registration Act violations. What is the reason for the relatively small number of undocumented worker violations noted in your investigations?

Answer. The figures referred to do not accurately reflect the extent of undocumented workers violations found in FLCRA investigations. Use of illegal alien workers is not a violation chargeable to the user of a farm labor contractor. Furthermore, it would be extremely rare for use of illegal aliens to be chargeable to a farm labor contractor employee. Thus, only the results of farm labor contractor investigations should be considered in this connection. In the last three quarters of fiscal year 1978 some 1,000 farm labor contractors were investigated of which 97 contractors were found to have used 1,178 undocumented workers. In fiscal year 1979, 2,900 contractors were investigated and 215 contractors were found to have used 2,243 undocumented workers. It should be noted that each undocumented worker constitutes a separate violation and civil money penalties are in fact assessed based upon the number of undocumented workers found. In fiscal year 1979 farm labor contractors were cited for 8,030 separate violations of the Act. If the 2,243 undocumented workers violations were added to that number they would represent about twenty percent of the violations found in that year.

Farm Labor Contractor Registration Act

Question. The Farm Labor Contractor Registration Act was amended in 1974 to give the Labor Department authority to make inquiries of employees regarding their legal resident status and their right to work in this country. Until 1979, Labor was of the opinion that it did not have legal authority to directly ask the migrant workers for proof of his or her resident status. Labor has now stated that Wage and Hour compliance officers can make direct inquiries of migrant workers about citizenship or entitlement to work in this country. How will you question all migrant workers in each FLCRA investigation? Will you question only those migrant workers who are suspected to be undocumented workers? Will you only question migrant workers in the presence of INS agents, or will you take the position that the authority to question migrants is too difficult to implement, and if so, why?

Answer. In making inquiries into the citizenship or employability status of crew members, the Wage and Hour Division will attempt to question all workers in a crew and where this is not feasible a representative sample will be questioned. Those questioned will not be limited to any particular race or nationality. Questioning may be done by compliance officers either with or without INS agents present.

Question. As you know, on October 24, 1979, 52 Senators, including myself, sent a letter to Secretary Ray Marshall specifically addressing sections 3(b)(2) and 3(b)(3) of the Farm Labor Contractors Registration Act. The letter expressed concern that the Department has expanded its interpretation of these sections beyond Congressional intent. The Secretary responded on November 26, 1979 by stating that the intent of Congress was to exempt family farms and agriculturally related businesses which "personally" recruit migrant workers. Where in the legislation or in legislative intent does the Department determine that this is Congressional intent with regard to the coverage of the Act to these limited circumstances?

Answer. It is a general principle of corporation law that a corporation can act only through its agents. Thus, a corporation cannot act personally. With this fact in mind, it is clear from the

addition in 1974 of the word personally to section 3(b)(2) that it was the intent of Congress to limit that exemption to those farmers, etc., such as family farms who do all their farm labor contracting personally and who satisfy the other requirements of that section.

Question. In the Secretary's letter of November 26, 1979, he indicates that the Department will be adopting a new interpretation of the term "incidental basis". This term will apparently require that in the great majority of the cases "neither the employer nor its employees will be required to register as a farm labor contractor". First of all, what specific actions has the Department taken to implement this refinement? Secondly, what practical affect will such an interpretation have if the Department continues to construe situations where a corporation can act "personally", as determined in Opinion Letter WH-433?

Answer. The field staff has been advised of the refinement of the interpretation of the term "incidental" as meaning an employee who does not spend more than 20% of his time in farm labor contracting activities. The field staff has already begun to apply the law in accordance with this position and all enforcement actions presently in the pipeline are being reviewed. The position with respect to corporations continues to be that a corporation can act only through its employees and therefore cannot act "personally" as contemplated under section 3(b)(2). Therefore, a corporation cannot generally qualify for exemption under section 3(b)(2). The practical effect is that the employees of such a corporation would then be tested under section 3(b)(3) and if none of the employees exceed the 20% incidental test and all of the other requirements for exemption under section 3(b)(3) are met then neither the corporation nor any of its employees would be required to register.

Question. The Secretary also indicated in that letter that the Act's coverage includes situations "where there is a crewleader hiring or transporting or where there are company employees substantially engaged in activities generally performed by crewleaders". How does the Department determine whether an employee is "substantially engaged" in such activities? How does the Department distinguish between permanent company employees covered by the exemption and those crewleaders that are hired to appear to assume the status of full-time employees?

Answer. As you know, in order to qualify for exemption under section 3(b)(3) one must be a "full-time or regular employee". Someone employed for a limited period of time or someone considered to be an independent contractor would not qualify as a full-time or regular employee. Tests would be applied which have been adopted under the Fair Labor Standards Act for determining whether an individual is an employee or independent contractor. An employee who spends more than 20% of his time in farm labor contracting activities would be considered substantially engaged in these activities (as distinguished from one who is so engaged only on an incidental basis) and therefore not exempt under section 3(b)(3).

Question. The Secretary indicated in that same letter that the Department will be moving towards the targeting of serious and repeat violators of FLCRA and issuing specific field instructions to insure that there are appropriate and consistent enforcement priorities to carry out these instructions. Has the Department issued these instructions yet? If so, how will these field instructions specifi-

cally target repeat and serious violations? If not, why has the Department not issued these instructions? In addition, I would most certainly appreciate a copy of these field instructions once they are issued.

Answer. The strategy for dealing with repeat and serious violators involves identifying the worst offenders and scheduling them for investigation at the earliest possible time. These investigations are being closely coordinated with the Solicitor's Office and litigation will be promptly initiated where appropriate. The worst offenders have been identified and instructions implementing this policy have been disseminated to the field staff. A copy of these instructions will be furnished to you.

Question. In the justification for the Employment Standards Administration, it was indicated that ESA has identified the registration of farm labor contractors as an important first step in the enforcement process. The importance ESA places on registration is reflected in the increase of farm labor contractors registered from 16,474 in 1978 to 17,239 in 1979 and the expected increase to 21,000 by 1981. However, the Department has indicated a desire to concentrate on repeat violations of FLCRA in both its justification and the Secretary's letter to 52 members of the Senate. How does ESA intend to expand its enforcement activities if the Department is apparently concentrating on registration of farm labor contractors?

Answer. The statute requires that every farm labor contractor and farm labor contractor employee register each year. This is an important first step in obtaining compliance with the Act. It is believed that the significant increase in the numbers of registered contractors in recent years is directly related to the more intensive enforcement efforts of ESA and the knowledge by contractors that they are subject to penalties for failure to register. The amount of resources required for the registration process are relatively small in relation to the total resources available for this program.

Question. The ESA has indicated a desire to perform 5,000 investigations in FY 81 under FLCRA. I would appreciate for the record a breakdown of personnel in ESA that will be involved in enforcement as opposed to those personnel that are involved in registration activities. In addition, in light of the Department's desire to increase its enforcement activities, will there be an increase in enforcement personnel from FY 80 to carry out this policy?

Answer. It is expected that 5,000 FLCRA investigations will be conducted in FY 1980 and 5,000 in FY 1981. It is projected that ESA will devote 46.2 staff years to enforcement of FLCRA in each of those two years and 5.6 staff years to registration. While no additional resources are being requested for FY 1981, a greater enforcement impact with available resources is expected by focusing on the most serious violators.

Question. ESA has indicated that it intends to increase the use of civil penalties as required under FLCRA to increase the level of compliance on the part of contractors, employees of contractors and users of contractors. However, the justification for ESA indicates that of the $1,336,837 assessed in civil penalties the ESA has collected only $181,481 for 1979. Please explain what enforcement effect the policy of increasing the use of civil penalties will have if the ESA fails to collect those funds.

Answer. It is important to collect civil money penalties which have been assessed in order to serve as an effective deterrent to violators. Regulations concerning the assessment and collection of civil money penalties are contained in 29 CFR Part 40. Pursuant to these regulations, at the time of assessment the person assessed is advised of their right to a hearing and such a request must be honored if it is filed timely. As a result of such hearing requests a large part of the penalties which have been assessed are pending hearings and are uncollectible at this time. The difference in the amount collected can also be accounted for by the fact that some penalties, for a variety of reasons, are settled prior to hearing for something less than the amount assessed. Stated policy is that failure to pay an assessment which has become a final and unappealable Order is a basis for denying a certificate to a farm labor contractor. As more penalties become final orders it is expected that this policy will have a significant impact on the amount of penalties which are collected.

FARM LABOR CASES

Question. The backlog of Farm Labor Contractor Registration Act violation cases pending in the Office of Solicitor's Division of General Legal Services is over 900 cases. Long delays in resolving Farm Labor Contractor Registration Act violation cases may lead violators to believe they can escape punishment. Consideration is being given at Labor Department headquarters to referring many of these cases back to the various Regional Solicitor's offices for resolution.

How do you intend to reduce the backlog of Farm Labor Contractor Registration Act violation cases?

Answer. It has been indicated that the Office of the Solicitor, General Legal Services, has over 900 violation cases pending. That figure was correct early last fall, but as of the end of February 1980 the backlog has been reduced to 428. This has been accomplished by a concentration of resources in General Legal Services to process more than 156 cases to be referred to the Office of the Administrative Law Judges for hearing and also by decentralizing the civil money penalty violation cases. All penalty cases referred to General Legal Services in calendar year 1979 and any pre-1979 assessments of the same respondents as cited in 1979 were forwarded to the regions under the decentralization. The remainder (428) are primarily the older cases and many are in the process of being sent to the Office of the Administrative Law Judges and/or settled. Further, we anticipate that this backlog will be reduced below 100 cases prior to June 30, 1980.

Question. If you intend to "farm out" these cases to your Regional Solicitor Offices, would not those offices also have difficulty in reducing the backlog if these cases interfere with their present workload?

Answer. The decentralization of the civil money penalty cases took place on December 2, 1979. Distributing more than 400 cases to the various Regional Offices, along with the Wage and Hour Division of ESA forwarding all new penalty cases directly to these regions has created a better opportunity for the prompt processing of such cases rather than their retention in the national office. It should

be noted that the Regional offices from the inception of the program were responsible for the preparation of the case and presentation of the case at the Administrative Law Judge hearing. In addition to the backlog being sent to the regional offices to be processed, the day-to-day cases referred directly to those offices from Wage and Hour are a part of the ESA projected increase referred to at DM-27 under the FLSA, SCA, FLCRA and Davis-Bacon programs. This increase will necessitate an additional 21 positions to handle the caseload.

Question. What objection would you have to allowing designated personnel from your Wage and Hour Division to represent the Department at Administrative Law Judge hearings of Farm Labor Contractor Registration Act cases, with the Solicitor staff participating only as needed?

Answer. We would object strenuously to allowing a non-lawyer to handle a case at the Administrative Law Judge hearing. The respondent is alleged to have violated the provisions of the Act and the regulations promulgated thereunder and such person or firm is assessed a civil money penalty in relationship to the severity of the violation(s). Therefore, the burden of proof is upon the Department to prove the violation as well as to show that the penalty has been properly assessed. The procedure is the same as in any State or Federal Court, viz., by direct examination of witnesses and the cross-examination of the respondent's witnesses. Furthermore, the cases involve questions of law which must be argued before the Administrative Law Judge. This type of work requires a person with legal training and qualifications. It is also important that a proper record be made in the event the case is appealed. There is no trial de novo. The case is heard on the record made before the Administrative Law Judge. These Administrative Law Judge proceedings are significantly different from proceedings under INA and other statutes where the burden of proof is not on the Department of Labor but on some third party and where the Department's lawyers do not participate at the Administrative Law Judge level.

Finally, the assignment of these cases to non-lawyers would not eliminate the need for resources but simply allocate them to persons not trained to perform these legal functions.

New Regulations in Davis-Bacon

Question. The November 13, 1979, Federal Register said revisions are needed in the Davis-Bacon as well as the Copeland Anti-Kickback Act regulations, to reflect current policies to simplify and clarify existing language, to propose modification to wage determination procedures, and to provide for more effective enforcement. What is the status of these proposed regulations?

Answer. On December 28, 1979, the Department published proposed revised regulations dealing with the Davis-Bacon and Related Acts, the Copeland Anti-Kickback Act, and the Service Contract Act. The original 60-day period allowing for the presentation of comments from interested parties was extended by 30 days so that the final date for submission of comments is now March 27, 1980. Final regulations will be issued only after full consideration of the total record relating to these regulations.

Question. Why has it taken so long for Labor to issue the new regulations?

Answer. A part of the problem of delay has been a question of priorities and limited staff time available to deal with these priorities. Additionally, once the regulations were opened, it was the Department's aim to do the best job possible to simplify and clarify the regulations, as well as to fully consider the problems in enforcement raised by the various constituencies interested in administration of the Act.

Question. How will the regulations improve the administration and enforcement of the Act?

Answer. These regulations identify and address the problems which have been encountered in administering the Act over the years and which various user communities have raised. Coupled with the procedural and internal management reforms which have been made in both the National and Regional Offices of the Department, the new regulations should clarify the responsibilities of all involved parties and provide more precise guidance to improve communication and appropriate coordination between those parties.

Cost Overrun in Computer Contract

Question. In February 1976, Labor awarded a contract for $500,000 to a firm in Maryland to develop a computer-based data collection and wage computation system for the Davis-Bacon Act. According to the April 1979 GAO report "the cost of the project has grown to about $1.6 million at June 30, 1979, and it has experienced considerable delays." What is the status of the project to automate the Davis-Bacon wage determination program?

Answer. A pilot system to update wage determinations where collectively bargained rates have been determined to prevail is now in parallel operation with the manual system. A complementary system is in the final stages of field testing. This system compiles survey data into wage rates according to craft.

Question. When will the automation project be completed and when will it be put in operation?

Answer. Both systems should be switched to an operational mode no later than the end of this Fiscal year.

Question. What is the total estimated cost?

Answer. As reported by the General Accounting Office (GAO), approximately $1,600,000 has already been spent and an additional $400,000 to $450,000 will be spent in FY 1980 and FY 1981. In addition, $100,000 to $150,000 will be required to maintain the system and provide ADP computer time.

Question. How will the automation of the Davis-Bacon wage determinations correct administrative deficiencies, such as developing and issuing inaccurate wage determinations, discussed in GAO's April, 1970 report?

Answer. In addition to managerial changes, this system will allow prompt and better utilization of data which is translated into wage determinations. It will provide an error checking capability and will allow wage rates in negotiated agreements to be updated automatically. This will help to improve both the accuracy and the speedy issuance of wage determinations.

The Davis-Bacon Act

Question. On April 29, 1979, the GAO issued a report to the Congress that "the Davis-Bacon Act should be repealed" (HRD-79-18). We know that Secretary Ray Marshall disagreed vehemently with the report and recommendations, and stated that he was satisfied that on balance, the Davis-Bacon Act was being competently and effectively administered. However, Secretary Marshall has publicly stated that his Department has moved to improve the administration of the Act. What improvements has the Department taken, or plan to take in improving administration of the Davis-Bacon Act?

Answer. The entire Wage-Hour Division is now completing a reorganization planned to accommodate it to provide more efficient services under its statutory responsibilities which have changed greatly since the last reorganization over 10 years ago. The reorganization has placed Wage-Hour staff working on Government contract prevailing wage and labor standards laws, such as the Davis-Bacon and related Acts, the Service Contract Act, and the Contract Work Hours and Safety Standards Act, into a streamlined organization which will provide a capability for better management of staff resources, more program planning, and an institutionalized accountability group to insure that qualitative and quantitative program goals are met. With respect to the wage determination aspects of the program the reorganization was developed to set up work units with specific responsibilities in the wage determination process so that each step from the gathering and compiling of data to the issuance of final wage determinations will be done in an orderly, speedy manner under preplanned methods and standards of operation to meet planned objectives and to relate the entire process to an ongoing familiarity with wage, labor relations, and technological changes in the construction industry.

Question. We understand that one of the proposed improvements involves an increase in the wage surveys made by the field staffs. In view of the small number of staff--26 wage determination specialists or wage analysts in the Regional Offices-- does Labor plan to ask for additional staff? If not, how does the Department expect to accomplish its goal of increased wage surveys?

Answer. There are about 3,000 surveys scheduled for FY 1980, which are the basis of the Davis-Bacon wage determinations, to be made under uniform guidelines by better trained Field Staff. There is a clearly identified item in the budget documents, which,in addition to the wage specialists and analysts, allocates the time of 28 Compliance Officers throughout the country to do survey work as directed. Under the reorganization, the staff will also have more background strength in economics, which should help assess data more accurately and evaluate possible alternative data collecting and surveying techniques. There will also be a modest computerized data compilation capability and more rapid communication with the National Office staff for the speedy resolution of problems. There are no present plans to request additional staff.

Question. Another proposed improvement involves enforcement of the Act's provisions to assure workers receive the proper wages. Will Labor ask for more enforcement personnel? If not, how will Labor accomplish its goal?

Answer. There are no current plans to request additional enforcement personnel. Program enforcement goals show a gradual rise with increasing productivity. Performance standards and a strict accountability system are utilized to monitor the quantity and quality of enforcement activity.

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Davis-Bacon Act Reorganization

Question. We understand that the Washington headquarters group in the Wage and Hour Division handling the Davis-Bacon Act has been reorganized and staff reassigned. What is the status of the reorganization? How will the reorganization improve the efficiency and effectiveness of Labor's program to develop and issue accurate wage determinations?

Answer. The entire Wage-Hour Division is now completing a reorganization planned to accommodate it to provide more efficient services under its statutory responsibilities which have changed greatly since the last reorganization over ten years ago. The reorganization has placed Wage-Hour staff working on Government contract prevailing wage and labor standards laws, such as the Davis-Bacon and Related Acts, the Service Contract Act, and the Contract Work Hours and Safety Standards Act, into a streamlined organization which will provide better management of staff resources, more effective program planning, and an institutionalized accountability group to insure that qualitative and quantitative program goals are met. With respect to the wage determination aspects of the program, the reorganization was developed to set up work units with specific responsibilities in the wage determination process so that each step from the gathering and compiling of data to the issuance of final wage determinations will be done in an orderly, speedy manner under standardized methods of operation to meet planned objectives and to relate the entire process to an ongoing familiarity with wage, labor relations, and technological changes in the construction industry. This careful delineation of functions was not as clear in the old organization and overlapping of function skills and responsibilities did not yield as efficient a use of personnel skills and training.

Timber Sale Service Contracts

Question. It has come to my attention that the new service contract rules proposed on December 28 would extend the coverage of the Service Contract Act to include timber sales contracts. The proposed rules say that the "fact that such contracts may enable the contractor to receive a substantial amount of timber is of secondary importance to the services which it is the principal purpose of the Government contract to procure." Section 4.131(f).

Such a regulation would have a significant economic impact in Oregon and the Northwest. In addition, it would require substantial changes in the whole process of selling timber from federal lands. I have some questions about how the Wage and Hours Division reached its conclusions.

The National Forests were established, in part, "to furnish a continuous supply of timber for the use and necessities of the citizens of the United States." 16 U.S.C. 475. In light of that statutory mandate, what is the basis for your conclusion that providing the timber commodity is secondary to services which the government receives from timber sale contracts? It is my understanding that neither the Department of Agriculture nor the Department of Interior feel the provisions of the Service Contract Act of 1965 apply to sales of timber from federal lands. Have you discussed the proposed rule with these Departments and do they agree with your interpretation?

Answer. The application of the Service Contract Act (SCA) to contracts for clearing of timber is not a new extension of the Act's coverage. The Department has always considered such contracts to be within the purview of the Act and the implementing Regulations which

were first promulgated in 1968 have reflected this position. (Section 4.116(b) of Regulations, 29 CFR Part 4.)

The Department's position in this matter was further clarified in a June 1, 1973 letter from the Solicitor of Labor to the General Counsel for the Department of Agriculture. At that time, the Solicitor of Labor studied the statutory authorization for timber sales contracts (16 U.S.C. 476) and concluded that the authorization was not inconsistent with the application of SCA to such contracts. The substance of the Solicitor's opinion was incorporated into the newly proposed SCA Regulations in order to provide for the amplification of the Department's longstanding position and was not an expression of a new or different position.

Question. Title 16, Section 472a of the U.S. Code expressly authorizes the Secretary of Agriculture to sell trees from National Forest lands. It uses the term "sales contracts" and requires that the sales price be not less than the appraised value of the timber to be sold. This section is not phrased at all in terms of the government acquiring services. How does the proposed rule complement this statutory direction?

Answer. Although the contracts in question are written in the form of a sales contract, the application of the SCA has not and should not be governed by the form in whcih a contract is written. As an analogy, demolition contracts, which are not performed in conjunction with construction projects, have always been considered subject to the SCA even though the demolition contractor may pay the Government for the salvageable material and the contract may be written in the form of a contract for the sale of property. Both timber sales and demolition contracts are examples of competitively awarded, labor intensive contracts to which the Department interprets that the Act was meant to apply. The application of the SCA to timber sales contracts serves to eliminate employee wages from the competitive bidding process, and prevents bidders from gaining an unfair competitive advantage by paying less than the prevailing wage to the employees who clear the timber.

Question. The Wage and Hour Division is proposing to extend coverage of the Service Contract Act to timber sale contracts. These timber sale contracts have not previously been considered as service contracts under the Act. This is a matter of great interest and importance to the timber industry of the northwest and south in particular.

It seems that the magnitude of the impact of this rule both in terms of a specific industry and a specific geographic region are sufficient that you should consider preparing a regulatory analysis on this proposal in accordance with Executive Order No. 12044. Would you please supply a copy of the analysis, or if you have not yet prepared one, would you consider doing so?

The proposed rule states that the provision of timber to the purchaser is secondary in importance to the services which were established to provide a continuous supply of timber (16 U.S.C. 475) and the statutes specifically authorize the sale of timber and talk about timber sales contracts without any mention of services to the government (16 U.S.C. 472a(a-c)). Therefore, please furnish a detailed statement of your rationale for changing these contracts in light of the statutes cited.

Answer. The application of the Service Contract Act (SCA) to contracts for clearing of timber is not a new extension of the Act's coverage. The Department has always considered such contracts to be within the purview of the Act and the implementing Regulations which

were first promulgated in 1968 have reflected this position (Section 4.116(b) of Regulations, 29 CFR Part 4).

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Although the contracts in question are written in the form of a sales contract, the application of the SCA has not and should not be governed by the form in which a contract is written. As an analogy, demolition contracts, which are not performed in conjunction with construction projects, have always been considered subject to the SCA even though the demolition contractor may pay the Government for the salvageable material and the contract may be written in the form of a contract for the sale of property. Both timber sales and demolition contracts are examples of competitively awarded, labor intensive contracts to which the Department interprets that the Act was meant to apply. The application of the SCA to timber sales contracts serves to eliminate employee wages from the competitive bidding process, and prevents any bidder from gaining an unfair competitive advantage by paying less than the prevailing wage to the employees who clear the timber.

Contract Compliance by Banking Institutions

Question. What is the status of the Department of Labor regulations which appeared in the Federal Register on December 28th, 1979 regarding the Office of Federal Contract Compliance Programs (OFCCP); particularly section 41 CFR 61-1.1.s declaring all financial institutions with deposit insurance to be contractors of the government and subject to cancellation of that contract if OFCCP determines that the institution is in violation of OFCCP's rules and regulations?

Answer. On Friday, February 22, 1980, a proposed amendment regarding Federal deposit insurance was published in the Federal Register for comment. As the proposed amendment explains, it is not the policy of the Department of Labor to terminate, cancel, suspend, or debar Federal deposit insurance. Instead, where appropriate, cases of alleged violation will be referred to the Department of Justice under Section 209(a)(2) of Executive Order 11246 for injunctive relief, or in the alternative, referred to the appropriate Federal financial regulatory agency for possible sanctions. Under the proposal, referrals to the financial regulatory agencies may be either before or after an administrative hearing at the Department of Labor. As a result of publication of the proposed amendment, the comment period on the entire December 28, 1979 regulatory proposal has been extended to the close of business on Monday, March 24, 1980.

Question. Under the National Bank Act and the Federal Reserve Act, both National banks and State member banks are required to maintain deposit insurance as a condition of their retention of

Federal charters and membership in the Federal reserve system. In addition, most States require State chartered, non-member banks to maintain Federal deposit insurance as a condition of their charters. Therefore, would not you agree that deposit insurance is in the nature of a license rather than a contract? If not, please elaborate.

Answer. The Federal deposit insurance relationship between the Federal Deposit Insurance Corporation and banks is a Government contract subject to Executive Order 11246, as amended.

Executive Order 11246 requires Government contractors to refrain from discrimination in employment and to take affirmative action to insure that applicants and employees are employed and treated without regard to race, color, religion, sex, or national origin (Section 202(1)). In addition, covered contractors are obligated to comply with the Secretary of Labor's implementing rules, regulations and orders (Section 202(4)).

Section 201 of the Executive Order provides that the United States Secretary of Labor shall be responsible for the administration of Part II of Executive Order 11246, which deals with "Nondiscrimination in Employment by Government Contractors and Subcontractors", and it authorizes him to adopt such rules and regulations as are necessary to achieve the purposes of the Executive Order.

The regulations implementing the Executive Order define a contracting agency as:

> any department, agency, establishment, or instrumentality within the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts. (41 CFR 60-1.3).

FDIC is an independent agency within the Executive branch of the Government.1/ Thus, it is a contracting agency as defined by 41 CFR 60-1.3.

In 41 CFR 60-1.3, the Secretary has defined a Government contract, in pertinent part, as:

> any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository....(Emphasis supplied).

FDIC provides insurance on deposits for its member banks in exchange for the payment of a premium or an assessment (12 USC 1817(b)(1)). In exchange for this payment, member institutions receive up to $40,000 deposit insurance for each depositor (21 USC 1821(a)(1)). The FDIC can borrow up to $3 billion from the U.S. Treasury for insurance purposes. Thus, the insurance provided by the Federal

1/ See, e.g., the statement approved by FDIC Chairman Sprague at page 531 of the U.S. Government Manual, 1979-1980; 12 USC 1811 and 1812.

Deposit Insurance Corporation is clearly provided by a contracting agency pursuant to a Government contract as defined by the Secretary of Labor in regulations implementing the Executive Order. The fact that banks may be required to maintain deposit insurance by Federal law does not affect the contractual nature of the relationship.

Furthermore, coverage of banks under Executive Order 11246 furthers an important governmental interest. The Executive Order plays a significant role in furthering this nation's civil rights policy, which is rooted in the fundamental proposition that no person shall be discriminated against in employment on the basis of race, color, sex, religion or national origin. The same important governmental interest is applicable to specific insurance contracts like Federal deposit insurance contracts. Federal deposit insurance confers significant benefits on the various subscriber banks in the form of enhanced public trust in the security of deposits placed with those institutions. The Secretary of Labor's regulations at 41 CFR 60-1.3 implement the nation's civil rights interest by insuring that banks which receive benefits from the Federal Government in the form of deposit insurance do not discriminate in employment on the basis of race, sex, national origin or religion.

The same considerations cover employment discrimination under Section 503 of the Rehabilitation Act of 1973 and Section 402 of the Vietnam Veterans Readjustment Assistance Act of 1974.

Question. Even assuming that the Federal insurance could be considered a contract, do you think it is fair to make the depositors, which the insurance program was designed to protect, suffer for any alleged equal employment regulation violation which a bank, savings and loan, or credit union may have made?

Answer. As explained above, it is in the public interest that banks which receive benefits from the Federal Government not discriminate in employment on the basis of race, sex, national origin, religion, handicap, or covered veteran status. Since at least 1968, the Secretary of Labor's regulations implementing the Executive Order have specifically provided that insurance is a basis for coverage under Executive Order 11246 (33 F.R. 7804). However, as we also explain above, it is not Department of Labor policy to seek cancellation of Federal deposit insurance under the Executive Order, Section 503, or Section 402. The only way such insurance would be cancelled would be through action by the applicable Federal financial regulatory agency, which, in the case of national banks is the FDIC. It is precisely because of the Department of Labor's concern for depositors that it implemented this policy.

Women in Construction Trades

Question. What is your response to charges by the Associated General Contractors of America that the Office of Federal Contract Compliance Programs has unrealistic and unworkable goals and timetables concerning hiring of women in construction trades?

Answer. It is our experience that goals and timetables represent the best way to increase employment opportunities. In order to set proper goals for females who are clearly being denied employment opportunities in the construction industry, the Department considered a number of methods for establishing goals. Because little data

existed for setting these goals, the process was difficult. The best available data indicated that women were five percent of the labor force with craft and kindred skills and 1.2 percent of the experienced construction labor force. The first year goal of 3.1 percent was believed to be both reasonable and attainable in our view. The modest following years' increases of five percent and 6.9 percent were in recognition that an increased awareness of opportunities and new interest in the industry would result from the goals and required affirmative action. There was a recognition of the difficulties faced by contractors when trying to meet the goals. That is precisely why the required affirmative action steps were also included in the regulations. Even if the goals, which are not quotas, are not met, a contractor will still be judged in compliance with proof that a good faith effort was made to meet the goals and that the required affirmative action steps were taken.

There is no dispute that more women are interested in these new opportunities. The Department's funding of outreach programs and pre-apprenticeship training programs and the increase of women in these programs since apprenticeship goals for women were published in May 1978, has resulted in enlarging the number of available and interested women. The apprenticeship goals for women help in providing one of the resources for contractors to recruit women in order to obtain compliance. The OFCCP regulations encourage contractors to utilize BAT programs as one possible resource for women craftworkers. However, many women workers will enter the industry through other channels, just as male workers have joined the construction workforce without first being apprentices.

Question. Would you be willing to conduct cost impact studies and research, as suggested by the Contractors Association, to define reasonable goals and timetables for women in construction?

Answer. In June 1979, the Secretary invited representatives of 22 outside organizations from every segment of the construction industry to work with DOL agencies, primarily OFCCP, in a review of its construction policies and procedures. One of the objectives was to help establish a permanent goal-setting mechanism for women after reviewing the existing goals and timetables.

After an indepth look at all readily available data, the working committee agreed additional information was necessary. OFCCP committed itself to conduct more research or have it done. Because no agreement was reached on what should be included in the research at the last meeting in December, each organization was asked to express its views to the Director of OFCCP. That has been done and OFCCP is now in the process of determining the extent of the research project and how it will be done.

FECA Benefits

Question. At the current rate, what level of Federal Employee Compensation Benefits will be paid out five years from now?

Answer. Based on projections provided through the use of a disaggregated econometric model, using OMB CPI assumptions of 12/26/79, in FY 1985, compensation costs will total $1,658,134,000.

Question. What are the reasons for this continued rapid growth in benefit payments?

Answer. Inflation in the form of increased medical costs and higher benefit levels caused by higher federal salaries results in growth in compensation payments. Increased productivity in the area of adjudication, resulting in more approvals of claims translate to increased dollars.

Question. What progress has been made to control total disability payments to workers who then get other jobs?

Answer. In-depth review of all automatic roll cases is being performed annually. Any employees who had been receiving total disability payments and are discovered to have other jobs are either removed from the rolls or have their benefits reduced accordingly to a loss of wage earning capacity.

ESA FECA/ADP Supplemental

Question. What specific improvements do you expect in the Federal Employees' Compensation Program, with the $1.5 million supplemental and $2 million fiscal 1981 program increase for automated data processing?

Answer. The requested level of funding for FY '80 and FY '81 is to effect the transition from interim data processing support capabilities available to the FEC Program to the fully integrated claims processing system, the Level II Federal Employees' Compensation System (FECS) being designed by the Mitre Corporation.

Current ADP support capabilities, the Level I FECS, were developed to automate limited, and specific, clerical functions, through the use of available data entry minicomputers. The automation of these functions is intended to support the overall claims processing system but, because of the limitations of the technology, the system design could not integrate the broad range of adjudication capabilities desired. Effective management of the program and the incorporation of usable management reports require this integration. The Level II FECS is a fully integrated claims processing system which extends automated support to the entire range of claims adjudication and processing. The Level II system is being designed to insure the standardization, timeliness and uniformity of operations and data elements in line with the following concepts:

- o provides standardized management information for all district offices;
- o provides structured workflow controls, with system-wide workload queuing capabilities and integrated manual processing, which serve to maximize operational efficiency for both clerical and professional staff but more importantly allows management to measure and compare workload and productivity.
- o provides integrated claims processing and benefit payment data, with complete accounting and audit capabilities, to ensure accurate and timely availability of case history and benefit payment information to both adjudication personnel and audit personnel.
- o provides on-line processing of short-term, traumatic injury cases, and the majority of benefit payments (which are highly significant workload items) with a minimum of clerical support and in a timely fashion allowing professional staff to focus on more complicated long-term disability cases; and,
- o structures the claims development and adjudication process to ensure uniformity and consistency of claims determination with a minimum of unnecessary, time-consuming development while enhancing the quality of the decision-making process.

The requested funding for FY '80 and '81 will allow completion of the Level II design, pilot-testing of Level II concepts and operations (to evaluate cost-benefits of the detailed design elements and

analyze required hardware configuration and systems management options), and specification, procurement, and implementation of Level II FECS capability in all of the FEC district offices.

It is anticipated that completion of this ambitious undertaking will result in significant enhancement to the timeliness, quality, and uniformity of the services provided to program clients, by making better utilization, control and management of available staff resources.

Question. How much more quickly will this new data system allow you to process claims?

Answer. As indicated above, the Level II FECS allows on-line (automated) adjudication of most short-term disability cases. These traumatic injury cases are the largest single workload item and the time required for processing to initial adjudication, and making benefit payments when applicable, should be significantly reduced. At present, these traumatic cases are being processed through adjudication in an average of 40 days. Under Level II operations it is anticipated that this processing time can be reduced by 25% (to 30 days) from receipt of a notice of injury or claim for compensation while also improving the quality and consistency of our adjudicatory decision-making. The processing of occupational disease cases now takes an average of 6.5 months because of the usual need to develop substantially more evidence concerning the nature of occupational factors and the claimant's medical history. Since resolution of these non-traumatic cases relies upon receipt of complete and current occupational and medical evidence from a number of sources, the time reduction in adjudication is expected to be less significant but the quality of the decision-making should dramatically improve. Our goal for adjudication of the more complex occupational disease cases under Level II is four months.

The delays in the present system are primarily a result of delays incurred when forms are not returned in a timely manner. The Level II system will maintain positive control of queries sent to claimants, agencies, doctors, etc., to insure timely follow-up.

The Level II FECS pilot project, now in development to be implemented during calendar 1980, will fully test these assumptions and provide hard data for specification of requirements, both hardware and application software, of the full Level II system.

Question. How will the improved data processing system help in detecting fraud and abuse?

Answer. The Level II FECS design incorporates comprehensive accounting and audit capabilities which will improve the capacity to systematically monitor disbursements and financial recoveries on a case-by-case basis. The much expanded, on-line case processing history data also contributes to this capability. The Level II system contemplates incorporation of comprehensive data auditing and claims acceptance standards which serve to minimize the likelihood of inappropriate benefit payments. The increase of operational efficiency provided by Level II will, as indicated above, reduce clerical support requirements and allow professional staff more time to focus on long-term disability cases where the potential for abuse is greatest. Finally, Level II will include state-of-the-art security controls and audit functions which reduce the possibility of payment abuses.

In summary, there are three major areas with potential for fraud and/or abuse which Level II will address:

- o Medical Providers' Abuse: provides an automated method of reviewing standard fees and treatments by nature of injury.
- o Claimant Abuse: provides a detailed medical review of selected cases by nature of injury.
- o Operators' Abuse: provides prior and follow-up balancing and reconciliation control on a step-by-step basis throughout the system.

The Level II system is expected to minimize the potential for fraud and abuse as much by preventing such activity as by providing a ready means of detection.

Longshoremen's and Harbor Workers' Compensation Act

Question. In 1972, the Longshore Act was amended and there have been numerous complaints about its administration and enforcement by the Department of Labor. One of the major issues has been the matter of jurisdiction which has resulted in a large number of claims being filed. It appears that the Administrative Law Judges, the Benefits Review Board, and the Courts of Appeals cannot agree on where coverage of this Act ends. This continuous adjudication is extremely costly to both employee and employer as well as the Federal Government.

Has, or is Labor considering proposing legislation that would more clearly define the jurisdiction issue and thus reduce the expense of adjudication? If not, why not?

Answer. The Department of Labor has no specific amendments to suggest at this time. However, the Department has been actively monitoring the judicial decisions rendered by the Administrative Law Judges, Benefits Review Board, the U.S. Circuit Courts, and the U.S. Supreme Court. It is our opinion that the jurisdictional issue has been substantially resolved for the major industries covered by the Longshore Act - the longshore industry (loading and unloading of ships' cargo) and the shipbuilding and repair industry.

Two unanimous U.S. Supreme Court decisions involving the jurisdictional issue in the longshore industry have adequately defined coverage in this area. They are Northwest Miami Terminal Co., Inc. v. Caputo and P.C. Pfeiffer Co. v. Ford. The U.S. Supreme Court denied Certiorari in six cases involving the shipbuilding and repair industry. They are Dravo Corp. v. Maxin (3rd Circuit); Newport News Shipbuilding & Dry Dock Co. v. Director (Jenkins) (4th Circuit); Newport News Shipbuilding & Dry Dock Co. v. Graham (4th Circuit); Alabama Dry Dock & Shipbuilding Co. v. Kininess (5th Circuit); Halter Marine Fabricators, Inc. v. Nulty (5th Circuit); and Ingalls Shipbuilding Corp. v. Morgan (5th Circuit). The denial of Certiorari has the effect of upholding the decisions of various Circuit Courts, which favored broad shoreside coverage at the shipyards.

Questions Submitted by Senator Robert C. Byrd

Black Lung

Question. In submitting the FY 1980 and FY 1981 Budget Requests, I note that the Department of Labor has deleted funding for 144 term positions for administration of the Black Lung program. Is that correct?

Answer. The FY 1981 Budget Request has deleted funding for 144 term positions, following the scenario from the original funding legislation for this program, which specified that staffing would decrease as workload inventory went down. For FY 1980, the Senate restored the funding necessary to continue staffing at the FY 1979 level.

Question. In FY 1980 Appropriations Bill, I was instrumental in the restoration of these positions and funds. I sought this restoration because of the high backlog of "old Part B" and "old Part C" filings. I continue to be concerned about this backlog. As of February 29, 1980, what was the total number of these "old " cases?

Answer. The remaining Part C claims awaiting initial findings totaled 56,234, while the Part B inventory was 41,302 for a grand total of 97,536 "old" claims awaiting an initial finding. This inventory will be dwindling rapidly as FY 1981 starts.

Question.At the current rate of initial decisions, how long would be required to completely decide these "old" cases?

Answer. To date this fiscal year, initial decisions have been made on over 52,000 of these cases. Highest priority is being given to processing claims filed before January of this year by date of filing. It is expected that in excess of 65,000 "old" claims will be processed between March 31, 1980 and the end of the fiscal year. It is also expected that the "old" Part C's will be processed to an initial finding well before the end of the first quarter of FY 1981 and all Part B claims worked to an initial finding by February of 1981.

Question. What is the current monthly rate of these decisions?

Answer. Initial decisions on claims are currently being made at the rate of 11,500 per month.

Question. I am informed that as this "old" caseload reduces in volume, the speed toward a decision is slowed due to the inability in many instances, to obtain necessary evidence on a timely basis. To what extent is the Department of Labor including this variable in its estimate for completing the current backlog of "old" cases?

Answer. It is recognized that given the queing theory, this phenomenon does exist but it occurs more on a case-by-case basis rather than as a general circumstance. However, given the overall number of claims to be processed, the workloads can be balanced to offset extreme processing delays of the older cases. Concurrently, by adhering to strict call-up dates, average production should be very close to current level through the end of the year, and enable the accomplishment of claims processing goals.

Question. Is the Department estimating the number of hard-to-decide cases that will remain to be approved in FY 1981? In FY 1982?

Answer. Claims processing estimates are not based on the relative degree of complication. There are specific guidelines in both the legislation and the accompanying regulations upon which to make decisions of either an affirmative or negative nature. To deviate from those guidelines only complicates the Department's mandate which is basically to assemble, through the cooperative efforts of various parties, substantive evidence and issue a prima facie claims determination. It is recognized that the compilation of evidentiary data may take longer for some claims than others, but that does not, in and of itself, make one claim harder to decide than another.

A related second issue deals with the number of claims estimated to be approved in FY 1981 and FY 1982. It is expected that more than 23,000 claims will be approved in FY 1981, consisting of 9,800 "old" Part C claims, 4,000 new Part C's and 9,600 Part B claims.

For FY 1982 a relatively stable approval rate of approximately 30-35% is projected. This approval rate will apply only to new claims, since the "old" claims will be completed by mid-FY 1981.

Question. The Department of Labor provided this committee with an estimate of 402,000 cases as its incoming Black Lung workload for FY 1978, FY 1979, and FY 1980. I am informed that the level of new Part C filings has been greater than expected when the cited figure was provided to support an increased staffing level as a part of the FY 1978 supplemental. Please provide the latest estimates for old Part B and C claims as well as new Part C claims.

Answer. For the first five months of the fiscal year, about 2,600 new Part C claims per month have been received. If this trend holds, over 31,000 such claims would be filed this year. Just over 225 Part B's per month are also being received, a rate which provides about 3,000 more such cases than at the beginning of the year. As noted earlier, there are 56,234 old Part C and 41,302 Part B's to be decisioned.

Question. About two years ago, DOL witnesses told the Congress that 564 additional positions were needed to handle this caseload. Included in this figure were 453 term appointment positions. How many term positions have been filled? How many are vacant? What problems are being experienced in the securing of these employees?

Answer. At the end of FY 1979, the term employee on-board strength totaled 385 or 85% of the 453 budgeted term positions. Through the end of January the number of term employees had risen to 394, an increase of 2% over the FY 1979 end-of-year figure. There have been no unusual difficulties in filling these positions.

Question. During hearings on the FY 1979 supplemental, the Department indicated that a claims examiner is expected to complete 450 to 500 cases per year. What is the current rate for completion? How many claims examiners are currently employed in the Black Lung Program?

Answer. Currently, the average claims examiner output on an annualized basis is approximately 460 per year. The average was derived from using the last eight weeks production data. The present claims examiner on-board strength totals 339 as of January 31, 1980, including supervisory staff.

Question. The FY 1981 Budget targets 144 term appointment positions for non-renewal. Please indicate which offices would stand to lose employees. What will be the effect on caseload completion per month? How can the Department improve its level of decisions with fewer employees?

Answer. At the present time none of the District offices are expected to lose employees with the possible exception of Johnstown, Pennsylvania. Losses in Johnstown were anticipated at some point even as the office was initially being put into place which explains why all but a handful of the positions are term appointments. The amount and timing of these losses are directly predicated upon the workout rate of the current Johnstown claims inventory. In the National Office, a similar situation exists. While it is expected that the pending claims inventory in both Johnstown and the National Office will be eliminated by mid-FY 1981, there will be a considerable

secondary and tertiary workload--appeals, hearings, etc.--generated as a result of initial processing efforts. Future staffing needs will be based upon the projected ability to handle the secondary and tertiary workloads previously acknowledged as well as the impact of decentralization upon the quality of service to the claimant population.

Question. What will be the effect of staff capabilities by the elimination of 144 temporary positions. How will the Department shift employees workloads to provide balance in responsibilities?

Answer. As noted earlier, the goal is to issue initial decisions on all of the cases which were filed prior to the beginning of this year by late 1980. At that point the huge inventory of claims created by the 1977 Reform Act will effectively have been completed. Then the major workloads will be the newly filed claims and processing of secondary workloads such as claimant appeals and operator controversions. The staffing levels proposed for FY 1981 are sufficient to handle these workloads.

Question. The FY 1980 Department Justifications indicated that the Black Lung Program had 819 positions. What happened to the other 15 positions which were approved in the FY 1979 Supplemental for Agency Management?

Answer. The fifteen support positions approved in the supplemental are reflected in the totals for the Budget Activity titled Program Development and Administration.

Question. The 144 position reduction proposed in the FY 1980 Budget was not agreed to by the Congress. Why does the FY 1981 Budget Justification list only 657 positions? Where are the other 162 positions? Why is there an attempt to mislead the Congress into thinking that this program has not been proposed for a reduction in staffing?

Answer. The Department has been very straightforward in acknowledging that staffing levels for 1981 are 162 positions lower than being financed in FY 1980. When Congress restored funds in the FY 1980 appropriation of these positions, Congress did not "reauthorize" the positions. It is the Department's understanding that the intent of the Congressional action was that the proposed reductions would not be effected until September of this year, but that Congress recognized that as initial workloads were processed, staffing would be reduced accordingly.

Question. Use of computers to track the pending and benefits caseloads is in the process of being installed, I am told. How will the computers facilitate program management? Will all District Offices have the new capability? If not, which offices would be denied access?

Answer. An integrated on-line computer system is scheduled to begin implementation in the late summer of 1980. All District Offices will have access to this computer system.

The new computer system will enable management to derive accurate, timely management information statistics, case locations and case processing times and will contain features which will automate the bill payment process which is currently a manual effort. It will further enable management to accurately project actuarial data, develop trends or "provider profiles" and in general, to greatly enhance the processing of claims.

Black Lung Benefits

Question. With the number of coal miners expected to double from 200,000 to 400,000 in the next 20 years, how much higher do you expect the tab to rise for annual Black Lung benefit payments?

Answer. It is not certain that benefit payments would rise commensurate with an increase in the number of miners. Effective enforcement of the Mine Safety Act should bring down dust levels in the mines, and this should in turn decrease the number of black lung claims filed, certainly on a proportionate basis. Likewise, it is anticipated that more mine operators will in the future be paying benefits. For these reasons, and because the extent and rate of coal industry expansion are conjectural at this point, a steady state rate of claim filings is being utilized in the projections. If there is marked expansion of coal as an energy source, certainly any increases in benefits should be less than the percentage of expansion. It is hoped that the overall incidence of pneumoconiosis will also decrease from present levels, regardless of the size or growth in the industry.

Black Lung Advances

Question. The law states that advances made to the Black Lung Disability Trust Fund are repayable, with interest, to the General Fund of the Treasury. When do you estimate the requested $494 million supplemental for Black Lung advances would be repaid to the Treasury?

Answer. That question cannot be answered in terms of an exact date. It is not expected, however, that the Trust Fund will be on a pay-as-you-go basis for several years at least. A large number of variables, such as future coal production and prices affect the revenue side; the number of claims, the approval rate, and offsetting responsible mine operators affect the projections of cost. Differing combinations of assumptions on these variables will yield different results. Work is underway to refine the bases of support for the long range projections.

Inquiry Response

Question. My office has experienced disturbingly long delays and unresponsiveness on the part of the office which handles Mine Workers' Compensation. There are about 30 Mine Workers' Compensation cases in which a 6 - 8 month period can pass without even an acknowledgement to me that DCMWC has received my inquiry. What is the reason for these delays? Why aren't you more responsive?

Answer. Division records indicate that currently there are three inquiries older than 6 months and nine inquiries 4 - 6 months old. The remainder of inquiries with responses outstanding are less than three months old. It is agreed that these timeframes are unacceptable. The Division's goal is to respond to all inquiries within 14 days. Some delays are encountered because the information is not at hand and must be researched, for example, through a District Office. The Division is constantly working to improve on Congressional responses and it is hoped that reoccurrence of these mishaps is rare.

Claim by Elmer Wilson to CMWC

Question. You are familiar, I believe, with the Black Lung claim of Elmer Wilson (SS#191-09-8204). I submitted a Congressional inquiry for a status report on the Wilson claim on three occasions -- July 24, September 12, 1979, and January 14, 1980. In addition, his attorney submitted three letters to the Labor Department requesting information necessary to pursue further action of Mr. Wilson's claim. The

Department has been unresponsive to all six requests. Why? What are you doing to deal with this problem in regard to the unresponsiveness to my office and to other Congressional inquiries on Black Lung claims?

Answer. Program records indicate that the Branch of Inquiries issued a response to your staff on February 29, 1980 and the Branch of Claims Determination issued a claims status report on March 18, 1980. In addition, Mr. Ronald Archer, attorney for the claimant, received a response from the Branch of Claims Determination on January 10 and February 18, 1980. A review of the claim file revealed a failure to associate most of the inquiries in question with the claims file. We regret these mishaps and are working to prevent similar occureneces in the future.

Questions Submitted by Senator Schweiker

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BUREAU OF LABOR STATISTICS

STATEMENT OF JANET L. NORWOOD, COMMISSIONER OF LABOR STATISTICS AS PRESENTED BY JEROME A. MARK, ASSISTANT COMMISSIONER FOR PRODUCTIVITY AND TECHNOLOGY

ACCOMPANIED BY:
JOHN LAYNG, ASSISTANT COMMISSIONER FOR PRICES AND LIVING CONDITIONS
DONALD J. KEUCH, ASSOCIATE COMMISSIONER FOR ADMINISTRATIVE MANAGEMENT
WILLIAM E. REISE, COMPTROLLER FOR THE DEPARTMENT
MARY ANN WYRSCH, DIRECTOR, OFFICE OF BUDGET
PAUL G. BECKER, CHIEF, DIVISION OF FINANCIAL PLANNING AND MANAGEMENT

1980 APPROPRIATION AND 1981 BUDGET REQUEST

Senator EAGLETON. We will now move to the Bureau of Labor Statistics, whose budget request is $107 million, an increase of $5 million over the appropriation for fiscal year 1980. You are asking for a supplemental of $1.6 million.

INTRODUCTION OF ASSOCIATES

Commissioner Norwood, we understand is ill and cannot be with us. We wish her a speedy recovery.

In her absence, Mr. Jerome Mark, Assistant Commissioner for Productivity and Technology will make a presentation.

Commissioner Mark, do you wish to identify your colleagues, and we will then hear from you and have a question or two.

Mr. MARK. Thank you very much, Senator Eagleton. Commissioner Norwood would have liked to have been here, but as you know, unfortunately, she is in the hospital, having just been operated on. And in her absence, I am acting in her capacity.

I would like to introduce on my immediate right, John Layng, who is the Assistant Commissioner for Prices and Living Conditions; on my immediate left, Paul Becker, our Budget Officer for the Bureau of Labor Statistics; on my far left, Donald Keuch, Associate Commissioner for Administrative Management.

I also will be calling on, perhaps, Mr. Martin Ziegler of the Office of Employment Structure and Trends, and perhaps Mr. Jack Bregger from the Office of Current Employment Analysis.

PREPARED STATEMENT

I would like to introduce Commissioner Norwood's statement into the record if I may, and perhaps make a few general comments summarizing her statement.

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Senator EAGLETON. The statement will be inserted in the record at this point.

[The statement follows:]

STATEMENT OF JANET NORWOOD

I am pleased to have this opportunity to present to you the budget request for the Bureau of Labor Statistics for fiscal year 1981. This request is for $107.4 million, a net increase of $3.7 million over the revised estimate of $103.7 million for fiscal year 1980.

The total request of $107 million will enable the Bureau to continue to produce its regular output of statistics and related analyses; to improve and expand Bureau industrial and international price an productivity data that will be useful in developing economic policy; and to improve information needed to manage the Bureau's resources more effectively.

The rise in the demand for the Bureau's data reflects continuing concerns about the economy and the need for information upon which to base policy decisions. In addition, this year, the Productivity Measurement Review Panel of the National Academy of Sciences completed its review of productivity statistics and recommended improvements.

Let me first report to you on some of the accomplishments the Bureau has made in the past year. We have maintained the quality and currency of our regular statistical series on prices, wages, employment, and productivity. In addition, we have continued the program to revise and expand the producer price programs and expanded coverage of import and export price indexes. Both of these programs are planned for continued improvement and expansion in fiscal year 1981. We have also worked toward improving the quality of the local area unemployment statistics and begun field collection of a new survey of consumer expenditures, which will continue on a recurring basis to permit—in time—regular publication of data on how families are actually spending their money. In addition, and in response to congressional interest, we conducted four pilot surveys to test the feasibility of collecting job vacancy data; four more tests are in process. The Bureau of Labor Statistics has indeed been busy; we have attempted to use our resources as effectively and as efficiently as possible so as to carry out our mission to provide the Nation with prompt objective and reliable indicators on the state of our economy.

Now, let me say a few words about the program improvements for which we are requesting a small amount of additional resources.

The producer price indexes, one of the Nation's most important economic statistics, tracks price changes through the stages of processing in the economy. In 1976, BLS laid out a comprehensive plan to bring these indexes up to the quality that the Nation needs. The first stage, now completed, was to test all concepts and procedures in a pilot survey. The results demonstrated that: (1) The improvements are important because the test indexes have noticeable differences in both the timing and magnitude of price change from the old indexes; (2) the technical objectives of the revision can be met; and (3) the operational objectives can be met in a timely fashion. The revision request for fiscal year 1981—$1.4 million and 38 positions—will enable the Bureau to complete the revision and expand indexes to cover the industries in the mining and manufacturing sectors.

The international price program is also providing new measures that are directly useful in assessments of the performance of the economy. The data produced so far in this program are now being used by U.S. trade negotiators and for analysis of policy problems and U.S. trade relationships. At present, quarterly indexes are being published for detailed and aggregate product categories that cover 60 percent of the value of U.S. exports and 38 percent of the value of imports. The present request—$0.3 million and 10 positions—will enable the Bureau to prepare indexes for additional product groups which account for nearly 8 percent of U.S. imports and 4 percent of U.S. exports. When this is completed in 1983, over 80 percent of the value of U.S. foreign trade will be covered by the indexes.

I should like to comment briefly on the request for $0.6 million and 17 positions for improved productivity measures. The need to understand and improve our productivity performance is perhaps one of the most critical issues facing our country today. To aid in this process, BLS proposes to produce multifactor productivity measures for major sectors of the economy and for selected industries. These new measures which will

permit analysis of all factors of production will complement our ongoing labor productivity measurement program. The new broader measures will provide a framework for analyzing the basic issues facing American industry. This area is particularly important in this period when the sharp decline in productivity growth contributes to inflation. Finally, the Bureau is requesting a small increase to develop and implement improved management information systems within a common management framework. These are difficult times for our economy and every penny of Government funds must be efficiently and effectively used. We have therefore carefully reviewed our base to find ways to offset these essential improvements where possible. The fiscal year 1981 proposals reflect $1.2 million and 11 positions in program reductions.

I hope these remarks are helpful in outlining the Bureau's present programs and future plans. I welcome your questions on any of these points. This concludes my statement. Thank you, Mr. Chairman.

BUDGET OVERVIEW

Mr. MARK. Because of the concern about the economy and the difficult problems we face, this makes the need for most accurate and relevant statistics greater than ever. And it has increased the BLS workload enormously to provide data which will be useful for economic policy.

We feel the BLS has been doing good work in meeting some of the needs, but it can be better.

And, in developing our requests, we have tried to be careful in balancing these requests against efficient management.

This is a tight budget. We are requesting $3.7 million, 59 positions, and at the same time we do have some reductions in some programs.

The main emphasis of our proposed budget is A continuation of the work on the revision of our producer price program to provide a better understanding of inflationary trends; to expand the import-export price measures; to improve the productivity statistics that we presently have by looking at the interaction between labor and other factors, such as capital, to develop multifactor productivity measurement, which will also provide some insights into understanding the problems of declining productivity.

There is a small increase to develop a better management information system within the Bureau.

We would be happy to answer your questions.

CONSUMER PRICE PROGRAM

Senator EAGLETON. As we look at your budget here, it appears that you are proposing to eliminate some positions under the Consumer Price Index program at a time when the CPI is coming under fire for allegedly exaggerating the rise in the cost of living because of an inappropriate measure of home ownership costs and perhaps for other reasons as well.

As Congress struggles with the vexing question of index benefits, is such a reduction wise?

Mr. MARK. If you don't mind, I would like to have Mr. Layng respond to your question.

Mr. LAYNG. Senator, that reduction was primarily a function of computer systems work that was carried out in connection with the Consumer Price Index revision which was completed in January 1978.

There were some residual funds and positions left in the budget to complete this work, and this reflects essentially that completion.

Senator EAGLETON. Educate me, if you will.

Is the CPI defined precisely by statute?

Mr. LAYNG. Precisely by statute in terms of definition of its coverage and content?

Senator EAGLETON. Yes, sir.

Mr. LAYNG. No, sir.

Senator EAGLETON. What if the President called you up tomorrow and said, "I've been reading about the furor over the CPI and how so much of the Federal budget is indexed into it." I've got a list of programs at another hearing where the CPI is used, Social Security being the biggest, I guess, various other retirement benefits; food stamps doesn't use the CPI, they've got another thing called "something" basket.

Mr. LAYNG. They use a piece of the CPI——

Senator EAGLETON. Market basket. A whole bunch of them use that.

So, the President calls you up and says, "A lot of people tell me the CPI is overly generous in terms of its being used as an index to so many Federal benefits. I think you fellows ought to come up with a more realistic CPI." Is that all it would take, or would it necessitate some legislative change?

Mr. LAYNG. That's a difficult question to answer comprehensively.

Senator EAGLETON. If it doesn't require a legislative change, I can imagine 51 Senators urging the President to do that.

If it requires a legislative change, then I don't think 51 Senators would necessarily urge it.

Go ahead.

CPI HISTORY

Mr. LAYNG. If you look back at the history of the CPI, I think its legislative history is not particularly precise with respect to exactly how it should be constructed and exactly what its contents should be, and exactly what type of index should be used in each instance in which it is used.

It's more of a general characterization of an objective to provide a measure of change in the purchasing power, the cost of living, or prices. The terms are used synonymously when when they in fact mean, or can mean very different things.

What we are finding now is growth of the CPI in terms of its uses. We find there are many different uses, and one single measure may not appropriately serve all of those uses.

And in the context of the problem that you posed, I think we, as technicians in the BLS, would try to point out what the different properties of different measures are, so that those who do have to make a decision can do so. I can't answer the question unequivocally whether it requires legislative action, Presidential action or what. I think that would be a legal question that would have to be looked into. I'm not a legal expert.

Our job would be essentially to tell people and make them as aware as possible, of what the different properties are of each of the measures that are under consideration, so that as complete and full an understanding can be made by those people who do have to make those decisions with respect to policy and legislation.

Senator EAGLETON. I think I saw Ms. Clauss come in.

Did I?

Ms. Clauss, if the President or the Secretary wished to change the elements of the CPI, could he order same to be done just by telling the Secretary that's what he wanted done?

Would he have to issue an Executive order, or would he have to come to Congress for legislative authority?

CPI LEGISLATIVE AUTHORITY

Ms. CLAUSS. Well, in light of the number of congressional statutes and private plans that reference the CPI, I suppose the third technique would be to go to Congress.

On the other hand, if you are asking me whether the President has the power, I suppose he does have the inherent power to change the CPI. There might be lawsuits about the abrogation of contracts.

Senator EAGLETON. There is no statute that spells out "the following 10 factors," or "the following 15 components" shall constitute the CPI for all purposes of Federal law?

Ms. CLAUSS. That's correct; there's no such thing.

Senator EAGLETON. Well, since this is in the nature of education for me, Mr. Layng, without asking you to speak on behalf of the Labor Department, what observations can you, as a professional, share with me about the CPI in its frequent usage in Federal statutes as to whether in this day and age of galloping inflation, it is overly generous?

CPI MEASUREMENT

Mr. LAYNG. I think the question of whether the CPI is or is not overly generous, really has to come back to the question of what do you want the index to reflect. And, if you look around at all the different people who have views on that, you will find a great many different points of view with respect to what the CPI should and should not reflect.

There are those who argue strongly that the way the CPI as now constructed, is perfectly accurate and perfectly appropriate for the uses to which it is put.

Others feel that the conceptual basis for some pieces of the index are not appropriate. And there's been a debate going on for several months with respect to which side is right or wrong.

And I think it really comes down to a question of what do you want the CPI to measure. Perhaps in characterizing the question a little differently or approaching it a little differently, the CPI is an aggregative national number representing a large group of the population, namely 80 percent of the population, all geographic regions of the country, with the exception of the rural sections of the country. It is a single aggregate number which is supposed to serve a lot of different uses. And it simply cannot serve all of those equally well.

We get letters all the time from individual citizens who say, "The CPI does not accurately reflect my cost of living in Cincinnati, Ohio."

We try to point out to them that it is an average and it represents a lot of different factors and any individual situation with respect to inflation could differ markedly from an aggregate measure like the CPI.

So it is very difficult to get one single measure which serves all needs. And I think the thing to do from a technician's point of view would be if someone came to us and said, we would like an index that would do *x*, for example, be appropriate for the escalation for example of social security retirement benefits, we could then react to that and say from a technical point of view we believe such an index would best be constructed along the following lines.

If another individual comes and says, I'd like to have an index which is an accurate measure of what's happening to prices of goods and services today, we might say, well, in those circumstances we would suggest another kind of index, one which would try to capture prices as they are changing right now, and such a measure would not necessarily be what's best in terms of escalating one's individual income.

Or, to stretch the matter a little further, if someone came and said, "I want to escalate the income of middle-income Americans in the western part of the country," we would have another point of view with respect to that.

So, I hate to sound sort of wishy washy, but it is very hard to have one single number serve a multitude of different uses.

EMPHASIS ON POPULATION AND CONSUMPTION

I might point out as part of the Consumer Price Index revision program that was completed in 1978, we tried to emphasize both with respect to population coverage as well as with respect to some of these difficult components of consumption, that the uses of the index as they have changed since the Second World War made these choices very, very important. And unfortunately, at the time, inflation was not as bad as it is now. It was not as drastic.

Senator EAGLETON. Could I interrupt there, because I want you to expand on this last point.

There is a vote and that is the warning bell. I will be right back. But I want you to expand on that last point.

[A brief recess was taken.]

Senator EAGLETON. Mr. Layng, I had to leave for the vote. You were at a point, saying something like this—you tidy it up, you're the expert and I'm the layman—what you were saying was something to the effect that back in the good old days, whatever they were, when inflation was in the low, single digits, back in say the Kennedy years. What was inflation then—2, 2½, something like 2 and 3 percent?

Mr. LAYNG. 2 percent.

Senator EAGLETON. And you didn't use the word "distorting," but I will use it. Back in the good old days, the distorting effect, if there is a distortion in the CPI, it was one thing. In today's double digit and getting up in ever-higher teen double digits, it's another thing. Now, you didn't put it quite that bluntly, but that's what was coming across when I departed. Take up at that point.

Mr. LAYNG. I guess another way to characterize that would be that when inflation is running at very high rates and relative prices are changing very dramatically, there is a greater potential for difference among the alternative measures that one might be looking at.

STIGLER REPORT IN 1963

I think in the Stigler report in 1963, which was a comprehensive review of all Government price statistics, there was a chapter in there by a fellow by the name of Peter Steiner.

He made the point that there are many different ways to approach price indexes, and it depends on what your uses are. And in some situations the numbers are very much the same; in others, they are not.

In this situation, we have a potentially large difference among the different measurements that one wants to look at. But one of the points that I was alluding to before you left for the vote was that, as part of the Consumer Price Index revision program that was completed in January 1978, there was a comprehensive review of the Consumer Price Index with respect to almost every facet of it, including the treatment of some of these more controversial components, such as owner-occupied housing. This issue was thoroughly and completely discussed with a broad range of users and their were many different views. So the conclusion at that time was that there was not sufficient agreement in a viable alternative at the time the CPI revision was completed; and the CPI should continue to reflect the same conceptual basis that it had reflected in the past.

I guess with respect to issues like changing the CPI, at least from a technician's point of view, from a producer-agency point of view, we feel quite strongly that changes in the CPI should be handled very, very carefully and should be carried out in the context of preannounced revision processes which go on periodically. In the past they have been roughly every 10 years or so. When the public is informed that a revision of the Consumer Price Index is underway, the Congress participates in the budget process, the administration and the public participate through various forums. And that is the appropriate basis and process by which the CPI should be reviewed and changed, or not changed. And we feel that process protects to the maximum extent possible the credibility of a number like the CPI which is so important to the country.

REVISION OF THE CPI

Senator EAGLETON. Now, at the last revision, the last major overhaul of the CPI was what? In 1978?

Mr. LAYNG. It was completed in January 1978. It was about an 8-year process——

Senator EAGLETON. Eight years in gestation.

Mr. LAYNG. Yes.

Senator EAGLETON. Were significant changes made in January of 1978 in how the CPI is computed?

Mr. LAYNG. Yes, sir; substantial and major changes were made. Perhaps one of the most important was the updating of the market basket from a market basket based on 1960–61 expenditure patterns to 1972–73. In addition, we have improved or modernized the statistical methodology underlying the index by introducing probability sampling into virtually every aspect of the index. We introduced a new process for introducing new stores and establishments into the pricing mechanism.

We changed the way prices are collected within stores. A myriad of different changes were made that were preannounced, discussed, and publicized. We had a public relations publication program in which we spent several years preparing the public for these changes. We discussed them with the Congress, we discussed them with the Joint Economic Committee, the Appropriation Committees, the administration, and on every opportunity we had to address private groups. We met with our advisory groups to try to prepare the way.

EFFECT OF NEW INDEX

And even then, when we actually introduced the new index, there was a fair amount of confusion with respect to what happened. We got a great many letters that said, "How can you change the CPI abruptly and overnight the way you did?"

And we pointed out that we did not do that, and that this was a prearranged process that was announced in advance. And most importantly of all, it went through the congressional budgetary process, and the Congress participated in that way.

Senator EAGLETON. Was the net sum effect of those changes in January of 1978 to increase or decrease the CPI? That is, have you kept statistics on what the CPI would be under the old method or the preexisting methodology?

Mr. LAYNG. What we did, as part of the program for the first time really in the history of the CPI, we carried out for 6 months a complete check between the old index and the new index. And when I say complete, I mean there were two completely separate programs going on exactly for that purpose. The old index was continued exactly the way it was calculated in the past, and the new index was calculated on its own basis. There was absolutely no overlap at all.

In the past we had tried to do it, but we did it in a way that some of the pieces were essentially the same. But this was the first time, and over a 6-month period there was very little difference at the U.S. level in the all items figure, which was the most significant and most important number nationally. I think the difference over 6 months was 1 or two-tenths of 1 percent. They tracked very closely together, not only over the 6-month span, but on a month-to-month basis. And surprisingly, most major components of the index also tracked very closely together.

6-MONTH CPI PERFORMANCE REVIEW

We have a paper that reviews that performance during the first 6 months, and we would be happy to provide you with a copy of it.

Senator EAGLETON. Yes; it might be useful to have it.

[The information follows:]

AN EXAMINATION OF THE REVISED AND UNREVISED CONSUMER PRICE INDEXES AFTER SIX MONTHS

W. John Layng, U.S. Bureau of Labor Statistics

On February 27 of this year, The Bureau of Labor Statistics (BLS) completed an eight-year effort to update and improve the Consumer Price Index (CPI), one of the Nation's most important economic statistics. A large number of changes were introduced at that time in the Consumer Price Index program.

The most apparent change in the output of the CPI program resulting from the revision effort, at least in terms of its visibility to the typical user of the index, was the introduction of Consumer Price Indexes for two groups of the U.S. population. A completely new index covering all urban consumers was introduced, and the CPI for the traditional urban wage earner and clerical worker population was revised and updated.

The new broader-coverage index includes all civilian households living in urban areas of the country. The rural population, except that which resides inside the boundaries of metropolitan areas, continues to be excluded. The Consumer Price Index for All Urban Consumers represents professional, managerial and technical workers, short-term workers, the self-employed, the unemployed, retirees and others not in the labor force, as well as the wage earner and clerical worker population. The new index covered 57.9 million consumer units in the 1972-73 weight base period for the CPI, or approximately 80 percent of the noninstitutional civilian population in the United States. Consumer units classified in wage earner or clerical worker occupations accounted for 52.4 percent of the 57.9 million consumer units; professionals and managers accounted for 23.6 percent; the retired accounted for 12.4 percent; the self-employed accounted for 3.8 percent; and the unemployed and those not in the labor force accounted for 7.7 percent. The traditional Consumer Price Index for Urban Wage Earners and Clerical Workers covers somewhat less than half of the all urban index, or 23.5 million consumer units.

In addition to publication of the new and revised Consumer Price Indexes, the BLS continued publication of the unrevised CPI for Urban Wage Earners and Clerical Workers during the January-June 1978 period. The new and revised Consumer Price Indexes were set equal to the level of the unrevised CPI as of December 1977 and all are presented on a 1967=100 base.

One of the topics that the public expressed the most interest in prior to and since publication of the new and revised Consumer Price Indexes has been the comparative behavior of the three indexes. Much of the interest stems, of course, from the use of the CPI in wage and other types of escalation. Let me review briefly the data that are available for this purpose. For the six-month period from December 1977 through June 1978, data are available for three indexes--the new index covering all urban consumers and the revised and unrevised indexes, both of which cover urban wage earners and clerical workers. As I indicated, the unrevised index was terminated with publication of the June index, and only the new and revised indexes will continue into the future. Therefore, it is possible to compare the behavior of the revised Consumer Price Index for Urban Wage Earners and Clerical Workers and the unrevised Consumer Price Index for Urban Wage Earners and Clerical Workers only for the six-month period from December 1977 to June 1978.

There are three basic approaches that can be used to compare the three indexes. We could compare the revised and unrevised wage earner series, the new all urban and revised wage earner series, or the new all urban and unrevised wage earner series. The revised index is the successor to the unrevised index, in that the population groups represented by each index are the same. Differences in behavior of these two series, therefore, should reflect differences in the behavior of the wage earner and clerical worker population between the early 1960's and the early 1970's, as well as differences in the design of the two indexes.

The new and revised indexes represent different, but not mutually exclusive, population groups. Since both indexes are based on the same design, differences in behavior of the two series will be a function of differences in the characteristics of the two population groups in 1972-73. These differences are reflected in the market basket weights, as well as in the stores and items priced. The third approach, comparing the new to the unrevised, would not only capture the impact of differences in design, but also differences in the behavior of the wage earner and clerical worker group between two points in time and differences at a point in time (1972-73) in the behavior of the all urban and wage earner population groups.

For purposes of this paper, we will focus almost entirely on the behavior of the revised CPI in relation to the unrevised CPI. It is, in my view, the approach to follow if one is interested in evaluating the impact of the revision program on the CPI. The other comparisons are also of interest, particularly a comparison of the new and revised series. However, it should probably be based on data for a longer period of time.

Before analyzing the difference in behavior of the revised and unrevised Consumer Price Indexes for Urban Wage Earners and Clerical Workers during the past six months, it would be useful to review the major differences between the two indexes. The discussion of differences in the indexes will be categorized under differences in consumption weights and cities, stores, and items priced.

One of the major objectives of the Consumer Price Index revision program is to update the

market basket of goods and services used in compilation of the index. The unrevised Consumer Price Index is based on a market basket that pertains to the early 1960's. The market basket was, of course, updated each month for changes in prices, but the implicit quantity weights imbedded in the market basket are those that pertain to the early 1960's. The revised index, on the other hand, is based on a market basket that pertains to the 1972-73 period.

In December 1977, the differences in the relative importance of the major groups of these two market baskets--that is, the difference in the 1960-61 market basket and the 1972-73 market basket, both expressed in terms of December 1977 prices--were substantial for some major categories of expenditures. Table 1 provides a comparison of the relative importances of the two market baskets for that point in time.

Table 1

Consumer Price Index: Relative Importance of Major Groups, December 1977

Group	Revised1/	Unrevised1/	Revised less Unrevised
Food and Beverages	20.5	26.2	-5.7
Housing	40.7	35.5	5.2
Apparel and Upkeep	5.8	9.0	-3.2
Transportation	20.2	13.3	6.9
Medical Care	4.5	6.9	-2.4
Entertainment	3.9	3.7	.2
Other Goods and Services	4.4	5.5	-1.1
All Items	100.0	100.0	0

1/ Covers Urban Wage Earners and Clerical Workers.

As can be seen from Table 1, four of the seven major consumption categories of the CPI declined in importance. The categories for food and beverages, apparel and upkeep, medical care, and other goods and services are substantially lower in the revised index than in the unrevised index. On the other hand, the importance of housing and transportation is substantially higher in the revised index than in the unrevised index. The remaining category for entertainment changed only slightly.

Within the food and beverage category, the decline in the relative importance of 21.8 percent was due entirely to a decline from 18.8 percent to 13.5 percent in the food at home category and a decline from 2.1 to 1.2 percent in the alcoholic beverage component. Food purchased away from home increased from 5.3 to 5.8 percent. Of the eight major categories of food purchased in grocery stores, all categories except nonalcoholic beverages and other prepared foods declined substantially in importance (see Appendix Table A).

The importance of the apparel and upkeep category of consumption declined from 9.0 percent in the unrevised CPI to 5.8 percent in the revised CPI, a decline of 35.6 percent. The medical care component declined from 6.9 percent to 4.5 percent and the other goods and services category declined from 5.5 percent to 4.4 percent. Within the other goods and services category, tobacco products and personal care expenses dropped, but personal and education expenses increased.

In terms of categories which increased in importance, the transportation category stands out. The importance of this group went from 13.3 percent in the unrevised CPI as of December 1977 to 20.2 percent in the revised CPI, an increase of 51.9 percent. The importance of new cars jumped 126.3 percent and used cars were not far behind at 85.7 percent. Gasoline, maintenance and repair expenses, and other private transportation costs also increased in importance. Public transportation, on the other hand, declined from 1.3 percent to 1.0 percent.

The housing category, the largest single component of the CPI, also rose in importance. The increase from 35.5 percent to 40.7 percent amounted to almost 15 percent. Almost all of the rise was in home purchase and financing costs, taxes, and insurance.

Another significant difference between the revised and the unrevised CPI's is that a major expansion in the number of areas in which price data are collected was introduced in the revised CPI. The number of areas in which prices are collected for the revised CPI was increased to 85 from a level of 56 areas in the unrevised index. The new 85-area design is a probability sample of urban areas based on the 1970 Census of Population whereas the 56-area design for the unrevised index was based on the 1960 Census of Population. Not only were almost 30 new areas added to the CPI price collection program, but many of the areas in the 56-area design were changed. Most of the addition and replacement took place in areas having populations of between 2,500 and 385,000. One notable exception to that was the addition of Miami, Florida, to the CPI pricing area program.

Significant changes were also made in the method of selecting retail stores for price collection within each pricing area and in the number of price reporters surveyed. In this revision, a major innovation was made in developing a large part of the data base for selecting retail stores in which price data are regularly collected for the CPI. For the first time, the selection of retail stores was, for the most part, based on the results of a household survey, which is referred to as a Point-of-Purchase Survey, in which families were asked for information on the names and locations and amounts they spent in retail stores for many different categories of

goods and services. Data provided from this Point-of-Purchase Survey were used to develop, for the first time, a consistent, objective, and probability-based sample of retail stores and service establishments for the CPI. In the unrevised CPI, data for selecting retail stores were developed from many secondary sources that were not necessarily consistent or related to each other or the population represented by the index, and probability methods were used only to a very limited extent.

Changes were also made in the number of price reporters for the Consumer Price Index. Table 2 provides a comparison of the number of stores in which price data are collected for the two indexes.

Table 2

Consumer Price Index: Number of Price Reporters

Type	Revised	Unrevised
Food Stores	2,300	1,775
Rental Units	18,000	40,000
Property Taxes	17,000	13,000
Other Stores	22,300	16,000

As can be seen, the number of food stores in which price data are collected was increased from 1,775 stores across the country in the unrevised CPI to about 2,300 food store outlets for the revised index. Price reporters for nonfood items were also increased. Roughly 16,000 businesses reported prices for the unrevised CPI. This compares with 22,300 for the revised index, 19,300 of which were based on results of the Point-of-Purchase Survey. The number of housing units in which property tax data are collected was similarly increased from 13,000 to about 18,000. The only noticeable exception is in the area of rental units, where the size of the sample was reduced from 40,000 units to roughly 18,000 units. This reduction stems mainly from a major change in the methodology for collection of rent information. In the unrevised index, rental units were contacted every six months, and the index was based solely on six-month changes in rents for individual units. For the revised index, units are also visited every six months, but, at each visit, the previous month's rent is also obtained. This allows the calculation of the rent index for the revised index to be based on a composite estimate utilizing not only the six-month change in rent, but also the one-month change in rent for each individual unit.

The Consumer Expenditure Survey and the Point-of-Purchase Survey provide most of the information for determining what items to price and where to price them within each of the areas selected for price collection. The final step in the process of selecting items--that is, determining the specific item to be priced in the specific retail establishment--was accomplished for the revised CPI through a process that is very different from the one used for the unrevised index. For the unrevised CPI, BLS price collection agents entered stores with a very detailed description of the item or items for which prices were to be obtained. These descriptions were prepared nationally by Washington office staff and are referred to as item specifications. They are basically the same for every store across the country. In every city and store in which an item is to be priced, an attempt was made to obtain the price of the volume selling product meeting the detailed item description. Each time that data collectors returned to the store, they attempted to price the same product specified in detail.

For the revised CPI, we use a process which we refer to as store-specific pricing. It is called this because, in effect, the final phase of item sample selection was taken into the store itself and made dependent on the sales characteristics of each store. Data collectors entered stores with an exhaustive definition of a fairly broad category of goods and services and proceeded systematically through successive stages of selection on the basis of sales information provided by the respondent at each stage. In this fashion, a specified-in-detail item was selected for pricing over time in the retail outlet.

The difference in item sampling procedures can, perhaps, be appreciated more fully by an examination of a component of the indexes. For example, in the unrevised CPI, 33 medical care services were specified in detail for pricing. For the revised CPI, 258 services are eligible for pricing. For physician services, 7 services were priced for the unrevised index: general medical practice--office visits and home visits--obstetrics, pediatrics, herniorraphy, tonsillectomy, and psychiatric care. All seven of these specified-in-detail categories were priced in each CPI pricing area.

For the revised CPI, eleven physician service categories were used. They are general medical practice; pediatrics; obstetrics and gynecology; cardiology; ear, nose, and throat; allergy; surgery; psychiatry; radiology; orthopedics; and a final category for all other physician services. Within each of these categories, a number of preselected services were identified--96 in total. This represents over a tenfold increase in the number of services eligible for pricing. The selection of the specific service priced within each of these categories was then determined on the basis of information provided by each physician. An important fact to keep in mind is that not all 96 of the expanded number of medical care services are priced in each of the 85 CPI pricing areas. Rather, a sample is priced in each area based on the results of the Point-of-Purchase Survey.

Similar changes were made in other categories of medical care services. For dentist fees, the number of procedures went from 3 to 42; for eye care, the number increased from 3 to 16; and for

hospital and other medical care services, the number went from 12 to 104.

We believe the new item sampling process yields much more representative measures of price change for major groups, subgroups, and individual components of the CPI market basket. The process allows the detailed item specifications priced in individual stores to reflect the differences in the types of items sold and does not restrict the selection of items for the CPI to a relatively narrow segment of the quality range available in the market.

Changes were also made in the timing of price data collection. Pricing in the food component of the CPI, which was carried out in the first week of each month for the unrevised index, is now carried out throughout the month. This change puts the food component of the CPI on the same basis as other components of the CPI. In addition, pricing of other items is now spread more evenly over the month, and prices which were collected for the unrevised index on a quarterly cycle were shifted to a bimonthly cycle.

In terms of the number of price quotations used in the calculation of the index, changes were also made. For example, in the area of food, the number of food prices collected per year was reduced from 1.3 million to about 700,000. On the other hand, the number of nonfood price quotations collected per year was increased from 462,000 to 675,000. The shift from food to nonfood was based, in part, on an analysis of the historical CPI price data base which indicated that sample sizes in the food area could be reduced and that sample sizes in the nonfood area should be increased. In addition, the number of nonfood price quotes increased as a result of the shift from quarterly to bimonthly price collection.

In comparing the movement in the revised and unrevised CPI's, we expect that all of these differences have played a role. Unfortunately, it is impossible for us to determine the contribution of each. It is clear, however, that the net effect of all the changes in the CPI program has been small during the six-month period from December 1977 to June 1978. Over the entire six-month period, the percent changes are 4.9 percent and 4.8 percent for the revised and unrevised CPI's, respectively. In terms of month-to-month changes in the U.S. All Items indexes, the differences in movement were also quite small (see Table 3). However, it should be remembered that for some uses of the CPI, even small differences between the two indexes can be very important.

Table 3

Consumer Price Index: U.S. All Items
(not seasonally adjusted)1/

Month	Index, 1967=100		Percent Change from Previous Month	
	Revised2/	Unrevised2/	Revised	Unrevised
Dec.	186.1	186.1	NA	NA
Jan.	187.1	186.9	.5	.4
Feb.	188.4	188.3	.7	.7
Mar.	189.7	189.8	.7	.8
Apr.	191.4	191.3	.9	.8
May	193.3	193.2	1.0	1.0
June	195.3	195.1	1.0	1.0

NA—Not Applicable.

1/ Unadjusted percent changes are used for this comparison for several reasons. First, the seasonal factors for the unrevised CPI were not updated to reflect developments during 1977 and, second, the number of components used to derive the U.S. All Items index on a seasonally adjusted basis are different.

2/ Covers Urban Wage Earners and Clerical Workers.

Although the difference in movement between the two indexes at the U.S. All Items level was very small, there were differences in the behavior of the components of the indexes over the six months from December to June. The CPI is presented under two classification schemes. One consists of seven household budget categories: food and beverages, housing, apparel and upkeep, transportation, medical care, entertainment, and other goods and services. The other consists of three types of product categories: food and beverages, commodities other than food and beverages, and services.

In the household budget classification structure, the revised CPI increased more over the six-month period than the unrevised for two groups, food and beverages and housing. For four groups, the increase was smaller and for one group the increase was the same (see Table 4). On the basis of the commodity service structure, the revised index increased more than the unrevised for all three groups. For food and beverages, the change

for the six months was 8.5 percent compared with 8.1 percent. Other commodities were 3.5 percent versus 3.1 percent, and services were 4.6 percent compared with 4.2 percent.

Table 4

Consumer Price Index: U.S. Major Groups, Percent Change, December 1977 to June 1978 (not seasonally adjusted)

Group	Revised 1/	Unrevised 1/	Revised less Unrevised
All Items	4.9	4.8	.1
Food and Beverages	8.5	8.1	.4
Housing	4.9	4.2	.7
Apparel and Upkeep	1.1	1.1	0
Transportation	4.0	4.4	-.4
Medical Care	4.1	4.6	-.5
Entertainment	2.6	3.0	-.4
Other Goods and Services	2.0	2.6	-.5

1/ Covers Urban Wage Earners and Clerical Workers.

Another way to view these differences in behavior is to look at the contribution to the six-month change in the all items index for each measure. The contribution to change reflects both the price change for the component as well as its importance in the all items index. Differences in the contribution to change, therefore, reflect differences in percent changes as well as differences in importance. These calculations are provided in Table 5.

Table 5

Contribution to U.S. All Items Percent Change December 1977 to June 1978

Group	Revised	Unrevised	Revised less Unrevised
Food and Beverages	35.2	40.6	-5.4
Housing	40.0	35.6	4.4
Apparel and Upkeep	1.2	1.8	-.6
Transportation	16.1	11.0	5.1
Medical Care	3.7	6.1	-2.4
Entertainment	2.0	2.1	-.1
Other Goods and Services	1.8	2.8	-1.0
All Items	100.0	100.0	0

As can be seen from the table, the contribution to the six-month change in the all items index made by food and beverages was substantially lower in the revised CPI and, conversely, the contribution of housing and transportation was substantially higher. For the food and beverage category, the larger price change in the revised CPI was more than offset by the lower weight given to the category. For housing, the two factors worked in the same direction. For the transportation group, the smaller price change in the revised CPI was more than offset by the larger weight of transportation in the revised index. Results of calculations for the other four major groups in the household budget classification scheme are similar but smaller in magnitude.

Examination of the behavior of lower level indexes for the revised and unrevised CPI's has also begun. The basic press release table presenting CPI data contains another 59 price index series in the household budget classification structure, 47 of which are mutually exclusive. Tables showing movements in these series over the six-month period from December to June are provided in Appendix B. Although review of differences at this level has not been completed, some interesting information has been developed. Differences in percent changes at this level are clearly larger, but they do not appear to be systematic in the sense that one index is consistently higher or lower than the other. In terms of mutually exclusive series, 24 series changed more in the revised index than in the unrevised over the six-month period and 23 changed less. This distribution, however, was not the same across major groups. For example, in the food area, seven indexes changed more in the revised CPI and three changed less. In housing, the split was seven more and five less. In transportation, the distribution shifted to one more and seven less.

Some of the largest differences in behavior between the revised and unrevised CPI's occurred in the food and beverage component of the CPI. For the group as a whole, the revised CPI increased 8.5 percent during the six-month period from December to June compared with an increase of 8.1 percent for the unrevised CPI.

Most of the components of the food and beverage group increased more in the revised CPI than in the unrevised, and the differences in some components were substantial. In the nonalcoholic beverage component, the difference was the largest, 7.5 percentage points. The revised CPI increased 1.8 percent while the unrevised CPI declined 5.7 percent.

The nonalcoholic beverage component of the revised CPI consists of five subgroups or strata, cola drinks excluding diet cola, carbonated drinks excluding non-dietary cola, roasted coffee, freeze dried and instant coffee, and a miscellaneous category comprised of tea and other noncarbonated fruit flavored drinks. The unrevised CPI has similar but more narrowly defined categories. They are cola drinks, carbonated drinks, roasted coffee, instant coffee, and tea. Since the

categories are similar, it is possible to compare the behavior of each group (see Table 6).

Table 6

Consumer Price Index: Nonalcoholic Beverages and its Components, Percent Change December to June 1978 (not seasonally adjusted)

Category	Revised	Unrevised	Revised less Unrevised
Nonalcoholic Beverages	1.8	-5.7	7.5
Cola Drinks	5.3	7.0	-1.7
Other Carbonated Drinks	5.3	6.5	-1.2
Roasted Coffee	-9.1	-10.5	1.4
Freeze Dried and Instant Coffee	-6.0	-7.2	1.2
Other Noncarbonated Beverages	5.9	1.2	4.7

Although there were differences in movement of the components of the two indexes, they were not large enough to account for the difference in the nonalcoholic beverage index. For this reason, the market basket weights were examined to see if the difference could be due to this factor. A review of the weights underlying the two indexes revealed some substantial differences (see Table 7). Over 70 percent of this unrevised CPI component was accounted for by coffee in the unrevised CPI compared with about 37 percent for the revised. In addition, the importance of cola drinks went from about 10 percent in the unrevised to 38 percent in the revised.

Table 7

Consumer Price Index, Nonalcoholic Beverages: Relative Importance of Major Components December 1977

Component	Revised	Unrevised	Revised less Unrevised
Cola Drinks	37.6	9.7	27.9
Other Carbonated Drinks	18.3	9.5	8.8
Roasted Coffee	15.2	56.6	-41.4
Freeze Dried and Instant Coffee	12.0	15.9	-3.9
Other Noncarbonated Beverages	16.9	8.3	8.6
Nonalcoholic Beverages	100.0	100.0	.0

To examine the role of these differences in index weights in explaining the difference in behavior, a special index change was calculated. Price changes for the five components of the nonalcoholic beverage index from the unrevised CPI were applied to index weights for the revised CPI. This calculation yielded a percent change for the December-June period of 1.6 percent. The change in the revised CPI for nonalcoholic beverages was 1.8 percent. Clearly, virtually all of the difference was due to differences in index weights rather than differences in estimates of price change.

Initially, I suspected that the drop in the market basket weight for coffee was due to a sharp reduction in consumption as a result of a dramatic increase in coffee prices. In December 1977, the roasted coffee index was 457.5, 357.5 percent above its 1967 base. The freeze dried and instant coffee index stood at 383.2 in December, up 283.2 percent. These were the largest increases recorded for any item in the CPI during this period by a wide margin.

However, the dramatic increase in coffee prices occurred after the 1972-73 base period for index weights, and the decrease in the consumption weight for the revised index is apparently a result of a long-term decline in coffee consumption which stretches back to the late 1940's. It is probably true that price increases in the last two years have resulted in further declines in coffee consumption which have not been reflected in the CPI. In any event, this situation illustrates the potential risks to the CPI that exist when economic conditions change dramatically, or when long periods of time elapse between revisions in the market baskets underlying the index. In the future, we can look to the Continuing Consumer Expenditure Survey to help identify and quantify marked shifts in consumption so that their impact can be evaluated and revisions can be proposed as necessary.

In closing, some comment should be made concerning the relationship between the new All Urban CPI and revised and unrevised Urban Wage Earner and Clerical Worker CPI's. I think it is fair to say that the differences between the All Urban and unrevised CPI's, during the six-month overlap period, are very similar to those presented in this paper for the revised and unrevised CPI's. Putting the point another way, the differences in movement between the All Urban and revised CPI's are very small. In fact, over the six-month period, there was no difference at the U.S. All Items level. At the major group level, differences between major groups of the two indexes were only 0.1 percentage points in all cases except one. As more information for these two indexes is generated over time, it will be interesting to see if these differences remain small.

It has been speculated that the differences in the future will remain small, since the revised CPI for Urban Wage Earners and Clerical Workers is conceptually a large subset of the All Urban index. It should be noted, however, that the similarity of behavior of the two indexes over the last six months should not lead to the conclusion that they will behave alike in the future. There are noticeable differences in the make-up of the population groups covered by each index, as well as in how they spend their money. The differences in the economic and demographic characteristics of the two populations could lead to differences in movement between the price indexes for each in the future.

Appendix Table A. Consumer Price Index: Relative importance of major groups and special groups, December 1977
Urban Wage Earners and Clerical Workers

Group	Revised	Unrevised	Revised less Unrevised
Expenditure category			
All items	100.0	100.0	100.0
Food and beverages	20.5	26.2	-5.7
Food	19.3	24.0	-4.7
Food at home	13.5	18.8	-5.3
Cereals and bakery products	1.7	2.5	-.8
Meats, poultry, fish, and eggs	4.4	6.2	-1.8
Dairy products	1.8	2.8	-1.0
Fruits and vegetables	1.8	3.1	-1.3
Sugar and sweets	.5	.8	-.3
Fats and oils	.4	.6	-.2
Nonalcoholic beverages	1.7	1.8	-.1
Other prepared food	1.2	1.1	.1
Food away from home	5.8	5.3	.5
Alcoholic beverages	1.2	2.1	-.9
Housing1/	40.7	35.5	5.2
Shelter	26.4	21.7	4.7
Rent, residential	5.3	4.5	.8
Other rental costs	.5	.4	.1
Homeownership	20.6	16.8	3.8
Home purchase	8.8	6.1	2.7
Financing, taxes, and insurance	8.5	6.9	1.6
Maintenance and repairs	3.3	3.8	-.5
Services	2.3	2.8	-.5
Commodities	1.0	1.0	0
Fuel and other utilities	6.4	5.5	.9
Fuels	4.3	4.1	.2
Fuel oil, coal, and bottled gas	1.0	1.1	-.1
Gas (piped) and electricity	3.4	3.0	.4
Other utilities and public services	2.1	1.4	.7
Household furnishings and operation1/	7.9	8.3	-.4
Housefurnishings1/	4.7	4.6	.1
Housekeeping supplies	1.6	1.6	0
Housekeeping services	1.6	2.1	-.5
Apparel and upkeep	5.8	9.0	-3.2
Apparel commodities	5.2	7.6	-2.4
Men's and boys' apparel	1.6	2.4	-.8
Women's and girls apparel	2.1	3.3	-1.2
Infants' and toddlers' apparel	.1	.1	0
Footwear	.8	1.4	-.6
Other apparel commodities	.6	.5	.1
Apparel services	.6	1.4	-.8
Transportation	20.2	13.3	6.9
Private transportation	19.2	12.0	7.2
New cars	4.3	1.9	2.4
Used cars	3.9	2.1	1.8
Gasoline	4.8	3.2	1.6
Maintenance and repair	1.6	1.1	.5
Other private transportation	4.7	3.7	1.0
Commodities	.8	.8	0
Services	3.9	2.9	.9
Public transportation	1.0	1.3	-.3
Medical care	4.5	6.9	-2.4
Medical care commodities	.8	.8	0
Medical care services	3.7	6.1	-2.4
Professional services	1.9	3.0	-1.1
Other medical care services	1.8	3.1	-1.3
Entertainment	3.9	3.7	.2
Entertainment commodities	2.5	2.1	.4
Entertainment services	1.4	1.6	-.2
Other goods and services2/	4.4	5.5	-1.1
Tobacco products	1.5	1.9	-.4
Personal care	1.8	2.6	-.8
Toilet goods and personal care appliances	.5	1.3	-.4
Personal care services	.9	1.3	-.4
Personal and educational expenses	1.1	1.0	.1
School books and supplies	.2	.2	0
Personal and educational services	.9	.8	.1
Commodity and service group			
Commodities	62.2	62.3	-.1
Food and beverages	20.5	26.2	-5.7
Commodities less food and beverages	41.7	36.1	5.6
Nondurables less food and beverages	18.2	19.9	-1.7
Apparel commodities	5.2	7.6	-2.4
Nondurables less food, beverages, and apparel	13.0	12.2	.8
Durables	23.5	16.3	7.2
Services	37.8	37.6	.2
Rent, residential	5.3	4.5	.8
Household services less rent	18.4	16.7	1.5
Transportation services	6.5	5.3	1.2
Medical care services	3.7	6.1	-2.4
Other services	3.9	5.1	-1.2

1/ Includes T.V. and sound equipment, formerly found in health and recreation. Includes personal care and education-related expenses formerly found in health.
2/ Formerly included alcoholic beverages, now found in food and beverages and recreation.

Appendix Table B. Consumer Price Index for Urban Wage Earners and Clerical Workers
U.S. All Items by Expenditure Category and Commodity and Service Group.
Percent changes, December 1977 to June 1978 (not seasonally adjusted)

Group	Revised	Unrevised	Revised less Unrevised
Expenditure category			
All items	4.9	4.8	.1
Food and beverages	8.5	8.1	.4
Food	8.8	8.4	.4
Food at home	10.2	9.8	.4
Cereals and bakery products	6.1	5.5	.6
Meats, poultry, fish, and eggs	17.1	16.6	.5
Dairy products	4.3	3.9	.6
Fruits and vegetables	15.8	17.4	-1.6
Sugar and sweets	8.2	8.4	-.2
Fats and oils	8.0	6.6	1.4
Nonalcoholic beverages	1.8	-5.7	7.5
Other prepared food	4.6	1.8	2.8
Food away from home	5.5	3.8	1.7
Alcoholic beverages	4.2	5.1	-.9
Housing1/	4.9	4.2	.7
Shelter	5.3	4.4	.9
Rent, residential	3.5	3.2	.3
Other rental costs	7.8	7.2	.6
Homeownership	5.7	4.6	1.1
Home purchase	4.8	3.6	1.2
Financing, taxes, and insurance	7.1	5.0	2.1
Maintenance and repairs	4.3	5.7	-1.4
Services	4.9	5.7	-.8
Commodities	4.9	5.3	-3.0
Fuel and other utilities	2.7	5.7	1.6
Fuels	6.7	4.3	2.4
Fuel oil, coal, and bottled gas	1.1	1.4	-.3
Gas (piped) and electricity	8.2	5.3	2.9
Other utilities and public services	1.2	.4	.8
Household furnishings and operation1/	3.6	4.0	-.4
Housefurnishings1/	2.5	2.3	.2
Housekeeping supplies	3.8	4.0	-.2
Housekeeping services	6.4	7.8	-1.4
Apparel and upkeep	1.1	1.1	0
Apparel commodities	.6	.4	.2
Men's and boys' apparel	-.1	1.1	-1.2
Women's and girls apparel	-.2	-1.1	.8
Infants' and toddlers' apparel	-.2	-.6	.4
Footwear	1.9	2.0	-.1
Other apparel commodities	3.5	2.5	1.0
Apparel services	5.0	4.8	.2
Transportation	4.0	4.4	-.4
Private transportation	4.2	4.6	-.4
New cars	1.8	3.1	-1.3
Used cars	12.2	15.1	-2.9
Gasoline	2.2	2.4	-.2
Maintenance and repair	4.6	4.2	.4
Other private transportation	1.3	1.5	-.2
Commodities	3.5	3.6	-.1
Services	.8	.9	-.1
Public transportation	.8	2.4	-1.6
Medical care	4.1	4.6	-.5
Medical care commodities	4.3	3.8	.5
Medical care services	4.1	4.8	-.7
Professional services	3.7	4.5	-.8
Other medical care services	4.3	5.1	-.8
Entertainment	2.6	3.0	-.4
Entertainment commodities	1.7	2.5	-.8
Entertainment services	4.1	3.5	.6
Other goods and services2/	2.0	2.6	-.6
Tobacco products	1.1	1.0	.1
Personal care	3.1	4.4	-1.3
Toilet goods and personal care appliances	2.0	4.5	-2.5
Personal care services	3.9	4.2	-.3
Personal and educational expenses	1.6	1.6	0
School books and supplies	1.9	0	1.9
Personal and educational services	1.5	1.9	-.4
Commodity and service group			
Commodities	5.2	5.2	0
Food and beverages	8.5	8.1	.4
Commodities less food and beverages	3.5	3.1	.4
Nondurables less food and beverages	1.8	1.7	.1
Apparel commodities	.6	.4	.2
Nondurables less food, beverages, and apparel	2.3	2.6	-.3
Durables	4.9	4.8	.1
Services	4.6	4.2	.4
Rent, residential	3.5	3.2	.3
Household services less rent	6.3	5.2	1.1
Transportation services	1.8	1.9	-.1
Medical care services	4.1	4.8	-.7
Other services	3.6	3.8	-.2

1/ Includes T.V. and sound equipment, formerly found in health and recreation. Includes personal care and education-related expenses formerly found in health.
2/ Formerly included alcoholic beverages, now found in food and beverages and recreation.

HOME OWNERSHIP COSTS

Senator EAGLETON. Now, this question of home ownership costs, you say, was debated and discussed back during that 8-year period you just described.

Mr. LAYNG. Yes, sir; in fact, I believe three administrations were involved, it lasted so long. At least two, if not three, different administrations participated in that process at one time or another. We began our work in 1972, and we completed it in 1977 when the time came for a decision to be made with respect to whether the CPI would or would not be changed. And the decision was made not to change it, and that was in March 1977. The revised CPI was introduced in January 1978.

Senator EAGLETON. For the record, what is the allegation, or what is the rationale behind the allegation that home ownership costs somehow are skewing the CPI?

First, tell me what was the allegation? And then why changes in it were rejected during that 8-year review process?

Mr. LAYNG. This is a rather difficult subject and this could turn into a lengthy answer, so I apologize.

Senator EAGLETON. Just give me a highlight or two.

Mr. LAYNG. I guess the most important aspect of it was there have been statements made that the CPI assumes everybody buys a house every month. That isn't quite correct. The CPI does not assume everybody buys a house every month. It basically reflects the proportion of households that bought houses, those who actually entered into contracts for houses in 1972–73. It includes only those people. Those people who purchased houses before 1972–73 have a zero statistical weight with respect to the calculation of the weights in the Consumer Price Index. But for those who did buy a house, included in theweight is the total purchase price of the house, plus the total amount of contract interest committed.

CALCULATING CPI WEIGHTS

In other words, if you bought a house for $50,000 and you took a mortgage out for $40,000 and committed yourself to pay interest for 25 years, for you that amount of money would go into the weights. For your neighbor, who may have bought his house 5 years ago, he has no expenditures for the purpose of calculating the CPI weights. That sounds kind of funny, and many people believe it is. But that average, those who had zero, plus those who purchased houses, is averaged over everybody, and that is the weight in the index. And the weight in the index is quite large.

One of the difficulties with that is that home purchase rates have fluctuated quite a bit, and if your basic period is a period where they were relatively high or relatively low, you can get a number that really doesn't accurately reflect too well the actual amount of housing that's being consumed. And that's where the other side of the coin comes in.

A lot of people believe the CPI should reflect not how much the price of houses or interest rates are changing, but should reflect the cost of the shelter that people are actually consuming when they live in their house. To estimate that means you have to deal with things which are not marketplace transactions.

CAPITAL COSTS

There are basically two aspects of trying to deal with the issue. One is you have to look at potentially what the cost is of the capital that you have invested in your house. There is some cost of that. If you owned a house outright, rather than having a mortgage on it, there is some implicit cost to you in an economic sense.

Question: Should the CPI or shouldn't the CPI reflect that implicit cost?

On the other hand, houses are one asset in the consumer marketplace that have historically, at least in the postwar period, appreciated in value.

Question: Should or should not the CPI reflect the offset to costs of rising house prices, namely from the point of view that if you sell your house for more than you paid for it, you generate some income?

Those are the issues, whether those elements of the housing market should or should not be reflected in the CPI. In order to get a complete and comprehensive measure of shelter costs, you have to deal with

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those two elements as well as the standard elements, like mortgage interest payments, property taxes, and property insurance. You have two elements which are very difficult to measure. And the overall measure that you get is very sensitive to how you treat them.

RENTAL COSTS

OK; another measurement approach is to try to obtain rent information with respect to units that are owner occupied, typically owner-occupied units. Well, a lot of people believe there isn't much overlap between the owner-occupied market and the rental market for housing. A lot of people believe the existence of rent controls would make such an approach not viable. So you have two measurement approaches on which there is not a consensus with respect to whether they are viable or not. And for that reason, during the revision process, there was not agreement with respect to a change in the CPI. And lacking such a consensus, at least in part, the Bureau of Labor Statistics decided not to change the treatment of the CPI, but to continue its work.

Most recently the Commissioner of BLS has indicated that one area which we would like to pursue and do more work is in this area of trying to obtain rent information for units that are typically owner-occupied to see whether or not that's a viable technique and whether it produces a measure that people would be satisifed with for use of in the Consumer Price Index.

BENEFITS INDEX

Senator EAGLETON. Very good; very interesting.

If Congress' goal in indexing benefits were to permit beneficiaries to enjoy the same standard of living they could "buy" when they first became beneficiaries, would you recommend modifications to the present CPI?

Mr. LAYNG. I think it would be possible to construct an index that would more accurately reflect the experience of that group. The first thing you have to do is define what group you're talking about. The way the question was answered it could mean an index would be for each beneficiary. That would be extremely difficult, because what we'd have to have in that situation was when you became a beneficiary, you sort of entered the process. And from that point forward, whatever your situation was, we would attempt to provide a measure that would leave you as well off as you were at that point. That sort of sounds like everybody would have their own CPI. Or for each group that came into the benefit process at that point in time, we'd have an index for them. And as each group came in, we'd produce a new index with that as a reference base.

On a comprehensive, aggregate basis, I think we can look at that subgroup of the population. If we can agree on a definition of it, we can produce a measure that would reflect, one, the expenditure experience, the sum experience of that group if you really want to look at where those people live, the stores they shop in, the things that they bought; and in fact, in trying to look at housing with respect to that group, I think we could produce another measure. The Commissioner

has indicated before that, given resources and the time to produce them, we're always more than willing to do that sort of thing.

Senator EAGLETON. If we were to try to construct something along the lines implicit in my preceding question, what's your ball park guess, would that be higher or lower than today's CPI?

Mr. LAYNG. Ball park? Very difficult. I wouldn't choose to make an estimate, because I think these are offsetting things, operating in opposite directions.

When we were asked before—there have been several attempts or several bills introduced with respect to the development of such special indexes. And our response in the past has been, from our point of view, we'd like to see a pilot program where we went into some areas of the country and developed such a measure and compared that measure to the overall CPI in those areas to get some idea of whether the benefit was worth the production of such an index. And if the cost benefit indicated it was worth pursuing, we should do so.

We feel, from our point of view—and perhaps it's overstepping our bounds—that it might be premature to embark on a national program before we knew that there would really be some benefit achieved from it. And a pilot program would perhaps give us that information.

QUESTIONS SUBMITTED FOR RESPONSES

Senator EAGLETON. We have some other questions we will submit 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:]

JOB VACANCY DATA

Question: What have been the results of your pilot surveys to test the feasibility of collecting Job Vacancy data?

Answer: The pilot work is being conducted in two phases. The first phase involved quarterly collections of job openings data by four States in FY 1979. Work on the final estimates and tabulations from these data is nearing completion. The second phase involves quarterly collection of job openings and new hires data by the same States in FY 1980. The data collection will end in September, 1980.

During FY 1979, the data collection in Florida, Massachusetts, Texas, and Utah was designed to test: 1) the effect on response rates and data quality of using a structured questionnaire rather than an open ended questionnaire, 2) the ability of collecting data on new hires in addition to job vacancies, 3) the ability to obtain high response rates in a job vacancy survey having a probability sample, 4) various data collection procedures, and 5) the quality of the data reported. Analysis of these surveys has not been completed at this time, but the following tentative conclusions have been reached: high response rates can be obtained, especially with the use of telephone--rather than mail--collection; response rates obtained using structured questionnaires are as high as those using unstructured ones and the quality is not affected; and data on new hires and other significant items can be collected without sacrificing response rates.

In FY 1980, pilot surveys are continuing in the same four States to identify 1) problems associated with maintaining high response ates from a probability sample, 2) the number of occupations that can be listed on a structured questionnaire without sacrificing response rates, 3) the quality of data collected by telephone, 4) whether the last day of the month is representative as the reference date, and 5) questions concerning the analytical use of the data, such as the umber of new hires that occur without having a measurable job opening and the duration of job vacancies.

Question: Do you feel the benefits of collecting Job Vacancy data are worth the cost?

Answer: This question cannot be answered until the pilot work is completed. The cost will be determined primarily by the sample size reqiured to produce the desired level of occupational and geographic coverage. Data from the pilot surveys will be used to develop an optimal sample design that will determine the sample size associated with alternative levels of detail. In addition, the Bureau plans to sponsor a project to assess the potential uses of the data produced by the pilot tests at the State level. A cost-benefit analysis must await the final cost estimates developed for various levels of geographic and occupational detail, and the assessment of the use that will be made of the State data.

LOCAL AREA UNEMPLOYMENT DATA

Question: Have you decided, as you indicated you were considering in last year's testimony, to expand your employment series to cover large cities?

Answer: The decision to extend the employment estimates, derived from the establishment survey, will be made following the consideration of the recommendations of the National Commission on Employment and Unemployment Statistics in the context of an overall review of the program.

Question: What actions have you taken to implement the recommendations of the Unemployment Statistics Commission to improve the data relating to local unemployment?

Answer: In accordance with the provisions of Public Law 94-444, the Secretary of Labor has consulted each affected executive agency during the six months since the report of the National Commission on Employment and Unemployment Statistics was submitted, and, as mandated, submitted an interim report on March 3 to the Congress on the desirability, feasibility and cost of implementing each of the Commission's recommendations. Basically, the Department of Labor concurs with the Commission's recommendations relating to the improvement of unemployment data, but, of course, funds necessary for the implementation of the recommendations must be sought through the normal budget process. One of the Commission's recommendations was to improve the Unemployment Insurance based "Handbook" estimate. This recommendation reinforces work in the Bureau that has been underway for some time.

Question: What are the reasons why local unemployment statistics remain so poor?

Answer: The sampling error of the State unemployment rates for all but a handful of States is now at a 6.5 percent annual coefficient of variation, which is a significant improvement over that of a few years earlier. As a result of this expansion and the methodological changes, the State data are now as sound as they can be without a massive infusion of funds to further reduce the sampling error.

The quality of the estimates for cities and small jurisdictions was reviewed by the National Commission on Employment and Unemployment Statistics. It concluded that it would be impractical for cost and respondent burden reasons to develop reliable estimates from the Current Population Survey for the literally thousands of areas for which data must be produced each month to meet legislative mandates. The principle reason for poor data quality at the city and smaller area level is the lack of current data sources for these small areas for use in the development of unemployment estimates. Progress is, however, being made. For example, recently, the Bureau has begun receiving data on unemployment insurance claimants by county of residence--as opposed to filing location--through contracts with the States. These data are now being used, and have strenghened the estimates substantially. We also expect to be able to make further improvements when 1980 Census data become available.

Question: What are you doing to improve unemployment data for central cities and small political jurisdictions?

Answer: The Bureau has enlarged the Current Population Survey sample for 11 central cities and 30 SMSA's. These data will be available for use in early 1981. Later on, when the data from the 1980 Census become available, the Bureau will be able to improve the estimates for central cities and small political jurisdiction even further.

Question: What will be the impact of the termination of the hold harmless payments to those SMSA's and central cities which used to have their unemployment rates calculated by the CPS method?

Answer: The determination of the impact of the dropping of the hold-harmless cannot be made until the benchmarked 1979 data are available. When these data are available they will provide a summary showing unemployment for CETA prime sponsors within the affected SMSA's computed using both the present and CPS method. At that time, the Employment and Training Administration would be able to make such an assessment of the allocation formula.

CURRENT EMPLOYMENT AND UNEMPLOYMENT DATA

Question: A special committee appointed by Secretary Marshall was to issue a report by March 3 on its review of the recommendations of the National Commission on Employment and Unemployment Statistics. Can you tell us the highlights of the findings of the DOL's special committee's report and the annual price tag to implement them?

Answer: The report referred to is the "Interim Report of the Secretary of Labor on the Recommendations of the National Commission on Employment and Unemployment Statistics." It was transmitted to Congress on March 3 by Secretary Marshall and was based on advice given to him by a 3-member Department of Labor Committee comprised of Janet Norwood, Commissioner of Labor Statistics; Charles Knapp, Deputy Assistant Secretary, Employment and Training Administration; and, Arnold Packer, Assistant Secretary for Policy, Evaluation, and Research.

In his report, Secretary Marshall responded to each of the more than 80 recommendations of the National Commission. He endorsed most of the Commission's recommendations and accepted others in qualified form.

The highlights of the Secretary's report, along with some rough preliminary annual cost estimates for implementation of key National Commission recommendations, are as follows:

1. The Secretary endorsed, with some modification, the recommendation to expand the Current Population Survey (CPS) to obtain more accurate employment and unemployment data at the State and local level. The Secretary opted for an expansion which would bring annual average data for the 125 largest SMSA's to a minimum level of reliability rather than to accept the Commission's recommendation to make the data for the 35 largest SMSA's more accurate. Annual operating costs for the expansion are estimated at around $15 million annually. In addition, one-time start-up costs would be in the neighborhood of $12 to $17 million, spread over several fiscal years.

2. The Secretary also supported the recommendation to expand the CPS in order to improve the reliability of labor force estimates for minorities. Annual operating costs are estimated at $1.5 to 5.4 million, depending on the extent and nature of the expansion described in item 1 above.

3. The Secretary fully endorsed the National Commission's recommendation for the development of an annual report analyzing the economic hardship associated with low earnings, unemployment, and

insufficient participation in the labor force. The Bureau of Labor Statistics has recently commenced work on the development of a series of such reports which would link labor force data with social developments such as the rapid growth of multi-earner families and of families maintained by women, and the more widespread availability of various forms of transfer income. No additional funding will be required by the Bureau for preparation of the reports.

4. The Secretary endorsed the recommendation to change the method of identifying discouraged workers to include only those who have actively sought work in the last 6 months (but not in the last 4 weeks), who express a desire for work, and are available to take a job. At the same time, he deferred the decision as to whether to continue the present practice of excluding discouraged workers from the unemployed and labor force totals, preferring to reserve judgment on the classification of discouraged workers until the current testing of new questions and data results could be evaluated and analyzed. The cost of this and several other proposed changes to the CPS questionnaire are estimated at $500,000 to $750,000 annually.

5. The Secretary endorsed the recommendation to include military personnel in the national employment and labor force totals but noted that the decision might have to be reconsidered if there is a change in military personnel policy with respect to the draft. No additional funding would be required by BLS for implementation.

6. With the concurrence of the Bureau of the Census, the Secretary reserved judgment on the recommendation to include the decennial census "undercount" in the monthly CPS labor force statistics until the many technical problems which would be involved are worked out.

7. The Secretary endorsed the recommended expansion and improvements in the Current Employment Statistics program (establishment survey). Annual operating costs are estimated at $4.1 to $5.1 million. Additional one-time costs are estimated at $1.1 million.

8. The Secretary endorsed recommended improvements in the "handbook" method used to estimate local area unemployment. Annual operating costs are estimated at $1.8 million.

9. The Secretary endorsed the recommendation to extend the Occupational Employment Statistics program to all States and to initiate a program for analyses of these data. Annual operating costs are estimated at $2.6 million.

The Secretary's responses to the rest of the Commission's recommendations and appropriate cost estimates are included in his March 3 report to Congress, copies of which were sent to the Appropriations Committee.

Question: Which proposals require authorizing legislation?

Answer: It is our judgment that none of the proposals would require authorizing legislation.

Question: Do you expect to submit a supplemental to carry out these recommendations?

Answer: No, budget submissions based on these recommendations will begin in FY 1982.

CONSUMER PRICE INDEX

Question: Should the Department retain its emphasis on the Producer Price Index Revision and the International Price Program?

Answer: When taken together, the Consumer, Producer, and International Price programs represent a comprehensive framework for measurement of price change in the U.S. economy. While the CPI is perhaps the most widely known price statistic produced by the BLS, the Producer and International Price programs are also widely used, both as economic indicators and as escalators. In recent years, there has been widespread agreement that each of the major price statistics programs should be improved and expanded, and, in the recent past, the net effect of actions taken in both the executive branch as well as the Congress has been to expand each of these programs. Given increasing concern over the problem of inflation, we expect that this general trend will continue until each of these programs are equal to the demands which are currently being placed on them in terms of identifying and understanding the sources and causes of inflation.

Question: What suggestions do you have for altering the way billions in Federal spending are tied to increases in the Consumer Price Index?

Answer: The only suggestion which I feel I could make at this time would relate to the very basic point which I made earlier, namely that the CPI is an aggregate statistic representing a large segment of the U.S. urban population. While indexation is a policy subject which I feel is beyond my role as a technician, I think it would be appropriate for me to point out that as specific target groups for receipt of public funds are identified, it may well be appropriate to examine whether such groups differ from the "average consumer" represented in the existing CPI program. At this point, we simply do not know how a CPI for specific groups, such as the elderly, would perform in relation to the current data. Perhaps such an index would behave quite differently from the currently published CPI or perhaps production of such a measure would simply not be worth the costs which would be required to produce it. At any rate, given the types of questions which are now being raised about the use of the CPI, it would seem that basic research in this area is needed.

Question: What suggestions do you have for a more accurate measure of inflation?

Answer: While we are continually examining the index in terms of its accuracy, major efforts to improve the Consumer Price Index are undertaken only during periodic CPI Revision programs, about every 10 to 12 years or so. Between major revisions, we are primarily staffed for production purposes--our resources are geared to the collection, processing, and compilation of the monthly data, a difficult and exacting process which leaves very little time for research or improvement projects.

The housing component is somewhat of an exception, in that based on work undertaken during the last CPI Revision, we are publishing five experimental measures each month in addition to the regular CPI data. Large-scale research efforts on improving the components of the

CPI, such as medical care or insurance, will, of necessity, await the next CPI Revision, when resources to undertake basic improvement projects will have to be reviewed by the Congress through the regular budget process.

Question: How much do you feel the Consumer Price Index overstates inflation?

Answer: Senator, in a subject matter as complex as the issue of inflation, no single index or economic indicator can be used to answer all the questions which arise or meet all the needs which exist. Some argue that the CPI understates inflation, and some critics allege that it overstates inflation. Most, if not all, of the criticisms that the CPI overstates the rate of inflation stem from two issues. The first criticism concerns the treatment of owner-occupied housing, which we have already discussed. The second frequently heard criticism is that by pricing a fixed market of goods and services over time, the CPI does not reflect the fact that consumers change their buying habits as prices increase relative to one another. On this second point, we must emphasize that the objective of the CPI is to measure the change in the price of a fixed market basket of goods and services over time. As such, the CPI is an extremely important measure of purchasing power and inflation, since it answers a very basic economic question, namely, what would it cost, in today's dollars, for the average consumer to purchase the same market basket of goods and services which he or she purchased in the base period, thereby providing him or her with the same level of living standard as they had in the base period. As I am sure you realize, it is because the CPI answers this specific question that it has become a widely watched economic indicator or measure of inflation and has been adopted as an escalator in a variety of collective bargaining and other types of wage or income escalation. Put another way, if rising prices force families to reduce their consumption of goods and services, the CPI does not and should not reflect these changes, since such changes could reflect a lower living standard. Criticism of the CPI as overstating inflation because the market basket is held constant, in many cases, reflects a basic misunderstanding as to what the CPI is designed to do.

Question: Have you considered developing a supplementary Consumer Price Index for the Elderly? What would it cost to produce such an index? Do you think such an index would be substantially different from the regular Consumer Price Index? Higher or lower?

Answer: We have considered this question in the past, Senator, both in the context of our own work as well as in response to questions raised by other executive branch agencies, public and private groups, and indeed, members of the Congress. We believe that the only way to assess accurately either the cost of producing a CPI for the Elderly similar in type and quality to the current CPI program or the behavior of such an index relative to the existing CPI, would be to conduct a relatively small pilot program whereby the methodology employed to construct the existing CPI would be used to design an index for this specific population subgroup. We do have some information on expenditures made, for example, by individuals over 65 years in age, but we have very little information on the places where such individuals shop, or on location and types of housing lived in, which are but two of the additional data elements which are needed to construct an index which is comparable in quality to the existing CPI. In addition, data for such an index should be collected in the areas

in which the elderly live; these areas may differ from the 83 areas in which we are currently collecting prices for the official CPI's.

I have outlined the kind of pilot research and development work needed to produce a high quality ongoing program for a CPI for the Elderly. Such a program would take some time to design and complete. If the Congress were to decide for policy purposes to require the BLS to produce an index for the elderly for use in indexing pensions or retirement payments before this developmental work could be completed, it could request the BLS to use the existing data base used in compiling the official CPI. Congress would have to define the group whose expenditure experience is to be covered, specify the use of prices collected for the current program, and define the treatment of housing required. Such an index could be produced if done only at the national level and issued only at the time the indexation was required.

PRODUCER PRICE INDEX

Question: Describe why you need an increase of $1.4 million, as well as 38 new Federal employees, to continue revision of the Producer Price Index program.

Answer: The proposed increase of $1.4 million and 38 positions is needed to complete work on the manufacturing and mining components of the Producer Price Index revision, a program which has received strong support from both economic policy agencies in the executive branch as well as the Congress. The increment will also provide the BLS with the resources necessary to maintain and revise the new indexes on a 5-year cycle, thereby eliminating the need for future requests to conduct periodic revision programs. Without the proposed increment, the revision program, which has been strongly supported and endorsed by the Council of Economic Advisers and the Economic Policy Group, will be seriously delayed, and an ongoing program providing for maintenance and resampling of all manufacturing and mining industries on a 5-year cycle will not be possible.

Question: How is the Producer Price Index utilized?

Answer: Along with the Consumer Price Index, the Producer Price Index is one of the most widely used economic indicators produced by the Federal Government.

The most visible and perhaps most important use of these data is in the monitoring of inflation. Major government and business policymakers use the summary indexes in determining policy goals and actions. Detailed indexes are used by price monitoring agencies to identify trouble spots and analyze specific markets. Other important uses include:

(a) extensive use as escalators of long-term purchase agreements. We do not know the total value of such contracts, but we do know they total at least $100 billion. This means that these data have one of the largest monetary impacts of any statistics produced by the Federal Government;

(b) to deflate large portions of the national income accounts, which then show how much the economy is growing in real terms; and

(c) in a wide variety of analysis and forecasting by government, business, and academic researchers.

INTERNATIONAL PRICE INDEX

Question: What is the International Price Index used for?

Answer: The International Price Program is the only source of price measures for the rapidly expanding U.S. foreign trade sector. In 1979, for example, the foreign trade of the U.S. in goods (i.e., exports and imports) accounted for approximately 32 percent of the value of final goods produced in the United States (compared with 14 percent ten years ago.

Price indexes are needed to measure the effect of changes in exchange rates on prices of traded goods of the U.S. and to determine how changes in foreign prices feed into the U.S. domestic price system. Foreign trade sector price measures are also needed by U.S. representatives in international trade and financial negotiations in which the U.S. is, and will continue to be, engaged and by other policymakers and analysts who are concerned with various economic aspects of U.S. foreign trade. These data also are needed to develop international economic indicators and to assess the contribution of changes in U.S. foreign trade to real income and production in the U.S.

The recent Executive Branch reorganization of U.S. foreign trade functions places increased emphasis on export promotion and foreign trade monitoring. Prices are among the most crucial aspects of trade promotion and monitoring, and the indexes produced in this Program are the only measures of U.S. export and import price trends and are vital for effective monitoring and analysis of U.S. foreign trade.

The need for the indexes produced in this Program has been repeatedly cited by the Federal Reserve Board, U.S. Department of Treasury, U.S. Department of Commerce and the Office of Management and Budget, as well as users in the private sector.

Question: Why is an increase of $269,000 and 10 more Federal jobs needed to continue expansion of the International Price Program?

Answer: The increased dollars and positions are needed to develop export and import price indexes for important product categories not now covered by the Program. For exports this includes meat, fish, fruits and vegetables, sugar, feedstuffs and selected other food products; for imports the additional products to be covered include power generating machinery, office machines, printing machines, trucks, aircraft and other machinery. When completed, this expansion will bring program coverage to approximately 81 percent of U.S. exports and imports.

Expanding the body of data to develop price indexes for these products requires additional clerical and professional positions to collect, process and review the data reported on products and prices. All the additional positions are needed for these activities; publication of the additional price indexes will begin approximately one and one-half years after funds are received.

PRODUCTIVITY MEASURES

Question: Explain why you are proposing to develop new 'multi-factor productivity measures', requiring a staff of 17 persons and an additional $575,000 ?

Answer: The BLS program denoted "multifactor productivity measurement" includes several dimensions improving and extending the current program which measures labor productivity only. The new program, summarized in the attached table, will provide measures of capital, energy, and multifactor productivity for major sectors of the economy, as well as for selected industries, including steel and motor vehicles. In addition, the labor input data will be improved by a new survey to measure hours worked, rather than hours paid for. More than 500,000 new time series will be maintained on a current basis, in contrast to the 90,000 presently maintained.

Labor productivity growth is influenced by a number of other factors including capital investment, energy and materials inputs, the composition of the labor force, and the industry pattern of output and inputs. The present labor productivity measures indicate a marked slowing in the rate of productivity growth in recent years, compared with the earlier post World War II experience. Thus, measurement and analysis of these other factors affecting productivity is particularly important now when this sharp and perplexing slowdown in productivity growth adds to inflation.

Productivity and cost changes influence and are influenced by price movements at both the macroeconomic and microeconomic levels. As a result of this linkage, new measures are needed to improve responsiveness of the Bureau's measurement and analysis program, and will provide a better understanding of the factors affecting productivity change. Requests for broader productivity measures and analysis have been made by the Council of Economic Advisors, the Council on Wage and Price Stability, the Joint Economic Committee, and the Panel to Review Productivity Statistics of the National Academy of Sciences. Further details of the program are provided below.

The capital stock measures currently produced by the Bureau of Economic Analysis of the U.S. Department of Commerce are designed for and appropriate to the measurement of output and income in the national income and product accounts. However, they must be modified for purposes of measurement and attribution of productivity change. It will therefore be necessary to con-struct capital input measures for productivity analysis based on information from a variety of sources. The quarterly major sector measures of labor productivity will reflect changes in the level and composition of the capital stock. Growth in the productivity of capital and labor combined--an instance of multifactor productivity growth--will also be reported quarterly. These measures will be developed in the context of the GNP accounts--the national income and product accounts--which is the basis for the current labor pro-ductivity measurement program and will be published soon after the release of the quarterly GNP statistics.

The recent unprecedented increase in the price of energy has called for the separate assessment of the effects of energy inputs on

productivity growth. Future technical advances in production will focus on saving energy as past innovations were directed at saving labor. The new productivity measures will be based on price and quantity information on energy consumption by industry .

Present labor input measures used in the computation of productivity do not reflect changes in the characteristics of the work force. Utilizing a large databank of labor force information, adjustments will be made to take account of the age, sex, education, occupation and industry allocation of workers. This information will augment our understanding of productivity movements and allow comparisons between periods when worker characteristics were markedly different.

Present labor input data are based mainly on hours paid for. There is evidence, based on biennial surveys now discontinued, that hours worked have declined as a proportion of hours paid for, as paid vacations and holiday policies have become more generous. To the extent that this is so, labor productivity growth may be understated (although unit labor costs are unaffected). There is also evidence that the ratio of hours worked to hours paid for varies over the business cycle. As part of the new productivity measurement program, a sample mail survey will be undertaken based on the Current Employment Survey from which the current hours worked measures are taken. This survey will permit measurement of hours worked, and substantially improve labor input measurement for productivity analysis.

Of the 17 positions allocated for these tasks, 6 will be engaged in the hours worked survey--design, data collection, and preparation. Study of the effects of the composition of the labor force will require 3 positions; an extremely large computer databank will be maintained and manipulated to produce the labor composition adjustments. Combining these new sources of data with present procedures to produce the measures shown in the attached table will require 8 positions. These employees will supervise the effort, design the appropriate statistical procedures, make the required estimates of capital, energy and materials inputs, prepare quarterly and annual reports, and oversee an enlarged data processing and economic analysis operation.

New Productivity Measures by Bureau of Labor Statistics

Sector	Single Factor Measures			Multifactor Measures		Sources of Productivity Change			
	Capital	Energy	Materials	Capital & Labor Only	Capital, Labor Energy Materials	Capital Deepening	Labor force Composition Change	Interindustry Shifts Capital	Interindustry Shifts Labor
Private Business.....	X			X		X	X	X	X
Nonfarm Business.....	X			X		X	X	X	X
Nonfarm Nonmanufact ..	X			X		X	X	X	X
Manufacturing.....	X	X	X		X	X	X	X	X
Durable Goods.....	X	X	X		X	X	X	X	X
Nondurable Goods.....	X	X	X		X	X	X	X	X
Two Digit Industries....	X	X	X		X	X	X	X	X
Selected Industries:									
Steel.....	X	X	X		X	X	X		
Motor Vehicles.....	X	X	X		X	X	X		

DEPARTMENT OF LABOR

STATEMENT OF ALFRED M. ZUCK, ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

ACCOMPANIED BY:
CARIN A. CLAUSS, SOLICITOR
DEAN CLOWES, DEPUTY UNDER SECRETARY FOR INTERNATIONAL LABOR AFFAIRS
NIK B. EDES, DEPUTY UNDER SECRETARY FOR LEGISLATION AND INTERGOVERNMENTAL RELATIONS
ALEXIS M. HERMAN, DIRECTOR, WOMEN'S BUREAU
MARJORIE FINE KNOWLES, INSPECTOR GENERAL
ARNOLD H. PACKER, ASSISTANT SECRETARY FOR POLICY, EVALUATION AND RESEARCH
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
MARY ANN WYRSCH, DIRECTOR, OFFICE OF BUDGET

PREPARED STATEMENT

Senator EAGLETON. We have Mr. Zuck with us. Mr. Zuck, we welcome you. There's a vote on. We will go as far as we can.

Mr. ZUCK. I have a statement, Mr. Chairman, which I would prefer to submit for the record, if that meets with your pleasure.

Senator EAGLETON. Your statement will be inserted in the record at this point.

[The statements follow:]

Statement of Alfred M. Zuck

Mr. Chairman, and members of the Committee, I am pleased to appear before you today and to review with you our Fiscal Year 1981 budget request for two Departmental Management appropriations: Salaries and Expenses and Special Foreign Currency, as well as our Fiscal Year 1980 Supplemental Request for the Salaries and Expenses appropriation.

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, adjudicatory, 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 Solicitor's 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, through legal services, 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, as amended.

The budget request for Fiscal Year 1981 for the Departmental Management Salaries and Expenses appropriation is $131.3 million and 2730 positions. This request represents an increase of $8.4 million and 53 positions over the comparable base in Fiscal Year 1980. Included in the base are a net increase to our 1980 appropriation of $3.0 million and 55 positions offset by a decrease of 2 positions resulting from real and comparative transfers affecting the appropriation. Two positions are being transferred to the Federal Labor Relations Authority to provide for unfair labor practice procedures between Federal Agencies and employee unions. To provide support for increasing occupational safety and health activities in the Denver region, resulting from the cessation of state plan activities in Colorado, two positions are comparatively transferred to this appropriation. A transfer in Fiscal Year 1980 of 28 positions and $1.7 million for the newly established Directorate of Information Technology will allow for these activities previously financed in part by the Departmental Management working capital fund to be carried out by the Administration and Management function of this appropriation. A transfer of seven positions and $628,000

from the Department's consolidated working fund provides for coordination of the Department's services to women in the labor force. Finally, a total of 18 positions are comparatively transferred from other sources to this appropriation, which represents the consolidation of Departmental Management work incentive program activities within this appropriation.

The major portion of the requested increase of $8.4 million is $7.4 million representing the net cost of mandatory increases and decreases. These mandatory increase items totaling $8.5 million include: 1) full year funding of new positions already authorized in Fiscal Year 1980; 2) the additional cost of within-grade promotions; 3) the increased cost of contributions to the Federal Employee's Compensation Fund; 4) the net cost of Senior Executive Service merit pay increases; 5) the cost in 1981 of the October 1979 pay increases; 6) the increased costs of administrative and program support services; and 7) other miscellaneous items explained in detail in our summary of changes. Mandatory decreases of $1.1 million reflect a decrease for non-recurring equipment purchases in 1980, the cost of one less day of pay in 1981, reductions in the cost of communications and equipment rental, and a decrease in 1981 for a non-recurring unobligated balance made available in 1980 from 1979.

Program increases of $3.6 million and 61 positions are substantially offset by program decreases of $2.5 million and 8 positions resulting in a net total increase of $1.0 million and 53 positions requested for this appropriation in 1981.

An increase of $649,000 and 26 new positions are requested for the Employee's Compensation Appeals Board to act upon the tremendous increase in the number of claims filed under the Federal Employee's Compensation Act submitted to the Board for decision. During Fiscal Year 1979, claims were expected to number 1,200 when in fact over 1,600 new claims were received, an increase of over 33%. It is expected that 2,500 claims will be received in Fiscal Year 1980 and 3,500 in Fiscal Year 1981. With approval of this requested increase, decisions will be made on 1,500 additional claims filed under the Federal Employee's Compensation Act (FECA) in Fiscal Year 1981. Without the additional positions, backlogs will increase to 20 months in Fiscal Year 1981 and to 31 months in 1982. By approving this request, backlogs will be held to within 5 months in 1981, and within 6 months in 1982.

An additional 35 positions and $615,000 are requested in the Solicitor's Office to handle the increased workload and related backlogs in Wage-Hour program referrals and to respond to the additional workload generated by the 1978 Comprehensive Employment and Training Act (CETA) amendments. Twenty-one positions are requested to reduce backlogs in Wage-Hour field workload which has increased by 1,300 cases (49%) at the end of Fiscal Year 1979. While Employment Standards Administration case referrals have increased contributing to the backlog, a prime factor for this increased backlog is the diversion of 21 staff years to OSHA time-mandated cases. The additional staff requested will conclude 1,200 cases annually and reduce backlogs to a more manageable level. Fourteen additional positions are requested to support workload generated by the 1978 CETA amendments. New regulations mandated under the Act provide administrative complaint procedures to any participant or prime sponsor and establish a time limit on the issuance of a grant officer's final decision on such complaints. Any appeals of the grant officer's decision are made directly to the Office of Administrative Law Judges resulting in increased Solicitor workload. The revisions of the complaint and hearing procedures are expected to have a drastic impact upon the Solicitor's resources with an expected 250% increase in the

CETA workload. The additional positions requested will allow for the Solicitor's office to manage Wage-Hour backlogs, increased CETA workload and more timely responses to Employment Training Administration requests for opinions and advice.

An additional 10 other than full-time permanent positions and $456,000, including $60,000 for contracts will allow the Women's Bureau to carry out a balanced regional/national policy; improve employment related services for women in CETA programs; implement training models to increase the number of women in construction and apprenticeship trades; carry out a Clearinghouse for Women Business Owners pursuant to Executive Order 12138 and other activities.

A total of $1.9 million in contract funds are requested for the Office of Inspector General to fund approximately 30 additional audits of Job Corps grantees. These will enable the Inspector General to achieve 50% annual audit coverage of this expanding program. These comprehensive audits, conducted by Independent Public Accountants, should result in limiting fraud, waste, and abuse within these programs.

The program increases are substantially offset by program decreases of 8 positions and $2.5 million. Two positions and $80,000 are reduced in the Bureau of International Labor Affairs since additional funding can be provided by other agencies or foreign countries.

A net reduction of $2.4 million and 6 positions is requested for the Minimum Wage Study Commission. The Commission is expected to finalize its mandated report and phase down significantly towards the end of the fiscal year. A large portion of this reduction is $2.2 million being requested as a supplemental appropriation for this activity for Fiscal Year 1980. Since this supplemental request represents a one-time cost, it is being reduced in the Fiscal Year 1981 request.

Departmental Management -- Special Foreign Currency

The budget request for Special Foreign Currency in Fiscal Year 1981 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.

Departmental Management -- Salaries and Expenses
Fiscal Year 1980 Supplemental Request

A Fiscal Year 1980 request for an additional $2,200,000 in contract funds for the Minimum Wage Study Commission is the result of the development of a research plan by the Commission in Fiscal Year 1979. When requesting its 1980 appropriation, the Commission had not yet developed such a plan and indicated that additional resources may be required to conduct the research of the Fair Labor Standards Act of 1938, as amended, mandated by Public Law 95-151. The Commission expects to issue a number of research contracts in Fiscal Year 1980 which would require the requested supplemental resources. Since the Commission expects to issue its final report in Fiscal Year 1981, the majority of its research must be conducted in Fiscal Year 1980 if the mandated deadline for completion of

its report is to be met. It is therefore imperative that the requested supplement be made available by June of this year.

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 Bernard Posner, Executive Director, President's Committee on Employment of the Handicapped

It is with great pleasure that I appear before you today to discuss our FY 1981 budget request. I welcome this opportunity.

Our budget request for FY 1981 is $1.7 million, a modest increase of $92,000 over our FY 1980 request. This increase covers mandatory costs. We seek no increases in personnel or programs.

1981 has been declared the International Year of Disabled Persons by the United Nations. The President's Committee is taking the lead in encouraging its constituents in developing projects for the year. Our own activities will also be stepped up to gain greater visibility during the year. For example, we will develop mass media promotional campaigns, over and above our present year-long promotional campaigns.

Our relationship with State and local committees continues to strengthen. Semi-annual training programs will be held, plus regional meetings in all parts of the United States, to provide the State and local committees with counsel and guidance.

The handicapped consumers movement, growing in strength, is largely manifested at State and local levels; Governors' Committees need our help in the techniques of involving these new groups.

The elimination of architectural and transportation barriers has been, and still remains, a major concern of the President's Committee. We have been working closely with the American National Standards Institute on preparing new standards to make buildings architecturally accessible. The new standards should be issued very soon. The campaign to promote the standards, with emphasis on the low costs of accessibility for both public and private sectors, will be stepped up. In addition to our work on the new architectural standards for entry of buildings, we have become equally involved in fire and safety problems of handicapped people once they get inside. We are taking the lead in planning new approaches to this important activity.

Our efforts will continue to encourage full compliance with affirmative action programs for handicapped people.

The handicapped consumers' movement will be strengthened in several ways: by holding seminars across the country on how to use the political process; by holding other seminars dealing with self-help devices for handicapped people. The initial step will be a two-day meeting with members of Congress and leaders of handicapped consumer organizations, consumer

unions, etc. to call public attention to what needs to be done to protect handicapped consumers in purchasing aids and devices.

The President's Committee will continue to encourage proper preparation of handicapped people to enter the labor market.

We are branching out into a new area of disability -- pain. Pain is perhaps the most expensive disability condition in the United States. To examine its ramifications, we will hold a national meeting in 1980 on this topic. In 1981 we anticipate producing an awareness brochure on pain as a disabling condition.

Underlying our activities is what I think is the most important function and the strength of the President's Committee: Our ability to bring together various segments of society, both public and private, to deal with specific problems standing in the way of job opportunities for handicapped people. Thank you.

INTRODUCTION OF ASSOCIATES

Mr. ZUCK. Mr. Chairman, let me introduce the witnesses that are with me, beginning at my far left is Alexis Herman, Director of the Women's Bureau of the Department; on my immediate left is Marjorie Fine Knowles, the Inspector General of the Department; you know Carin Clauss on my right; and next to her is Dean Clowes, who is the Deputy Under Secretary for International Labor Affairs.

Senator EAGLETON. Fine.

Do you wish to give a little capsule summary?

Mr. ZUCK. This is the departmental management appropriation for 1981. As you know, departmental management covers a whole host of organizations, both within and outside the Department. It includes much more than the normal executive direction and oversight management functions in the Department. It includes the Women's Bureau, the Inspector General, President's Committee on Employment of the Handicapped, the Solicitor's Office, which provides legal support and litigation support to all enforcement programs of the Department, the Bureau of International Labor Affairs, the Minimum Wage Study Commission, and all of the adjudicatory bodies of the Department of Labor.

For 1981 we are requesting a net increase of $8.4 million. Almost all of that, $7.4 million, is for a series of built-in or mandatory increases. We only have several small program increases amounting to $1 million, and a net increase of 53 positions. Those positions are going to the Solicitor's Office and the Employees Compensation Appeal Board, to assist them in reducing the substantial backlogs in the programs.

I think, Mr. Chairman, that is a capsule summary. And we can go to the questions.

OFFICE OF THE INSPECTOR GENERAL

Senator EAGLETON. Thank you very much, Mr. Zuck. We'll start off with the Inspector General's Office. We allotted 132 additional positions for fiscal 1980 in the IG's office. As of mid-February, only 43 of those had been filled. Why was that?

Ms. KNOWLES. Mr. Chairman, we are encountering very lengthy, in our view, delays in the personnel process in filling those positions.

Senator EAGLETON. Were those unavoidable delays? Or are those delays of conscious foot dragging?

Ms. KNOWLES. It's my belief, Mr. Chairman, that those are not delays of conscious foot dragging. It's not at all clear to me, however, that they are unavoidable. It just seems to me a very unreasonably slow process.

We have taken every step that I can think of to insure that those positions are filled as soon as possible. I have expressed my concern to Mr. Zuck; I have expressed my concern to Secretary Marshall. I understood the Congress intended us to have those positions in fiscal year 1980 filled, and they are nowhere near filled.

Mr. ZUCK. I think, Mr. Chairman, it might be appropriate for me to comment on that. The normal process of proceeding with personnel actions in the Federal system is one that is not done overnight. Once it is decided to proceed there are a series of steps that have to be taken. The Inspector General is a new organization. One of the first actions that needed to be undertaken by the Inspector General was to determine the organizational structure, composition, location of positions—geographically as well as grade levels. Those are the kinds of decisions that need to be taken first before any recruitment action and description of a position can be undertaken, so it's a combination of steps that are involved in any personnel action processing.

Now, I think the Inspector General has, obviously, encountered all of those problems in terms of trying to get her organization organized and implemented. And of course, if changes are made in organization or distributional positions during the course of that process, it delays even further the actual entry on duty date.

INTERNAL STRUCTURE

Senator EAGLETON. Ms. Knowles, how many professionals—is your IG office broken down between sort of the investigative end and the auditing end?

Ms. KNOWLES. Yes, sir; but it's even more broken down than that. We've got a separate office of organized crime and racketeering, and we have created a new office of loss analysis and prevention. So we have the office of investigations, which is program investigations; the office of audit; and the two I just mentioned.

Senator EAGLETON. Investigation, audits, organized crime and racketeering?

Ms. KNOWLES. Right, and the office of loss analysis and prevention.

Senator EAGLETON. Loss analysis and prevention. Well, I'll break off there.

I will ask a bit about that when I come back.

[A brief recess was taken.]

INSPECTOR GENERAL STAFFING

Senator EAGLETON. All right. How many professional people in your division of investigations are on board at the present time?

Ms. KNOWLES. On board, we presently have 60.
Senator EAGLETON. Professionals?
Ms. KNOWLES. Yes, sir.
Senator EAGLETON. And in your division of audits?
Ms. KNOWLES. We presently have 150 professional auditors on board.
Senator EAGLETON. And your division or section on organized crime?
Ms. KNOWLES. Presently 71 professionals.

OFFICE OF LOSS PREVENTION AND ANALYSIS

Senator EAGLETON. And the other division——
Ms. KNOWLES. The other division is the office of loss analysis and prevention. It is brand new and is staffed at the moment only by two people who have been transferred from other duties. Its own professional staff has not been hired yet.
Senator EAGLETON. By the way, what will that division do when it is fully staffed?
Ms. KNOWLES. It is my hope, Senator, that that division will be able to do what I conceive of as the important Inspector General task of putting together audits and investigations to get a better picture of the management problems which the Department faces in its programs.
It seems to me—and I discussed this with the committee at my confirmation hearing—that in passing the Inspector General Act, you the Congress expected more than the sum of all its investigative and audit activities, by using those techniques in new ways to attack the program problems that we have found. I should say we have undertaken some of those kinds of projects before this new division has become staffed, because frankly we got tired of waiting. We are undertaking some of those Inspector General reviews at the present time.

NEW AND UNFILLED POSITIONS

Senator EAGLETON. The 90 unfilled positions that you are in the process of trying to have filled more expeditiously, will they break out in rough ratio—well, I guess some beefing up of the loss analysis division?
Ms. KNOWLES. Exactly; there will be somewhere around 25 positions—28, I believe, in that office when they are filled.
Senator EAGLETON. How many new positions are you requesting for next year?
Ms. KNOWLES. There are none in the budget.
Senator EAGLETON. I see; but you will have the same—presumably by the end of this fiscal year, hopefully sooner, you will have these unfilled positions——
Ms. KNOWLES. I devoutly hope so.
Senator EAGLETON. Do you happen to know off the top of your head, did OMB allow any new positions for other Inspector Generals offices?
Ms. KNOWLES. Yes, sir; I can't give you the numbers off the top of my head, but they did.

AUDITS OF CETA PRIME SPONSORS

Senator EAGLETON. Does the Inspector General's office now have enough staff to audit all CETA prime sponsors, at least every 2 years?

Ms. KNOWLES. We believe that we have enough staff to come fairly close to that. Assuming that we get our additional staff on board in fiscal year 1980, we anticipate that we will be able to audit nearly all the CETA prime sponsors on the cycle of every 2 years.

We understand that it's a program function—it's an amount of money we can't commit to be able to do that.

NUMBER OF CPA AUDITORS

Senator EAGLETON. How many of your auditors are CPA's?

Ms. KNOWLES. I can't answer that. We will provide that to you.

Senator EAGLETON. Are there some?

Ms. KNOWLES. Yes, sir.

[The information follows:]

There are currently 24 Office of Inspector General audit staff members who are certified public accountants. Additionally, 20 of the audit staff are certified internal auditors.

ORIGINS OF THE OFFICE OF INSPECTOR GENERAL

Senator EAGLETON. Of the total personnel that you described—I'm talking of professionals, again—60 in investigation, 150 in the audit division, 71 organized crime, 2 in loss analysis—how many of those did you inherit?

Ms. KNOWLES. The vast majority.

Senator EAGLETON. From?

Ms. KNOWLES. In every category.

Senator EAGLETON. Different bits and pieces of the Department of Labor that existed prior to the Inspector General's office?

Ms. KNOWLES. Yes, sir; but they came in one package. Through the Inspector General Act of 1978, the Office of Special Investigations was turned into our office, as you know.

AUDIT BACKLOGS

Senator EAGLETON. Of your four divisions, which one do you think is the most hard pressed to keep up with its work assignment?

Ms. KNOWLES. It is very hard for me to choose, but I would have to say that probably audit and program investigations are the two, and I don't mean to overlook the office of organized crime and racketeering. It's just that we have not had enough experience in running our own program there, but in carrying out the Inspector General functions, the office of audit and the office of investigations seem to be most in need.

ORGANIZED CRIME POSITIONS

Senator EAGLETON. How many organized crime positions did the Congress direct last year?

Ms. KNOWLES. Ninety.

Senator EAGLETON. So you are still 19 short there?

Ms. KNOWLES. Yes, sir; let me explain that, Senator Eagleton, lest you have the impression that those are held up in personnel actions only.

We had to use seven of those positions to provide clerical support to our organized crime strike force personnel until we can make the Department of Justice do that. In addition, there are some positions which are, in the normal course of things, not filled because of vacancies created by people leaving and moving into other programs.

JOB CORPS AUDIT CONTRACT

Senator EAGLETON. Why are you asking for a $1.86 million increase in contract audit funds to examine the Job Corps program, rather than doing it in-house?

Ms. KNOWLES. Well, let me speak first to the request—you, Senator Eagleton, you asked previously about the coverage of prime sponsors. We feel very strongly that office of national program grantees need increased audit coverage, and the Job Corps is included in that category. We do a vast majority of our auditing through the use of contract audit funds. It is not my personal preference, however.

We feel very strongly that the organization needs to grow with DOL auditors, for a number of what we think are very good reasons.

The first is that our training of contract auditors is a loss to us; if we train CPA firms, and they choose not to bid on our contracts the following year, the training is lost. Second, we have much less control over how we use contract audit resources. If we have a strong need to move audit resources around, we can't do that as well with contract auditors.

And third, as you know from your experience with the inspector general concept, we need to have auditors who have an ability to work with investigators and to work with grand juries. We have much less ability to do that with contract auditors, so we feel the organization should grow in the direction of DOL personnel.

Senator EAGLETON. But did that answer my question?

Ms. KNOWLES. Why do we do Job Corps audits—I'm sorry?

Senator EAGLETON. The question was why are you asking for a $1.86 million increase in contract audit funds to do the Job Corps examination? Why aren't you doing that in-house, or asking for additional in-house personnel?

Ms. KNOWLES. We do not have the staff to do that at this moment. My understanding is that because of the ceiling constraints, the President was unable to ask for additional people for us; however, I did give you my personal views on why we should be using it.

Let me say, in addition, Senator, that after discussions with OMB we have been authorized to say that we would not necessarily focus only on Job Corps; CETA national programs need a good deal of audit attention. We would like to be able to make a judgment down the road, based on what I perceive to be inspector general concerns, including risk analysis in addition to cyclical audit schedules, about how these resources would be used.

USE OF CONTRACTS

Senator EAGLETON. How much of your professional work is contracted out—not just auditing but any other professional things that you contract?

Ms. KNOWLES. At the moment, the bulk of the work which is contracted out is audit work. We have had one consulting contract on a minor intelligence analysis question, but we do $13.8 million worth of contract audit work.

Senator EAGLETON. $13 million.

Ms. KNOWLES. Yes, sir.

Senator EAGLETON. And are the national accounting firms a primary recipient of that?

Ms. KNOWLES. No, sir; we do a vast bulk of it with small business.

Senator EAGLETON. CPA's?

Ms. KNOWLES. Yes, sir.

JOB CORPS AUDITS

Senator EAGLETON. Have you indicated that you feel there is a need for annual audits of each new Job Corps set?

Ms. KNOWLES. No, sir; we think it would be very good if we could do that, but what we would like to do would be to set audit priorities on much more of a risk basis than on solely a cyclical basis; that is, we would like to analyze the risks presented by a particular program, our experience with them and dollars involved. We believe it would be very useful to be able to do an annual audit of all CETA national office programs, if we could afford it.

Senator EAGLETON. You say it's useful; in your budget book it says it's necessary. I was just wondering if some audits of some of these Job Corps centers revealed certain problems or discrepancies or what have you, that causes you to want to examine all of them on an annual basis.

Ms. KNOWLES. Not based on our experience. But I'm told management of ETA believes it would be useful to have 1-year audit cycles for all office of national program audits. We just have not had enough experience with Job Corps to be able to say whether there are risks present which would require that kind of expenditure of effort.

Senator EAGLETON. I don't know what problems are out there with this Job Corps. Maybe there are some. But we do hear more frequently of alleged mismanagement of CETA prime sponsors, et cetera.

Ms. KNOWLES. Yes, sir; that's why I raised the question with OMB. They authorized me to say that we would be able to use that contract audit money for programs that we perceive to have more risk.

Senator EAGLETON. Ms. Knowles, we have a series of other questions on matters pertaining to the Inspector General's office. We will submit them to you in writing and request your answers.

THE WOMEN'S BUREAU

Senator EAGLETON. A question or two on the Women's Bureau.

Can you tell us how the resources available to the Bureau, in terms of permanent full-time positions, in your ceiling and program funds, compares with those available prior to 1978?

Ms. HERMAN. You're asking for those available presently, Senator, excluding the request that we have before the Senate today?

Senator EAGLETON. Well, in terms of permanent full-time positions within whatever your ceiling is.

Ms. HERMAN. OK. Permanently today we have a budget for positions of approximately 79 with a ceiling of 73. Prior to 1978 it was about the same. The ceiling level and the budget position level at the Bureau has not really changed in the last 20 years, with the exception of the request that we have before you today in the 1981 budget.

I will be happy to supply for the record a profile of the ceiling and budgeted positions of the Bureau in terms of previous years, before 1978.

Senator EAGLETON. Do you know what the reason is that the Bureau received a ceiling which is almost 10 percent lower than its budget positions?

Mr. ZUCK. I think, Mr. Chairman, that relates to the funding available to the Bureau, in terms of financeable staff years. This financeable staff years is about the 8 or 9 percent below the actual number of authorized positions.

Senator EAGLETON. Some day I will figure out what all that means. [Laughter.]

Ms. HERMAN. Senator, did you also ask about funding? Did I hear that?

Senator EAGLETON. We were talking about number of full-time positions, and I also asked for program funds, comparing them today with prior to 1978.

Ms. HERMAN. Well, prior to 1978 the Bureau did not really have any program funds per se. We have been operating on a transfer of program funds from the Employment and Training Administration to assist with the number of initiatives, and I believe in conjunction with the transfer in 1978 we had approximately $2 million that was transferred; in 1979 it was approximately $500,000; and in 1980, we will be operating approximately in the neighborhood of $3 million on the available funds from ETA at this point.

OFFICE OF THE SOLICITOR

Senator EAGLETON. Ms. Clauss, how well are you staffed up? And what further staff are you requesting?

Ms. CLAUSS. We are asking for 35 new positions—21 of those would be in the field, dedicated to employment standards progams, primarily child labor, the Service Contract Act, minimum wage, and farm labor.

And the other request is for 14 positions, 8 of which would be in Washington and 6 in the field for the CETA amendments.

Under the new amendments, there is now a very extensive complaint appeal process available to not only prime sponsors but all participants and interested persons. And this has led to a large number of complaints that must be investigated within 120 days, and a determination made with appeal rights.

We are currently running at 1,200 cases a year at our level, but there are another 1,200 in the pipeline, which, if ETA had the resources to process within 120 days, would reach us within that time period.

QUESTIONS SUBMITTED FOR RESPONSES

Senator EAGLETON. We have additional questions, again, which I will submit in writing, Mr. Zuck.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

USE OF CONSULTANTS

Question: We understand that the Department has recently completed a revision of an internal policy and procedures directive designed to control the use of management consulting services.

What additional controls does this new policy offer that the previous policy did not?

Answer: The new Department of Labor Manual Series 3, Chapter 800 spells out the conditions under which consultant arrangements may be approved. In addition, the new manual chapter contains the HEW definition which the Senate Appropriations Subcommittee requested that we use for quarterly reports. The policy provides for an evaluation of the need for use of consultants as well as additional review mechanisms within the Department.

Question: What were the previous problems and how will this new policy overcome them?

Answer: Any previous problems of monitoring duplications of services, under utilization of available internal resources or underutilization of resources available in other government agencies should be eliminated with the initiation of this centralized review process.

OMB BULLETIN ON CONSULTANTS

Question: What specific steps have been taken to comply with the OMB Bulletin 78-11 dated May 12, 1978 regarding control over the use of consulting services?

Answer: The Department of Labor Manual Series 3, Chapter 800, issued in December 1979, incorporates the provisions of OMB Bulletin 78-11. This chapter transmitted regulations to DOL agencies governing the request, approval and control of management consultant service arrangements in the Department. The Manual Chapter also included guidelines issued by OMB as well as the definition of consultant services provided by HEW.

Question: Has the number and dollar value of consultant service contracts increased or decreased since the issuance of this Bulletin?

Answer: The number and dollar value of consultant service contracts have increased since the issuance of OMB Bulletin 78-11.

USING SAME CONSULTANTS OVER AND OVER

Question: Is there any information available which would indicate whether consulting service contracts have been awarded to the same persons or firms for several years?

Answer: Yes, some consulting service contracts have been awarded to the same persons or firms for several years.

Question: Is this a problem?

Answer: No, there is sufficient rationale and justification for this practice. Additionally, the expected need under consultant arrangements often resides in a certain firm or individual with knowledge or experience and demonstrated delivery in DOL-oriented programs and issues.

SCREENING PRIOR WORK BEFORE HIRING CONSULTANTS

Question: How do you screen prior work performed in a given area before entering into a consulting service contract?

Answer: Information on consultants is obtained from proposals received as a result of solicitation of consultant contracts. A justification memorandum is required from DOL Agencies for experts and consultants. Also an SF-171 is submitted by the consultants attesting to their qualifications. All proposed appointments are screened to determine appropriateness of work to be performed.

Question: Do you have data to indicate the extent to which proposed contracts were awarded because of such screening?

Answer: Yes, copies of unsuccessful proposals remain on files for the duration of the awarded contract.

COST ANALYSIS ON USE OF CONSULTANTS

Question: What efforts are made, before hiring consultants, to determine whether the work could be done in-house at less cost?

Answer: Departmental regulations require that an evaluation be made before the determination is made to hire consultants. Additionally, the DOL Agencies are required to certify to this evaluation.

USEFULNESS OF CONSULTANT WORK

Question: What informal system or procedure do you have for evaluating the usefulness of end-products prepared by outside consultants?

Answer: The Department of Labor Manual Series 3, Chapter 800, transmits instructions to DOL Agencies on how to prepare an assessment report on completed services.

Each agency is required to review the end-product before it makes final payment to the consultant.

PROCEDURE FOR HIRING CONSULTANTS

Question: How does the Labor Department review the relative priorities of ongoing in-house work before hiring consultants?

Answer: All work in the Department of Labor is performed under an operating plan in accordance with the Departmental Management process. Consultants are considered according to the urgency of the need for these services, taking into consideration staff availability and capability.

DEFINITION OF CONSULTANTS

Question: The Labor-HEW Appropriations Subcommittee desired that the Labor Department report consultant services in accordance with the HEW definition. Have the reports of consulting services furnished to the Subcommittee used the HEW definition?

Answer: The initial instruction to DOL Agencies contained both the OMB and HEW definitions of consultant services; consequently, reports submitted in the 3rd and 4th quarters of FY 1979, for the most part, followed the OMB definition. Currently the HEW definition is the single definition in use for the report.

Question: If so, would there have been a difference in figures reported if the OMB definition were used?

Answer: There should be a difference in figures reported because the HEW definition is more inclusive.

REPORTING CONSULTANT SERVICES

Question. Is the Labor Department fully operational in terms of reporting consultant services to the Federal Procurement Data System? If not, to what extent has the reporting been accomplished and what are the problems?

Answer. The Labor Department is not fully operational in terms of reporting consultant services to the Federal Procurement Data System. About one fourth of the data is being reported. The Department is working toward compliance with OMB Bulletin 78-11, and expects to fulfill the reporting requirements by July 1980.

WASTE DUE TO POOR ADMINISTRATION

Question. How does your Department determine how much waste is due to poor administration? Has the Inspector General determined exact dollar amounts lost due to poor administration, for both controllable and uncontrollable programs? If so, would you please provide the most recent figures program by program, noting which programs are regarded as uncontrollable.

Answer. The Office of Inspector General does not yet have in place the necessary staff and methodology to respond specifically to these questions. However, our view is that most of the "waste problem" in Department of Labor programs and activities is due to mismanagement and inefficiency rather than to fraud and/or abuse, and we are designing our audit, investigative and loss prevention programs accordingly.

Our new Office of Loss Analysis and Prevention, which is not yet operational, will be the focal point for designing and

managing this Office's loss prevention program. This program will include efforts to determine, on a program and systems basis, which activities are most vulnerable to losses caused by waste, fraud or abuse and to design ways in which such weaknesses can be alleviated. We have designed a series of pilot loss prevention projects to identify systemic weaknesses and fundamental causes of fraud, abuse and mismanagement in certain Department of Labor programs and management support systems.

RECOVERY OF FUNDS

Question. What efforts are being made by the Department to recover these lost funds?

Answer. Recovery of funds lost due to fiscal mismanagement which are uncovered as part of the Office of Inspector General audit program is the responsibility of program agency grant officers. The Office of Inspector General will be developing improved audit and investigations tracking systems so that recoveries of funds lost due to fraud, abuse and waste can be identified. The larger issues of how funds lost due to waste are identified and can be recovered are difficult ones. We will be addressing these questions as part of the development of our loss analysis and prevention program.

SCOPE OF CETA AUDITS

Question. Does the Inspector General's office now have enough staff to audit all CETA prime sponsors at least every two years?

Answer. By Fiscal Year 1981, the Office of Inspector General should be within the two-year cycle for prime sponsor audits assuming that there is no substantial increase in funding for the CETA program and that the audit program of the Office of Inspector General continues to focus heavily on this program at the expense of other Department of Labor programs and agency operations.

Question. How many more Federal auditors could you effectively use?

Answer. If the Office of Inspector General continues to estimate resources on the basis of 100 percent coverage of the annual audit universe based upon strictly applied audit cycles, we believe that hundreds of additional audit positions would be required. However, we would prefer to begin thinking of our resource requirements in the same way that we hope to utilize audit resources, namely by assessing which organizations/programs spend the most money, which organizations/programs have the biggest problems, what program aspects are the most vulnerable to waste, fraud and abuse; in short, where are the biggest risks? On this basis, we can get priorities and then target our audit resources on a more flexible basis. Although I firmly believe that this is what we need to do, we have not yet completed the development of this capability.

Nonetheless, it is clear that certain program areas have been so sadly neglected that they need additional audit attention

regardless of which methodology is used to determine resource needs. The Inspector General believes that the Office could use and effectively absorb 78 additional auditors, plus clerical support. This would enable the Office to expand coverage of CETA national programs and add coverage of other Departmental programs, especially in the area of internal audits.

Question. In what areas could the Inspector General's Office use additional resources to carry out its legislative mandate to prevent waste, fraud, and abuse?

Answer. The Inspector General views the Office's prevention activities in two major ways. First, an effective and successful audit and investigative program should have significant deterrent value. This deterrent value is, however, substantially diminished if audit and investigative activities are, because of scarce resources, conducted on a highly selective basis. Second, the Office plans to undertake an aggressive loss prevention program which, by combining the talents of auditors, investigators and analysts, will identify and seek to remedy systemic weaknesses in Department of Labor programs and activities. Again, with scarce audit and investigative resources, it is difficult to divert resources to participate in these proactive preventive efforts. In terms of analytic skills, the 1980 budget provides for minimal staffing for the Office of Loss Analysis and Prevention. The President's 1981 budget request includes no additional positions for Department of Labor's Office of Inspector General.

It is my personal view that more progress in the area of preventing waste, fraud and abuse could be made if additional resources were made available. The Office could effectively use an additional 148 professional positions plus 31 clerical support positions. These positions would be used as follows:

-- 78 additional auditors, plus 20 clerical positions to enable the Office to expand coverage of CETA National Programs, to add coverage of other Departmental programs, especially in the area of internal audits, and to increase audit participation in loss prevention projects.

-- 25 additional professional investigators plus 6 clerical positions in the Office of Investigations to enable the Office to undertake more investigative cases, to reduce the backlog of important cases, to expand investigative coverage to all Department of Labor programs, to remedy staffing shortcomings in several field offices and to increase investigative participation in loss prevention projects.

-- 22 professional investigators and 3 intelligence analysts for the organized crime and racketeering program. In this program, the field organization has been structured into a number of teams to increase the flexibility and effectiveness of field offices. Due to resource limitations, the Office has had to make adjustments in the number of investigators per team from the optimum of 4, to, in some cases, 1 or 2. The mission papers which have been developed for each field office set forth a sufficient number of complex projects so that a full complement of investigators is needed in each Office. These additional positions would provide this capability

as well as limited, but critical, analytic contributions to the overall investigative effort. With these additions, the total number of Office of Inspector General personnel dedicated to the Office of Organized Crime and Racketeering would be 115, 10 below the number originally suggested during the 1978 hearings.

-- 16 professional positions plus 4 clerical positions for our new Office of Loss Analysis and Prevention. This Office lies at the heart of the Office of Inspector General's ability to manage an aggressive loss prevention program designed to alleviate systemic weaknesses in Department of Labor programs and activities and to respond fully to the mandate set forth in the Inspector General Act of 1978. Some positions contained in the Offices's 1980 budget will be used to get this Office started. These additional positions will enable the Office to begin to achieve its full potential.

-- 4 professional positions plus 1 clerical support position for the Immediate Office of the Inspector General to work in the areas of external relations and correspondence.

SLOW FILLING POSITIONS IN INSPECTOR GENERAL'S OFFICE

Question. The Office of Inspector General received a total of 132 additional positions for Fiscal Year 1980. We understand that as of mid-February only 43 had been filled.

What is the delay in filling these important positions? What bottlenecks do you run into?

Answer. As of February 29, 1980, 41 people were actually on-board in these new positions. Another 24 people have been selected, but are not yet on-board. Interviews are almost complete for another position. Active recruitment is now underway for 37 positions. The remaining 29 positions are pending personnel and management decisions.

The delays have been the result of a number of factors but are primarily attributable to the slowness of the procedures for classification and merit staffing of the new positions. These administrative delays within the Department have been brought to the attention of the Assistant Secretary for Administration and Management and of the Secretary. As a result of the slowness of the personnel office, a large number of the new positions are unfilled, and valued employees of the Office of Inspector General have accepted offers of jobs with other agencies. The Office of Inspector General has made a concerted effort to recruit highly competent and qualified personnel as well as improve the Office's proportion of women and minorities, which the Inspector General believes is important enough to justify a small amount of additional recruitment time. In the case of positions for the new Office of Loss Analysis and Prevention, a considerable amount of time had to be invested in job design and classification for this new area. Since there are no perfectly analogous functions in the Federal Government, the personnel work required prior to advertising was both difficult and time-consuming. Finally, in order to ensure that the Office's criminal investigators are fully able to conduct the most sensitive investigations, the Inspector General has requested full-field investigations prior to their entering on duty.

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We have made a concerted effort to remedy unnecessary delays and several of these causes for delay are in fact lessening. With respect to personnel delays, we have developed a formal agreement with Departmental personnel offices as to what personnel actions need to be undertaken, in priority order, and a timetable for completing each action. Also, we have arranged for special personnel support to be provided on a detail basis so that certain actions can be expedited. Finally, we have just recently reached agreement on an overall staffing structure for the Office of Loss Analysis and Prevention which should facilitate early completion of all remaining personnel actions for that Office.

Question. How long does it take to put on a criminal investigator from the time the person applies to the first day of work?

Answer. The length of time it takes to bring a criminal investigator on-board from the time the person applies to the first day of work varies between four and six months, depending upon whether the person has had a recent full-field background investigation.

ON-GOING INVESTIGATIONS BY INSPECTOR GENERAL

Question. What is the status of your investigation of sexual harrassment of CETA employees in the District of Columbia? Do you believe this inquiry will result in indictments and criminal prosecution?

Is the problem larger than just D.C.? If so, please explain.

Answer. After devoting considerable time and attention to this matter, no substantive evidence was developed. The last of the alleged victims are scheduled to be interviewed this week (March 10). If no substantive evidence is developed from these concluding interviews, we intend to close the investigation.

No other cases that relate to sexual harrassment in the Department of Labor programs are currently open.

Question. What is the status of your investigation into Youth Pride, Inc.? How soon will we know whether it will result in indictments and criminal prosecution?

Answer. A preliminary investigation has failed to disclose evidence of criminality. An audit is currently being conducted. At its conclusion a determination will be made whether further investigation is necessary.

Question. Status please of your investigation of the D.C. Youth Orchestra program. When do you believe it will be resolved one way or another?

Answer. Since the U.S. Attorney has declined prosecution, we are closing the case and referring the matter to the Employment and Training Administration for appropriate administrative action.

JOB CORPS AUDITS

Question. Why are you asking for a $1.86 million increase in contract audit funds to examine the Job Corps Program, rather than more permanent in-house investigations?

Wouldn't it be better, from a management point of view--and perhaps even less expensive--to conduct in-house audits?

Answer. Generally speaking contract auditor rates will run a composite figure of approximately $25-$35 per hour. This includes charges for some partner time as well as Managers, Seniors, Juniors and Staff Accountants. Over the average, probably the hourly charge is for a Senior-level employee. The equivalent GS grade would probably be a GS-12 making about $28,000 per year or about $19.25 per hour including a 10 percent factor for fringe benefits.

We do not have an average percentage for administrative overhead such as space and equipment. However, even with the addition of 20 percent or $3.85 for this factor, the Federal Auditor would still cost only about $23.00 per hour on the average, as opposed to $25-$35 for contract auditors.

Also, from a management point of view, our preference would be to use the Office of Inspector General staff auditors to conduct audits of Department of Labor programs and activities. This approach enhances flexibility in managing audit resources, increases continuity of program expertise and facilitates coordination with the Office's investigative program.

ORGANIZED CRIME

Question. Your budget justification indicates that a strategic planning process is being initiated for the organized crime program, including development of mission statements and operational strategies.

Is this academic approach really necessary, to justify the time investigations are diverted from cases to develop paperwork in the Office?

Answer. Yes, we firmly believe that the development of mission statements and operational strategies is necessary to implement an effective and efficient organized crime and racketeering investigations program. Such an approach is not regarded as, nor should it be, an academic exercise. It is a solid management and program planning approach which should preclude piecemeal investigations and short-term, illusory changes in organized crime activity. The approach and rationale behind it is covered in detail in the attached memorandum. This planning process is not time-consuming. The basic documents were prepared, have been reviewed and are in the final stages of completion. While strategic changes and re-direction in them may, from time to time, be required, they do not generate any time-consuming paperwork on the part of field investigators.

Question. Do you now have 90 full-time professional staff dedicated solely to organized crime strike force activities,

as directed by last year's Senate Appropriations Committee report? Is the clerical support staff for these positions provided by the Justice Department?

Answer. There are 90 full-time authorized positions for organized crime strike force activities. Seven of these positions, however, have been used to provide clerical support to the professional investigators. This situation has been particularly difficult in those cities where Justice Department and Department of Labor organized crime staffs are not co-located. We have raised this issue with the Department of Justice and are now actively negotiating with them so that clerical support can be provided by Justice and the total complement of authorized positions can be filled by professional investigators.

SEP 21 1979

MEMORANDUM FOR: All Organized Crime Field Offices and OC Personnel

FROM: RONALD GOLDSTOCK
Deputy Inspector General

SUBJECT: Organized Crime Program Planning

This memo is the first step in what I expect will be the development and implementation of a comprehensive OIG program in the area of organized crime/labor racketeering control. It is the product of my thoughts and the insights of a number of OIG personnel who have spent a considerable amount of time thinking about what we ought to be doing.

I start with the premise that control of organized crime (see attachment for definition of terms) will not be achieved by the standard practices used to control other types of crime. It is not sufficient for law enforcement agencies to investigate isolated crimes, solve them, and present them to a prosecutor for formal proceedings. The concepts of investigation, prosecution, and incarceration must be employed as part of pre-determined strategies, if they are to be effective in an organized crime context.

This idea is hardly new. In 1929 John Landesco concluded in his classic work, Organized Crime in Chicago:

> "Crusades arouse public sentiment against some existing abuse or disorder, but they are so sweeping in character that they are usually only temporarily successful and a reaction sets in against them. One reason for the failure of crusades against crime and vice is that they seek to endorse some general policy of law enforcement. They are seldom or never based on a study of the problem. What is needed is a program that will deal with the crime problem in detail and consecutively, this is by analyzing the crime situation into its different elements, by taking up each crime situation separately, and one by one working out a constructive solution."

And yet, fifty years later, the single greatest deficiency in virtually every organized crime control unit in the United

States, is the failure to develop comprehensive strategies to address identifiable problems in the organized crime area. Without the formulation and execution of a coherent strategy, impact on targeted criminal activity can only be haphazard. The incarceration of an underworld figure generally disrupts an individual enterprise, only until new leadership is established. The disruption is, thus, often only minimal, and the effect on the general problem negligible.

To be effective, a general strategy, designed to effect more than individuals or individual enterprises, must necessarily take into account the long-range implications of daily operational tactics. Ultimate success, if it can be achieved at all, will be the result of years of eroding the foundations of the targeted criminal activity, rather than a number of spectacular investigations ending primarily in headlines for public consumption.

That is not to say that individual cases are not important. They obviously are, but given limited staffing and financial resources, we can no longer afford the luxury of conducting investigations which do not have a significant and lasting impact on organized crime activity. A number of OIG investigators have indicated that there are occasions when we might well consider undertaking investigations that would not tend to advance a specific strategy. For example, offices might decide to make cases that are likely to receive substantial publicity to demonstrate their effectiveness and to provide a basis for public and professional support. Certain matters, too, may have an important symbolic value, and they should be considered for that purpose. Indeed, one strategy to be employed might well be symbolic impact, particularly where current and likely resources preclude any realistic hope of having a real impact. Still another reason for undertaking a specific investigation, might be to cooperate with an agency to provide a basis for future mutual aid. I concur with these specific targets of opportunity. However, I feel that the bulk of our resources should be devoted to participation in pre-determined strategies which have a long-lasting and significant impact.

To put these concepts into practice, I would like each field office to prepare a mission statement and strategy papers so that we can agree upon a set of realistic and concrete goals keyed to a specific timetable. These planning documents will also provide some objective standards by which we can measure our overall program effectiveness in the organized crime area.

Each office should prepare one mission statement to include:

-- A description of the geographic jurisdiction covered by the office.

-- An assessment of the organized crime problem in the area including (1) a thoughtful analysis of the current and projected organized crime activity in the area, the relative strength of such activity in particular unions, industries or locations, the importance of certain individuals in maintaining or expanding organized crime influence, etc., and (2) an assessment of where OIG investigative activity can have the greatest and

most lasting impact. In addition to areas in which corruption is known to exist, consideration should be given to unions or industries which organized crime syndicates may be attempting to infiltrate.

-- A statement of mission in which realistic program goals are specifically stated. A goal is not an investigation, or a series of investigations; it is what is meant to be accomplished through the investigative work. These goals should be sufficiently specific and targeted so that implementation strategies can be devised and so that progress toward achieving these goals can be meaningfully tracked. For example, "elimination of labor racketeering in jurisidiction x" would be too vague. The greater the specificity of a goal, in terms of union, industry, location, etc., and of desired end results, the better.

Secondly, each office should prepare strategy papers for each goal identified in the mission statement. These papers should include the following information:

-- A discussion of alternative strategies to achieve the goals. The discussion must take into account the impact that each alternative will have on the targeted activities, syndicates, areas, etc. For example, will incarceration of an individual or group of individuals cleanse the union? Can an investigation focus on bribe-givers who corrupt large numbers of union officials? Is it possible to conduct investigations solely for the purpose of developing informants whose information would prove valuable in succeeding cases? Would public disclosure of corrupt activities foster overt dissent by honest union members?

-- A consideration of available remedies and investigative techniques. Investigation, prosecution, and incarceration are clearly the most important remedies available to law enforcement agencies. However, you should consider civil approaches as well in the development of these strategy papers. Also, this discussion of alternative strategies should include estimates of the probable reactions of the various components of the criminal justice system. For example, can we, given the specific circumstances, expect substantial sentences upon conviction? Consider, also, the investigative tools available, including the use of electronic surveillence.

-- A recommended strategy and action plan covering staff resources to be utilized, projected timetable, and evaluation plan, i.e. how we will know when the program goal has been achieved.

In order that the structure of individual field offices be compatible with the assumption of innovative and sophisticated cases, and implementation of strategies, investigators should be assigned to teams or modules. Each module should consist of four persons headed by a senior investigator with supervisory authority over the members of the team. This would result in close supervision and guidance while giving the supervisor adequate staff to conduct the investigative work. To the

extent possible, each should be composed of investigators with diverse investigative experience and should include, where feasible, an investigative accountant. In recommending an organization, the supervising agent should list the qualifications of each of the individuals and his/her area of expertise.

Certain members of OIG have expressed the need for and the desirability of using the case agent method rather than the "team approach." It is my view that the establishment of these modules is not necessarily inconsistent with the use of case agents. The team supervisor can assign individual responsibility, for certain aspects of the project, to an investigator who will then become the case agent. Of course, in large investigations, it makes sense for the team supervisor to be the case agent.

The agent in charge of the office must exercise supervision of each of the established modules. In addition, he/she should have direct supervision over one or two agents who can handle more limited investigations on an ad hoc basis.

For the purposes of the strategy papers, you should assume stable personnel resources. However, if you feel that you cannot undertake priority projects highlighted in your analysis, please indicate in the strategy papers what additional resources would be required.

I want each supervising agent to be personally responsible for the development of these materials. However, I hope that you will consult with others in OIG and knowledgeable persons throughout the law enforcement community in planning these projects. Consultation with the Attorney-in-Charge of the Strike Force is obviously a necessity. Since the projects resulting from this planning effort will be the major focus of our program, you might consider holding an all-day brainstorming session with your agents and others to begin thinking about and developing a mission statement and strategy papers.

Further, I want to emphasize that the documents resulting from this planning effort will not be set in concrete. It is clear that almost every investigation will add to the office's understanding of the structure and operations of the underworld and the labor scene within the office's jurisdiction. Indeed, as investigators add to their experience, they will add new skills, learn new methods, develop new insights, and attract knowledgeable sources of information. As a result, these papers will be periodically reviewed and if needed, revised.

So that we can reach consensus soon on mission statements and strategy papers, I am requesting that draft materials be sent to me two to three weeks after receipt of this memo. Your materials will then be reviewed in the National Office. Hopefully, by the end of October, we will have an established organized crime program.

I recognize that the establishment of missions papers and the utilization of pre-determined strategies have not been traditional approaches in law enforcement. Indeed, even among those who agree that the use of a mission statement and strategy papers is ultimately a good idea, there is concern that the shortage of personnel, high caseloads, and press of operational duties make the development of these materials an unaffordable luxury. I find it difficult to concur with that position. If done properly, the use of such devices will inevitably conserve

resources and manpower by focusing investigations, producing more rational selection of cases, and avoiding wasted and unnecessary investigative time. Thus, while the drafting and establishment of mission papers and strategies are difficult, time consuming, and require, what Judge Learned Hand termed "the intolerable labor of thought," we literally can no longer afford to do without them.

My goal is that we, in OIG-DOL, be, and be perceived, as the best agency in the organized crime control community. I believe the first step in achieving that position be the establishment of the mission papers and strategies, and that the second step be their implementation. It is essential that you give these matters priority attention.

Bob Nicholson, Stu Eder and I are available at any time to discuss or expand upon this memo. If you have comments about the memo or the efficacy of the mission statement and/or strategies, please don't hesitate to let me know about them.

I am planning on receiving a draft by October 19th. We can then work out a date for discussing the proposals and reaching a consensus on the organized crime program.

Appendix -- Definition of Terms

The term "organized crime" is obviously subject to many meanings. At the very least, it can be thought of as being an "enterprise," "syndicate," or "venture."

"Enterprise" - an organized crime "enterprise" is a criminal group that provides illicit goods or services on a regular basis. An example would be a narcotics wholesaler and the cutting crew. Thus, it is a criminal firm or business organization.

"Syndicate" - an organized crime "syndicate" is a group that regulates relations between various "enterprises." It may be metropolitan, regional, national, or international in scope. It may be concerned with only one field of endeavor, or it may be concerned with a broad range of illicit activities. A "syndicate", therefore, is a criminal cartel or business organization. It fixes prices for illicit goods and services, allocates black markets and territories, acts as a criminal legislature and court, sets criminal policy, settles disputes, levies "taxes", and offers protection from both rival groups and legal prosecution.

"Venture" - a "venture" is a criminal episode usually engaged in for profit by a group. It may be the hijacking of a truck or the robbery of a bank. It is "organized crime" when members of the "venture" have access to superior criminal resources, including capital, skilled labor, outlets for stolen property, etc.

For purposes of this memo, I emphasize syndicate crime because it is my belief that the greater threat to society from organized, as opposed to random, crime results from syndication. Simply state, syndicates provide their members

with the ability to capitalize on opportunities, as a result of their connections with diverse individuals and activities, as well as providing them access to capital, corruption, and the use of force. The more sophisticated the structure and membership of the syndicate, the more difficult it is for law enforcement to disrupt the criminal members and their activities.

UNRESOLVED AUDIT REPORTS

Question. What is the current number of unresolved audit reports of Labor Department programs, and what amount of outstanding costs does this represent?

Answer. The total amount of unresolved audit reports and associated dollars as of September 30, 1979, is provided in the following table. The data for the first quarter of Fiscal Year 1980 is currently being processed and will be incorporated into the next Semi-Annual Report of the Inspector General that will be provided to the Congress by May 30, 1980.

UNRESOLVED AUDITS
(As of September 30, 1979)

Agency/Program	Reports	Dollars
Employment and Training Administration		
CETA Sponsors:		
State and Local Primes	235	$108,034,316
Native American Primes	367	46,203,234
Migrant and Seasonal Primes	83	7,084,491
Other National Program Sponsors	125	10,948,356
Pre-CETA Categorical Sponsors	279	48,559,677
State Employment Security Agencies Sponsors	52	39,433,634
Miscellaneous Contractors	29	964,693
Occupational Safety and Health Administration (OSHA)		
OSHA Sponsors	22	278,131
Bureau of Labor Statistics (BLS)		
BLS Contractors	3	79,018
Mine Safety and Health Administration	--	--
Office of the Assistant Secretary for Administration and Management		
OASAM Contractors	40	2,412,657
GRAND TOTAL	1,235	$263,998,207

UNRESOLVED AUDIT REPORTS

Question. What is the average length of time that these audit reports have remained unresolved?

Answer. See the attached table.

STATUS OF AGING OF UNRESOLVED AUDITS AS OF SEPTEMBER 30, 1979 1/

Agency/Program	(1) September 30, 1979 Total Unresolved 2/ Reports	(1) Dollars	(2) 1-12 Months Reports	(2) Dollars	(3) 13-24 Months Reports	(3) Dollars	(4) Over 24 Months Reports	(4) Dollars
Employment and Training Administration								
CETA Sponsors:								
State and Local Primes	235	108,034,316	98	70,704,755	83	19,740,779	54	17,588,782
Native American Primes	367	46,203,234	160	17,524,632	80	24,441,831	127	4,236,771
Migrant and Seasonal Prime Sponsors	83	7,084,491	2	2,582,289	37	2,307,474	44	2,194,728
Other National Program Sponsors	125	10,948,356	25	3,120,196	34	2,621,079	66	5,207,081
Pre-CETA Categorical Sponsors	279	48,559,677	--	--	6	202,971	273	48,356,706
State Employment Security Agencies Sponsors	52	39,433,634	13	22,142,939	5	4,268,434	34	13,022,261
Miscellaneous Contractors	29	964,693	9	61,653	7	294,245	13	608,795
Occupational Safety and Health Administration								
OSHA Sponsors	22	278,131	5	91,090	3	16,555	14	170,486
Bureau of Labor Statistics								
BLS Contractors	3	79,018	--	--	--	--	3	79,018
Office of the Assistant Secretary for Administration and Management								
OASAM Contractors	40	2,412,657	--	--	11	506,959	29	1,905,698
GRAND TOTAL	1,235	263,998,207	312	116,227,554	266	54,400,327	657	93,370,326

1/ For purposes of this table, an audit is unresolved when the grantor agency contracting official has not issued a determination addressing the appropriate disposition of all items of questioned costs.

2/ Column (1) is the sum of Columns (2), (3) and (4) for number of reports and dollars amounts.

IMPROVEMENTS IN TRACKING AUDITS

Question. What improvements are being made in your system for tracking audits?

Answer. There has been considerable effort to improve the Department's audit resolution process. About a year ago, the Secretary appointed a panel of Program Office and Departmental management officials to look into this area and make recommendations to him on courses of action designed to eliminate audit resolution problems.

The Audit Review Committee reached consensus on the need for high priority to be assigned to the resolution of audit exceptions and for close cooperation between Program Offices and the Office of Inspector General Office of Audit at all stages of this process. It was agreed that most of the work should be done at the draft report stage, so that major differences between Grant Office and Auditor could be identified and resolved, if possible, before the final report is issued.

Agreement was also reached on coordination between the Employment and Training Administration and the Office of Inspector General in training grant officers and other designated program personnel in the resolution of audit exceptions, and in training auditors (Federal as well as contractor staff) in the fine points of CETA legislation and regulations.

The Office of Inspector General audit tracking system, which heretofore stopped with the issuance of an acceptable Findings and Determinations by the Grant Officer, is in the process of being completely automated, and will track through to actual collection of debts by making periodic checks of the Accounts Receivable system established by the Employment and Training Administration for claims arising from disallowances.

CONTRACT AND GRANT CLOSE-OUT

The Employment and Training Administration has been slow in closing out contracts and grants.

Question: What is the current dollar amount of expired contracts and grants awaiting closeout action?

Answer: The Employment and Training Administration has a total of 1,170 unresolved audits awaiting closeout as of October 1, 1979. The amount of unliquidated advances associated with this backlog is negligible.

Question: Have you made any progress in eliminating the close-out backlog?

Answer: The Employment and Training Administration had a fair record in reducing its closeout backlog during Fiscal Year 1979, reducing the backlog by 18 percent from 1,420 unresolved audits on October 1, 1978 to 1,170 on October 1, 1979. The goal for Fiscal Year 1980 is to reduce the backlog by an additional 25 percent.

Question: How much money has been returned to the Federal Treasury in Fiscal Year 1979 as a result of closeout actions?

Answer: Closeout actions during Fiscal Year 1979 have resulted in $13.5 million being returned to Treasury.

Question: Has Labor established a standard as to what constitutes "timely" closeout actions from now on?

Answer: Yes, our regulations require us to resolve the audit and write a final determination within 120 days after the final audit report is published.

Question: When you eliminate your large backlog, can the current staff assigned to the area handle the closeouts on a "timely" basis?

Answer: Yes, we believe that once the backlog is resolved, we will be able to handle the closeouts on a timely basis within current staffing constraints. However, should program priorities require our staffing emphasis to change, such as that which was required during the Economic Stimulus initiatives, the backlog could reoccur.

DISALLOWED CETA COSTS

Question: What is the total amount of CETA funds that have been disallowed, and how much has actually been recovered?

Answer: The total amount of CETA funds that have been disallowed through fiscal year 1979 is $12.6 million. Of this amount, funds recovered through audits total $6.0 million.

Question: Of the amount collected, how much was in the form of actual cash restitution?

Answer: Actual cash restitution totaled $3.6 million.

Question: To what extent have you used your new power to reduce current CETA grants by the amounts of disallowed costs from previous years.

Answer: Through September 30, 1979, the disallowed costs which have been recovered by reducing CETA grants totals $74,300.

QUESTIONED COSTS

Last year, the Labor Department reported that 67 percent of CETA costs questioned by auditors were eventually allowed by program administrators.

Question: What progress has been made to reduce the high level of CETA questioned costs which are allowed by CETA program officials?

Answer: Two things must be remembered about questioned costs: (1) a questioned cost is an advisory opinion made by an auditor based on (a) the interpretation of the documentation supporting the costs, and (b) the interpretation of the regulations; and (2) a questioned cost is based on a sample of transactions. In determining whether to allow or disallow questioned costs, grant officers are guided by the following criteria, which limits their flexibility:

1. No questioned cost may be allowed if it is a clear violation of the Act, Federal Regulation, or the grant provision.

2. No questioned cost may be allowed on the basis that the grantee pleads ignorance of the regulation or the grant provisions.

3. No questioned cost may be allowed on the basis that the grantee acted in good faith while incurring an unallowable cost.

4. No questioned cost may be allowed on the basis that the grantee may not be able to pay the debt.

Question: How long does it take program managers, on the average, to decide whether to allow or disallow the costs questioned in an audit?

Answer: During the later part of Fiscal Year 1977 and during 1978, the Employment and Training Administration had, as its highest priority, the mounting of the Economic Stimulus program initiatives. As a result, audit resolution became a lesser priority, creating the current audit closeout backlog. We have taken a number of steps to reduce the backlog and were successful in reducing it by 18 percent in Fiscal Year 1979. Our goal is to reduce it by an additional 25 percent in Fiscal Year 1980.

Our regulations require us to resolve an audit and write a final determination within 120 days after the final audit report is issued. We are striving to meet that standard.

Question: Would it be unreasonable to require that questioned costs be resolved within 90 days?

Answer: We believe that it would be unreasonable to require that questioned costs be resolved within 90 days. The Employment and Training Administration takes immediate action to correct all deficiencies noted in the administrative findings section of the final audit report. However, the liability issues consume more time.

SOLICITOR STAFF DEVOTED TO CETA WORKLOAD

Question. You are asking for 14 additional Solicitor's Office positions to handle an expected increase in complaints from CETA participants and prime sponsors.

How many Solicitor's Office staff do you have now handling CETA workload?

Answer. In the National Office there are 17 attorney and 6 clerical staff years being devoted to CETA. In the Regional Offices we had 7 attorney and 2 clerical staff years assigned to CETA work. However because of the increase resulting from the 1978 amendments we have had to divert field staff from ESA to CETA. We are therefore currently devoting 12 attorney and 4 clerical staff years to CETA in the Regional Offices.

National Office	Attorney	17
	Clerical	6
Regional Office	Attorney	12
	Clerical	4
Total Staff Years		39

CETA LEGAL COMPLAINTS

Question. How many CETA complaints have been received to date, and how many do you expect by the end of Fiscal 1981?

Answer. The following statistics are provided on the number of individual complaints and audit cases that have been, or are anticipated to be, logged at the Office of Administrative Law Judges (OALJ).

FY 1978	23	actual
FY 1979	190	actual
FY 1980	230	actual to 3/80
FY 1980	1104	anticipated total
FY 1981	2400	anticipated total

In addition, on the average for FY 1978 and 1979 the Division received approximately 40 District Court suits a year in which the Department was a defendant. While this figure may decline for FY 1980 and 1981 due to the revised hearing regulation procedures implementing the 1978 CETA Act provisions, there will be a significant increase in CETA appellate court litigation as cases move through the trial stage. It is anticipated for FY 1980 and FY 1981 that there will be 30 district court and 45 appellate court cases per year.

Question. What are the major categories of CETA complaints?

Answer. In addition to the individual complaints, the Inspector General anticipates conducting approximately 200 consolidated audits of prime sponsors in FY 1981. Consolidated audits are audits of a prime sponsor and all of its subrecipients. These audits have the potential for generating a case for each recipient and subrecipient affected by a questioned cost. There are more than 400 prime sponsors and it is estimated there are more than 50,000 subrecipients.

Finally there are 850 unresolved audits pending involving questioned costs generally in excess of $10,000. These audits are awaiting resolution by the audit review task force. Experience has shown that disallowed costs of $10,000 or more are appealed on a ratio of close to 100 per cent. Based on these factors we expect that eventually 50% of our total workload will consist of audit cases.

WOMEN'S BUREAU'S AVAILABLE RESOURCES AND FUTURE NEEDS

Question. The Committee has expressed concern in its reports for fiscal years 1979 and 1980 about the level of resources available to the Women's Bureau in view of its heightened responsiblities since the Bureau transfer to the Office of the Secretary on January 1, 1978.

Can you tell us how the resources available to the Bureau, in terms of permanent, full-time positions in your ceiling and program funds, compares with those available prior to 1978, as well as with what you see as the need in the future?

Answer. With respect to permanent, full-time positions in its ceiling, the Women's Bureau resources have changed very little over

the last twenty years, except for the temporary addition of 15 positions for the President's Committee on the Status of Women in 1963, as shown below on the table of Women's Bureau Personnel Ceiling, fiscal years 1923 through 1979. The Bureau has used temporary support to assist in carrying out its mission.

Women's Bureau Personnel Ceiling

1923	38	1964	84
1950	63	1965	75
1951	63	1966	76
1952	63	1967	76
1953	58	1968	76
1954	58	1969	76
1955	58	1970	76
1956	55	1971	73
1957	56	1972	77
1958	61	1973	77
1959	61	1974	76
1960	61	1975	76
1961	61	1976	76
1962	74	1977	76
1963	93 1/	1978	73
		1979	73

1/Temporary increase for President's Committee on the Status of Women, with decreases effected in fiscal years 1964 and 1965.

In terms of project funds, the Women's Bureau had no project funds prior to fiscal year 1978. Beginning in fiscal year 1978, the Bureau began its demonstration program effort for special target groups with $2.1 million in CETA funds transferred from the Employment and Training Administration. In fiscal year 1979 we received $564,000 from CETA funds for this purpose; and in fiscal year 1980 we received $564,000 again in Title III funds and, in addition, $2.6 million was made available from CETA youth discretionary funds.

For fiscal year 1981 we are requesting an addition of ten other than full-time permanent positions and funds to finance thirteen staff years in the regional and national offices, $2.4 million in CETA funds for continuing demonstration projects, and $60,000 for policy consultation.

In terms of future resource requirements, the Women's Bureau is developing an overall strategy which will address major problems facing women workers in all economic strata--from the most severely disadvantaged (women are sixty-seven percent of all poor Americans fourteen years of age and over) to women in the professions. In order to implement a balanced regional and national office strategy, the Women's Bureau's long-range goal is to maintain a presence in each state, as resources become available.

OTHER PROGRAMS IN THE DEPARTMENT FOR WHICH RESOURCES DECLINED

Question. Can you tell the Committee whether there is any other program in the Department of Labor for which resources have declined, as have the Women's Bureau, over the last 15 years?

Answer. The Women's Bureau is not aware of any program in the Department of Labor for which resources have declined, as have the Women's Bureau, over the last 15 years, in terms of permanent positions to ceiling. The Women's Bureau is requesting an addition of ten other than full-time permanent positions in fiscal year 1981 to meet the challenges of Women's Bureau's expanding program activities.

WOMEN'S BUREAU'S CEILING

Question. Why has the Bureau received a ceiling which is almost 10 percent lower than its budgeted positions?

Answer. The Women's Bureau's ceiling relates to the funding available to the Bureau, in terms of financeable staff years. The financeable staff years are slightly less than eight percent below the actual number of authorized positions.

FIELD AND NATIONAL OFFICES' NEEDS FOR FISCAL 1981

Question. The Women's Bureau fiscal 1981 request for $2.4 million is less than what you are utilizing for demonstration projects for fiscal 80. How much do your field and national offices need for fiscal 81?

Answer. For fiscal year 1981, the Women's Bureau request of $2.4 million relates to the $564,000 made available in fiscal year 1980 for demonstration projects. In fiscal year 1980, $2.6 million has been made available to the Women's Bureau in youth discretionary funds. However, a projection of the use of youth discretionary funds in fiscal year 1981 has not yet been made, primarily due to the expiration of the authorizing legislation. The Administration's legislative proposal for a new youth initiative is currently pending before Congress.

For fiscal year 1981 we are also requesting an addition of ten other than full-time permanent positions and funds to finance thirteen staff years in the regional and national offices and $60,000 for policy analysis of programs affecting women. Policy consultations with experts will be carried out and policy recommendations developed on the impact on women workers of trade adjustment policies, the influx of undocumented workers, and retirement and disability systems.

WOMEN'S BUREAU STATUS REPORT ON SPECIFIC ISSUES

Question. Can you give the Committee a status report on the specific issues covered in the fiscal 80 appropriation report; i.e., resources you require and have received to carry out your initiatives in providing technical assistance to CETA prime sponsors to overcome sex stereotypes; provide alternative work and training arrangements for persons with household responsibilities and overcome artificial barriers; and for research on job and wage classification systems and the impact of trade adjustment policies on women workers?

Answer. In addition to participating in the administration of the Employment and Training Administration demonstration programs for displaced homemakers, the Women's Bureau is carrying out a demonstration program effort for a variety of other special target groups, including low-income, rural women, and young women. In fiscal year 1980, $564,000 has been made available for demonstration programs as well as $2.6 million for special demonstration efforts on teen pregnancy and related employment problems, which will be designed and monitored by the Women's Bureau.

Funding for additional projects benefitting women are currently under review within the Department. These include a training project on apprenticeship and construction regulations, which will enhance opportunities for women in non-traditional occupations.

In addition the Employment and Training Administration has designated staff to work with the Women's Bureau on its proposal to train key persons in each prime sponsor area, including planning councils, employment service, WIN and other staff to improve CETA programs for women.

With respect to CETA Sec. 311(d) issues involving alernative working patterns and job and wage classification systems, the Department has established an Interagency Committee on EEO research to identify projects to be funded each year and resource commitments are to be addressed by participating agencies in May, 1980.

With respect to the trade adjustment area, the Women's Bureau recently received the final report of a study commissioned by the Bureau of International Labor Affairs, entitled "Survey of Trade Adjustment Assistance Recipients". The study indicates that persons permanently terminated from employment were somewhat older and had a higher representation of women; that persons receiving trade adjustment assistance whose hours of work were reduced were predominantly women in the apparel industry; that sixty percent of the recipients were on temporary layoff and mostly men; and that the rate of compensation was lowest for recipients on permanent layoff, who were primarily women. This study raises several issues which could be addressed by special studies to determine why women receive lower compensation and are not retrained in greater numbers.

SUPPLEMENTAL FOR MINIMUM WAGE STUDY COMMISION

Question. Congress has already appropriated $1.2 million for the Minimum Wage Study Commission. Now you are asking for an additional $2.2 million for research contracts. Counting previous appropriations and the Fiscal 1981 request, the total tab is nearly $6 million for minimum wage studies, even though these are Congressionally mandated studies, there was no mandate requiring $6 million for minimum wage research.

Will there be any future requests to finish the work of the Commission?

Answer. No future request is anticipated. In fact, the Minimum Wage Study Commission (MWSC) has agreed to decrease its FY 1981 budget request by $268,000 from comparable FY 1980 levels. Fiscal Year 1980 is the crucial year for MWSC's research, due to the lead time required for funding and completion of studies within the limited life of the Commission.

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Question. Why can't existing Labor Department research appropriations be utilized to finance these studies?

Answer. Department of Labor research funds are entirely committed to research directly related to the Department's program activities. The Minimum Wage Study Commission (MWSC) is separate from the Department with its own set of legislative mandates. Thus, it is only appropriate that research funds for the MWSC be sought in a separate request.

If the MWSC is to complete its work within the legislatively mandated timetable, it must conduct necessary research during Fiscal Year 1980. To allow this, the Department has made funds available from the Employment Standards Administration (ESA) to finance MWSC research pending approval of the supplemental request. Funds for ESA's "loan" to the MWSC have been provided by delaying until the fourth quarter several research projects.

Should the supplemental not be enacted, the MWSC would be unable to repay this loan and ESA would have to cut back program related research by $2 million.

Question. Why must all the work be contracted out rather than using in-house staff, particularly for those studies that involve merely analyzing existing data?

Answer. The MWSC's direct hiring authority was limited to an Executive Director and clerical personnel. The Commission feels strongly that the value and credibility of its study for the Congress depends upon its independence as an investigative body. As evident from the appointment provision, Congress was fully aware that Federal labor standards affect many vital national interests and that the fair and equitable consideration of these interests depends not only on the appearance of this Commission's independence but on maintaining the actuality of independence, as well.

Therefore, the MWSC has contracted with independent contractors not only to analyze existing data but also to conduct original research, obtain new data, and work with other researchers in a thorough analysis of the pertinent issues. In some cases, two researchers are independently examining the same issue to insure a diversity of methodology and viewpoints. Existing data in many cases has been found to be inadequate, outdated, or inaccurate. The Commission is making full use of existing data in those areas where such data are considered to be adequate.

TRAVEL

Question. Why do you need an extra $1.8 million for travel - an increase of nearly 40 percent - in the Departmental Management appropriation?

Answer. There are a number of reasons that we are requesting an additional $1.8 million in travel. This increase reflects the restoration of $400,000 associated with the overall 8% reduction in travel made in fiscal year 1980 as well as $600,000 for travel costs associated with the additional positions provided for the Inspector General functions during fiscal year 1980 but which was not provided for within the fiscal year 1980 travel limitation.

In addition, $300,000 reflects the cost of new positions that were authorized in 1980, but these positions were only filled for part of the year and that travel will have to be performed on a full-year basis in 1981. A total of $100,000 worth of additional travel relates to the 53 new positions that are being requested in 1981, $100,000 relates to positions that were comparatively transferred and $300,000 reflects the change in the per diem rates based on the rise in subsistence costs associated with the increase in the number of designated high cost cities as approved by GSA.

Question. How much are you planning to spend on travel, throughout the Labor Department, in Fiscal 1981, compared to Fiscal 1980?

Answer. The information follows.

DEPARTMENT OF LABOR
Analysis of Travel: Object Class 21 1/
(In Thousands of dollars)

Agency	FY 1980 Est. 3/	FY 1981 Request
Employment and Training Administration 2/	$10,501	$12,316
Labor-Management Services Administration	2,449	2,448
Employment Standards Administration	5,635	5,622
Occupational Safety and Health Administration	6,401	7,080
Mine Safety and Health Administration	6,740	6,990
Bureau of Labor Statistics	2,978	3,271
Departmental Management 4/	5,982	8,135
TOTAL	$40,686	$45,862

1/ Amounts include funds directly appropriated and funds received from other agencies for work performed on a reimbursable basis.
2/ Includes funds allocated to the Departments of Interior and Agriculture for Job Corps and Young Adult Conservation Corps programs: 1980, $4,068; 1981, $5,605.
3/ The FY 1980 estimate is tentative pending distribution of a total allowance for travel and transportation of things (object classes 21 and 22) provided by the OMB on February 22, 1980.
4/ Includes Working Capital Fund and Special Foreign Currency.

Question. What impact would a ten percent travel cut have on your agencies operations?

Answer. The Department of Labor is requesting $5.2 million more in travel than the revised 1980 estimate of $40.7 million. This is an 12.8 percent increase related to cost increases. Between November 1978 and November 1979, the transportation component of the Consumer Price Index increased over 17 percent. Cost rises are expected to continue. Most of the Department's program's are necessarily travel intensive. Examples include OSHA/MSHA inspections, BLS data collection, ESA enforcement, OIG audits and investigations, and ETA program monitoring responsibilities. If the 1981 request were reduced by ten percent, the impact would be more on the order of 25 percent in terms of real dollar reductions, and would seriously

affect the Department's ability to fulfill program responsibilities. The workload of the Department would have to be reduced because no alternative to travel exists.

SUPPORT SERVICES INCREASE

Question. Explain the $2 million increase budgeted for "administrative and program support services" (Page DM-3 of justification.)

Answer. The increase in administrative and program support services represents items financed through the Department's Working Capital Fund (WCF). Increases in staff in the Legal Services, Inspector General, and Adjudication activities within the Departmental Management appropriation have generated increased workload for the WCF. The increase in workload causes costs to rise in the following areas: penalty mail payments to the U.S. Postal Service; Federal Telecommunications System payments to the General Services Administration; in-house automatic data processing services; and general administrative-type services such as audiovisual, accounting and payroll, procurement, printing and reproduction, supply and property and general housekeeping types of expenses.

OTHER SERVICES INCREASE

Question. Explain why you need an extra $1.4 million in Fiscal 1981 for an item called "Other Services"?

Answer. The object classification called "Other Services" includes numerous expense categories. Examples of items included in this object classification are: working capital fund assessments; all contracts; training; repairs; GSA job orders; and other miscellaneous costs.

The increase of $1.4 million is a net result of programmatic, as well as built-in, increases and decreases within the Departmental Management appropriation. The major portion of this increase is the Inspector General's requested programmatic increase of $1.9 million for additional contract audit coverage of the CETA program. In addition, there are increases in this object classification associated with the additional positions requested in the Employees Compensation Appeals Board, the Solicitor's Office and the Women's Bureau. The Women's Bureau also has a request for an additional $60,000 for contract funds. These increases are partially offset by decreases within this object classification. The major portion of these decreases is related to the phasing down of the functions of the Minimum Wage Study Commission. When these increases and decreases are combined, the result is a net increase of $1.4 million for this object classification in fiscal year 1981.

SUBCOMMITTEE RECESS

Senator EAGLETON. We will be in recess until 9 a.m. tomorrow. We are advancing it 1 hour. The hearing was previously scheduled for 10 a.m. Can the witnesses come at 9 a.m.?

Mr. ZUCK. Yes; we will try, Mr. Chairman.

Senator EAGLETON. We will also move the afternoon hearing into the morning session.

[Whereupon, at 4:10 p.m., Tuesday, March 4, the subcommittee was recessed, to reconvene at 9 a.m. on Wednesday, March 5.]

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

WEDNESDAY, MARCH 5, 1980

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

The subcommittee met at 9:10 a.m., in room 1114, Everett McKinley Dirksen Senate Office Building, Hon. Thomas F. Eagleton presiding.

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATEMENT OF ERNEST G. GREEN, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING

ACCOMPANIED BY:
LAWRENCE E. WEATHERFORD, JR., DEPUTY ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING
ROBERT ANDERSON, ADMINISTRATOR, OFFICE OF COMPREHENSIVE EMPLOYMENT DEVELOPMENT
WILLIAM J. KACVINSKY, DEPUTY ADMINISTRATOR, OFFICE OF NATIONAL PROGRAMS
DAVID O. WILLIAMS, ADMINISTRATOR, U.S. EMPLOYMENT SERVICE
THOMAS C. KOMAREK, COMPTROLLER FOR EMPLOYMENT AND TRAINING
SANDRA T. KING, BUDGET OFFICER FOR EMPLOYMENT AND TRAINING
WILLIAM R. REISE, COMPTROLLER FOR THE DEPARTMENT
MARY ANN WYRSCH, DIRECTOR, OFFICE OF BUDGET

BUDGET REQUEST

Senator EAGLETON. Good morning, ladies and gentlemen. The subcommittee will come to order.

Today we are to meet to discuss programs under the Employment and Training Administration. This year's budget request for these programs is $14.781 billion. That amount is $2.6 billion over the budget authority for fiscal 1980. This amount includes some proposed legislation that is yet to be authorized.

We are pleased to have Assistant Secretary Green with us today to discuss this budget request. Mr. Green, please identify your colleagues for the record, and then you may proceed.

[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 FY 1981 budget requests for the Employment and Training Administration.

As a whole, the 1981 budget reflects the Carter Administration's strong commitment to the needs and concerns of America's workers. In addition to our overall efforts to provide employment and training opportunities for individuals, we are proposing a major new program to increase job opportunities for disadvantaged youth. We will also be continuing a major emphasis on improved management of ETA programs. I will now discuss briefly each of the requests.

Comprehensive Employment and Training Services

Comprehensive employment and training services are authorized by Title II Parts B and C of the Comprehensive Employment and Training Act (CETA). The funds provide financial assistance, primarily by formula, to over 470 State and local prime sponsors to design and provide comprehensive employment and training services to ease barriers to labor force participation encountered by economically disadvantaged persons and to help these persons increase their earned income. Activities include institutional and on-the-job training, work experience and other services needed to enable persons to obtain unsubsidized employment. The Fiscal Year 1981 request for Title II, Parts B and C is $2,117 million and represents an increase of $63 million over the Fiscal Year 1980 level of $2,054 million. The increase reflects the effect of statutory minimum wage increases. It allows a range of 375,000 to 400,000 service years to be provided to serve an estimated 1,252,500 persons thereby maintaining approximately the same level projected for 1980.

Public Service Employment

The 1981 request, totaling $4,598 million will provide a total of 450,000 public service employment opportunities for 896,500 individuals as authorized under CETA Titles II-D and VI.

For Title II-D, which provides public service employment opportunities for the structurally unemployed, the 1981 request totals $2,554 million, an increase of $1,069 million over the Fiscal Year 1980 level of $1,485 million. The increase is comprised of $253.6 million to provide sufficient funds to maintain the 1980 end of year enrollment level of 250,000, $164.2 million for higher unit costs resulting from inflationary increases as well as an increase in the level of training to be provided as required by the CETA amendments, and $651.2 million due to the fact that there are no excess funds to be carried into Fiscal Year 1981, while in Fiscal Year 1980, excess funds in this amount were available.

For Title VI, which provides public service employment opportunities for the temporarily unemployed, a total of $2,044 million is requested to maintain the 1980 end of year planned level of 200,000 jobs. This is a net increase of $417 million from the Fiscal Year 1980 level and includes increases of $115.4 million to provide for higher unit costs and $364.1 million due to the fact that there were additional carryover funds available in Fiscal Year 1980 which are not available in Fiscal Year 1981. This increase is partially offset by a decrease of $62.5 million resulting from a slight reduction in the average number of service years funded.

Youth Programs

The pending request for youth programs is $1,664.4 million, a net decrease of $436.2 million from the Fiscal Year 1980 level of $2,100.6 million. Of the net decrease, $826.1 million is for expiring Youth Employment and Demonstration Projects Act Programs. A request of $1,125 million for a major new youth initiative replacing these programs will be transmitted later. This amount, together with the above Fiscal Year 1981 youth request, will provide services to over 2 million individuals and represents an increase of $688.8 million above the Fiscal Year 1980 level.

The requested amount, plus anticipated 1980 carryover funds, will continue the Young Adult Conservation Corps and the Summer Youth Employment Program at the same participant levels projected for 1980, and allow Job Corps to establish the capacity for and fill 44,000 slots.

The Young Adult Conservation Corps provides employment in useful conservation work to unemployed youths. The Fiscal Year 1981 request for the Young Adult Conservation Corps totals $264.8 million, an increase of $14.5 million over the $250.3 million provided in Fiscal Year 1980. The funds will allow the maintenance in 1981 of 21,900 years of service to 62,400 individuals, the same level estimated for 1980.

The request for the Summer Youth Employment Program which provides jobs for economically disadvantaged youth aged 14 to 21 during the summer months is $839 million and reflects an increase of $230.4 million over the 1980 level of $608.6 million. The increase is due to a higher unit cost ($67 million) and the lower availability of carryover funds from the preceding year ($163.4 million). The lower availability of carryover funds is due primarily to the deferral of $122 million of Fiscal Year 1979 funds for Fiscal Year 1980 which temporarily increased the availability of carryover funds and reduced the amount of new authority required in 1980. The request allows the maintenance of 1,000,000 summer job opportunities for disadvantaged youth, the same level expected for 1980. We will continue our efforts to insure that meaningful and productive work experience is provided all participating youth. We plan to incorporate the lessons learned during our intensive monitoring efforts of last year's program into the planning and operation of next summer's program and to continue intensive monitoring of program operations.

The Job Corps provides severely disadvantaged youth, aged 16 to 21, with a comprehensive program of basic education, vocational training, job placement, medical support, and other services in a residential setting. The 1981 request of $560.7 million for Job Corps is $145 million over the 1980 level of $415.7 million. The increase reflects $119.8 million to complete the enrollment buildup to 44,000, $10 million for energy conservation projects at residential centers, and $15.2 million for nutrition programs previously funded by the Food and Nutrition Service of the Department of Agriculture. As you know, we implemented increased Job Corps enrollee allowances in September 1979. To date, the impact on recruitment and retention has been favorable and is contributing to our efforts to expand the program to 44,000. We expect to reach the 44,000 level by March 1981 and to serve 129,000 youth during 1981.

Private Sector Programs

The Private Sector Programs activity is comprised of two segments: the Private Sector Initiatives Program (PSIP) and the Targeted Jobs Tax Credit Program (TJTC).

The Private Sector Initiatives Program is a demonstration program to increase both the involvement of the business community in employment and training activities, and the number of private sector jobs for economically disadvantaged persons. Under this program, 450 Private Industry Councils (PIC's), made up of representatives of management, labor and community based organizations, have been established located in almost every major labor market area. Full program operation is expected to be underway by June of this year. Emphasis will then focus on stabilizing operations and demonstrating the full capability and capacity of the program.

The Targeted Jobs Tax Credit program is designed to facilitate the hiring of certain target groups of disadvantaged individuals in the private sector by providing tax credits to employers. The State Employment Security agencies provide overall management of the program, and governors and local elected officials, working primarily through State ES agencies, CETA prime sponsors, and the Private Industry Councils, promote the program through their existing media outlets. A variety of cooperating agencies such as welfare and vocational education agencies, determine the eligibility of persons whose hiring would entitle employers to a tax credit.

The 1981 funding level requested for these program is $150 million, a decrease of $175 million from the 1980 level due to the projected availability in 1981 of 1980 carryover funds. It is anticipated that the request level, plus anticipated 1980 carryover funds, will be sufficient to sustain the program at approximately the 1980 availability level of almost $400 million.

The 1981 request will provide an estimated 34,500 service years of training in the Private Sector Initiatives program, almost double the Fiscal Year 1980 estimate, and the certification of approximately 300,000 persons as eligible for the TJTC programs.

Other National Programs

The request for other national programs is $650.9 million, a net increase of $114.9 million from the Fiscal Year 1980 level of $536 million.

The request includes $81 million for employment and training programs for Native Americans and Indians, and $83.2 million for migrant and seasonal farmworkers, and provides for increased unit costs necessary to maintain current levels in both programs. Beginning April 1, 1980, migrant educational programs (HEP/CAMPS) will be transferred to the Department of Education under Public Law 96-88.

A total of $281 million is requested for Welfare Reform Demonstration Pilot Projects, and increase of $106 million over the 1980 appropriation level of $175 million. This will enable the sixteen projects, which will reach their full operating levels by the beginning of 1981, to maintain 20,000 slots.

A total of $151.3 million 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 net increase of $3.6 million above the Fiscal Year 1980 level of $147.7 million and includes an increase of $9.2 million to provide increased funding for management information systems ($5 million), Section 308 projects for middle-aged and older workers ($2.3 million), and programs for women ($1.8 million). This increase is partially offset by a decrease of $5.6 million in funding for the Disabled Veterans Outreach Program reflecting continuation of the gradual phase-down begun in 1980.

The request for program support activities is for $54.4 million, an increase of $7 million from the Fiscal Year 1980 level, and includes $18.5 million for technical assistance and training; $12.6 million for labor market information; and $23.3 million for research development and evaluation.

The increase is comprised of several pieces. In support of the President's emphasis on effective and efficient program management, an increase of $3.5 million is requested for technical assistance and training to provide timely, quality technical assistance to prime sponsors. Coupled with this effort will be an increased emphasis on research and development functions as they contribute to effective program management. An increase of $2 million over the 1980 level is requested for these functions. In addition, an increase of $1.5 million is requested for labor market information to cover increases in salary and personal benefit costs resulting from statewide compensation plan changes for state personnel involved in labor market information activities.

Community Service Employment for Older Americans

The Community Service Employment for Older Americans appropriation provides a program of part-time job opportunities in community service activities for unemployed, low-income persons aged 55 and over. The program is authorized under Title V of the Comprehensive Older Americans Act amendments of 1978.

This program is currently funded through June 30, 1981 at 52,250 jobs serving 75,000 individuals. The Fiscal Year 1981 request will fund the same jobs and service levels through June 30, 1982.

The request for Fiscal Year 1981 totals $267.1 million, which is a net increase of $200,000 over the Fiscal Year 1980 request of $266.9 million. The net increase is comprised of an increase of $8.8 million to provide for the minimum wage increase and a decrease of $8.6 million due to partial funding in FY 1980 of the 1979 program.

Grants to States

A Fiscal Year 1980 supplemental of $148.3 million is being requested to meet costs of State salary increases and additional unemployment insurance workload and to perform mandatory functions under the Airline Deregulation Act of 1978. It is estimated that authority to expend these funds will be required by August 1, 1980. However, due to the uncertainty of the economic assumptions, we are requesting that these funds remain available for use in 1981 to the extent they are not needed in 1980.

The Fiscal Year 1981 budget request for Grants to States for Unemployment Insurance and Employment Services provides an availability of $2,152.9 million which is an increase of $208.7 million over the revised 1980 availability of $1,944.2 million. 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 1981, due to management actions and improved automation, will enable the Employment Service to operate efficiently at the same staffing level as 1980 and limit unemployment insurance staffing increases to those necessitated by increased unemployment insurance workloads.

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.

The budget request provides for an availability of $1,297 million which is an increase of $154 million over the revised 1980 availability of $1,143 million. It consists of an appropriation request of $1,260 million and a reimbursement from the U.S. Postal Service of $37 million.

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 these funds prove insufficient. The 1981 request of $670 million is based upon the anticipated requirements of the Black Lung Disability Trust Fund which is administered by the Employment Standards Administration (ESA). They will be testifying on their accounts and will answer any questions you, or members of the Committee, may have regarding this request.

Program Administration

The budget request for Fiscal Year 1981 for the Program Administration account is $126.1 million and 3,185 positions. This represents a net increase of $849,000 over the Fiscal Year 1980 adjusted appropriation level of $125.3 million. Changes for 1981 consist of net built-in increases of $2.8 million in order to maintain the current level of operation during 1981, offset by a program reduction of $2 million for positions eliminated part-year in 1980.

Although this budget, in total, requests the same number of positions in FY 1981 as in FY 1980, the average number of employees will continue to decline from 3,495 in FY 1979 to 3,228 in FY 1980 and 3,131 in FY 1981.

In order to accomodate the lower staffing levels without jeopardizing program performance in FY 1981, ETA will continue to increase staff productivity, and to focus on mandated and high priority activities.

The themes of tighter management and increased targeting of services toward those most in need will be the keystones of the Employment and Training Administration's activities during 1980 and 1981. Efforts are being undertaken to strengthen and improve services that target training and other employment services and opportunities to groups with severe disadvantages in the labor market. Emphasis will also be placed on ensuring that the requirements in the CETA Reauthorization are fully implemented.

This concludes my statement, Mr. Chairman. My staff and I will be happy to answer any questions you, or Members of the Committee, may have.

INTRODUCTION OF ASSOCIATES

Mr. GREEN. Thank you very much, Mr. Chairman.

To my extreme left is Mary Ann Wyrsch, Director of the Office of Budget, Department of Labor; Bill Kacvinsky, Deputy Administrator, Office of National Programs; Bob Anderson, the Administrator of Office of Comprehensive Employment Development.

To my immediate left is my Deputy, Larry Weatherford, and to my right would be Tom Komarek, Comptroller for Employment and Training Administration; Bob Jones, Administrator, Office of Management Assistance; Dave Williams, the Administrator of the U.S. Employment Service; and Sandy King, my budget officer for employment and training.

One other note, Mr. Chairman. Chuck Knapp, the other Deputy, is testifying now with the Secretary on the new youth legislation, and may appear some time during the course of this hearing.

If I might, I would like to take this opportunity to try and summarize my statement. As you are aware, Mr. Chairman, this budget represents a continuing of employment and training opportunities, also a proposal for new youth initiatives, and also a continuing emphasis on improved management of our programs.

EMPLOYMENT AND TRAINING SERVICES

The comprehensive employment training services authorized under title II–B and II–C of the act, as you are aware, provide funds by formula to some 470 local prime sponsors to design and provide employment services and ease barriers for those individuals who are economically disadvantaged. These activities include on-the-job training, work experience, and other services.

The fiscal 1981 request for Title II–B and II–C of $2,117 million represents an increase of $63 million over last year's level of $2,054 million. This increase reflects statutory minimum wage increases. It will allow us to serve an estimated 1,252,000 individuals, approximately the same level we projected for 1980.

PUBLIC SERVICE EMPLOYMENT

Public service employment totaling some $4,598 million will provide a total of 450,000 public service employment opportunities for some 896,500 individuals authorized under both titles II–D and VI. Title II–D, which provides public service employment for the structurally unemployed, provides $2,554 million, an increase of $1,069 million over fiscal year 1980. The increase is comprised of $253.6 million to provide an end-year enrollment level of 250,000; $164.2 million for higher unit costs resulting from inflationary increases; and $651.2 million due to the fact that there are no excess funds being carried into fiscal year 1981.

For title VI, which provides public service employment opportunities for the temporarily unemployed, a total of $2,044 million is requested to maintain the 1980 end-of-year planned level of 200,000 jobs. This is a net increase of $417 million from the fiscal year 1980 level and includes increases of $115.4 million to provide for higher unit costs and

$364.1 million due to the fact that there were additional carryover funds available in 1980 which are not available in 1981.

This increase is partially offset by a decrease of $62.5 million resulting from a slight reduction in the average number of service years funded.

YOUTH PROGRAMS

In the youth programs, the request is $1,664 million, a net decrease of $436.2 million from the fiscal year 1980 level of $2,100.6 million. Of the net decrease, $826.1 million is for expiring Youth Employment and Demonstration Projects Act programs. A request of $1,125 million for a major new youth initiative replacing these programs will be transmitted later. This amount, together with the above 1981 request, will provide services for over 2 million individuals, and represents an increase of $688.8 million above the fiscal year 1980 level.

The requested amount, plus anticipated 1980 carryover, will continue YACC and the summer youth employment program at the same participant levels projected for 1980, and allow Job Corps to establish the capacity for and fill 44,000 slots.

PRIVATE SECTOR PROGRAMS

If I can move on to the private sector, the private sector is composed of two segments: private sector initiatives program, PSIP, and targeted jobs tax credit program, TJTC.

As you are aware, the private sector initiatives program is a demonstration program to increase both the involvement of the business community in employment and training activities, and the number of private sector jobs for economically disadvantaged persons. Under this program, some 450 private industry councils, made up of representatives of management, labor, and community-based organizations, have been established and are located in almost every major labor market area. Full program operation is expected to be underway by June of this year, and the emphasis will then focus on stabilizing operations and demonstrating the full capacity and capability of the program.

The targeted jobs tax credit program is designed to facilitate the hiring of certain target groups of disadvantaged individuals in the private sector by providing tax credits to employers. The State employment security agencies provide overall management of the program, and Governors and local elected officials, working primarily through ES agencies, CETA prime sponsors, and the private industry councils, promote the program at the local level.

A variety of cooperating agencies such as welfare and vocational educational agencies determine the eligibility of persons whose hiring would entitle employers to a tax credit.

The 1981 funding level for these programs is $150 million, a decrease of $175 million from the 1980 level due to the projected availability in 1981 of 1980 carryover funds. It's anticipated that the request level, plus the expected 1980 carryover funds, will be sufficient to sustain the program at approximately the 1980 availability level of almost $400 million.

The 1981 request will provide an estimated 34,500 service years of

training in the private sector initiatives program and the certification of approximately 300,000 persons as eligible for the targteted jobs tax credit programs.

OTHER NATIONAL PROGRAMS

The request for other national programs is $650.9 million, a net increase of $114.9 million from the fiscal year 1980 level of $536 million. This request includes $81 million for employment and training of native Americans and Indians, $83.2 million for migrants and seasonal farmworkers, and provides for increased unit costs necessary to maintain the current levels.

Beginning April 1, 1980, the migrant educational program known as HEP/CAMPS will be transferred to the Department of Education.

A total of $281 million is requested for welfare reform demonstration pilot projects, an increase of $106 million over the 1980 appropriation level of $175 million. This will enable the 16 projects, which will reach their full operating levels by the beginning of 1981, to maintain 20,000 slots.

A total of $151.3 million 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 net increase of $3.6 million above the fiscal year 1980 level of $147.7 million, and includes an increase of $9.2 million to provide increased funding for management information systems, section 308 projects for middle-aged and older workers, and programs for women. This increase is partially offset by a decrease of $5.6 million in funding for the disabled veterans outreach program, and this reflects a continuation of our gradual phasedown begun in 1980.

PROGRAM SUPPORT

The request for program support activities, $54.4 million, an increase of $7 million from the fiscal year 1980 level, and includes $18.5 million for technical assistance and training; $12.6 million for labor market information; and $23.3 million for research development and evaluation.

This increase is comprised of a number of pieces. In improving the effectiveness and efficiency of our programs, $3.5 million is requested for technical assistance and training to try to provide timely improvement in the quality of technical assistance for prime sponsors. Coupled with this will be an increased effort on our research and development as they contribute to more effective program management. An increase of $2 million over the 1980 level is requested for this function; $1.5 million is requested for labor market information to cover increases in salary and personnel benefits resulting from statewide compensation plan changes.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For community service employment for older Americans, this, as you well know, provides part-time employment for unemployed, low-income individuals aged 55 and over. The program is authorized under title V of the Comprehensive Older Americans Act Amendments of 1978.

It will fund through June 30, 1981, 52,250 jobs serving 75,000 individuals. The fiscal year 1981 request will fund the same jobs and service levels through June of 1982.

The request for fiscal year 1981 totals $267.1 million, which is a net increase of $200,000 over the fiscal year 1980 request of $266.9 million. The net increase is comprised of an increase of $8.8 million to provide for the minimum wage increase and a decrease of $8.6 million due to partial funding in fiscal year 1980 of the 1979 program.

GRANTS TO STATES

For grants to States, the fiscal year 1980 supplemental of $148.3 million is being requested to meet costs of salary increases and additional unemployment insurance workload and to perform mandatory functions under the Airline Deregulations Act of 1978. We estimate that authority to expend these funds will be required by August 1, 1980. However, due to the uncertainty of the economic assumptions, we are requesting that these funds remain available for use in 1981 to the extent that they are not needed in 1980.

The fiscal year 1981 budget request for grants to States for unemployment insurance and employment services provides an availability of $2,152.9 million, which is an increase of $208.7 million over the revised 1980 availability. These funds finance the administrative costs of unemployment insurance and employment service activities in the State employment security agencies.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

This account finances unemployment compensation to former Federal personnel and trade adjustment assistance. The budget request provides for an availability of $1,297 million, which is an increase of $154 million over the revised 1980 availability. It consists of an appropriation request of $1,260 million and a reimbursement from the U.S. Postal Service of $37 million.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

The advances to the unemployment trust fund account, as you know, provide for general revenue advances to several funds or accounts for the purposes authorized under the——

Senator EAGLETON. Mr. Green, why don't we put the rest of that in the record.

Mr. GREEN. All right.

PROGRAM ADMINISTRATION

For the program administration, we are requesting a net increase of some $849,000 over the 1980 adjusted appropriation. In order to accommodate our lowering staffing levels, without jeopardizing program performances in 1981, we will continue to increase tighter management, and improved efficiency of our activities. We think this will allow us to continue our emphasis on seeing that the requirements in the CETA reauthorization are fully implemented.

Mr. Chairman, this concludes my statement. I'd be happy to answer any questions.

Senator EAGLETON. Thank you very much, Mr. Green.

Everybody has different workbooks and worksheets, et cetera, and that makes it very confusing when we're all working from different sheets and budget estimates and the like. I think Mr. Sourwine handed you this sheet that was entitled "Employment and Training Programs, Dollars in Thousands, Revised 2/13/80." Do all of you have that sheet?

Mr. GREEN. Yes, sir.

Senator EAGLETON. And do your aides have it as well?

Ms. KING. We have an earlier copy. I'm not sure we have the revised 2/17 version.

I have it now.

PERSONS SERVED IN CETA PROGRAMS

Senator EAGLETON. OK; let's see if we can get an overall picture of this, working, if we can, from this sheet. Now, first let's take CETA. In terms of persons served for fiscal year 1980, the bottom line for all of CETA is $4.4 million. Does that jibe with our figures? Does this sheet comport with your records as well?

Mr. GREEN. Yes, sir.

Senator EAGLETON. Now, all of those slots are not filled at the present time, I take it.

Mr. GREEN. Most of them are. But mainly in public service employment is where the slots are not filled.

Senator EAGLETON. Title II–D?

Mr. GREEN. II–D and VI, yes.

Senator EAGLETON. Well, how many persons are being served in title II–D? The figure is 433,000. But how many actually?

Mr. KOMAREK. Currently we have in title II–D, 193,000 service years; in title VI, 202,000 service years.

Senator EAGLETON. Title II–D is 193,000?

Mr. KOMAREK. 193,000; and VI is about 200,000.

Senator EAGLETON. And about 200,000.

I'll ask, for the record, why is it when we have appropriated funds to serve 250,000, in II–D it's only 193,000?

Mr. GREEN. This came about due to the changes in the program: The characteristics of participants; as you know, the 18-month time limit; the change in adjusting to the lower wage standard; the time the final appropriation came; and the utilization of CBO's and other organizations that do the subcontracting. All of that occurred at one time, and that is why we are not at the level we expected, but we have commitments, as well as a process to assure that we maintain the mandated level.

Senator EAGLETON. Well, that column we have called "persons served"—explain for the record the difference between "persons served" and "slots."

Mr. GREEN. The "slot" indicates the period of time that a single job is funded. The "persons served" indicates the actual number of people that occupy the slot over its funding period. The average period of time

that a participant serves is less than a full calendar year. That's about 6 months that each individual occupies a PSE position on the average, so that you have more participants than you have slots.

Senator EAGLETON. In terms of slots then for title II–D, although the persons served is 433,000, the slot figure is 250,000; is that right?

Mr. GREEN. Right, sir.

Senator EAGLETON. And for title VI, 423,000 served, 200,000 slots?

Mr. KOMAREK. Correct.

Senator EAGLETON. And what was your figure, again, on title VI at the present time, sir?

Mr. KOMAREK. 202,000.

Senator EAGLETON. Now, on the rest of the items in CETA, they don't necessarily talk in terms of slots. It's discussed in the context of mostly persons served; is that right?

Mr. GREEN. Yes; for this budget table they are discussed that way.

PROGRAMS OPERATING AT LESS THAN CAPACITY

Senator EAGLETON. Going down the list, I don't need the exact title, but are there any of those items—any of those lines you've got on the "persons served" line where there are a significant number of vacancies—that is, that are unused assignments?

Mr. GREEN. No; I think all of these are pretty much occupied to their capacity.

Senator EAGLETON. The reason I ask these questions—by the way, a general question, none of the CETA programs are entitlements or mandatory accounts. When we get down into that unemployment insurance, et cetera. Those would be "uncontrollables."

But in CETA, they are "controllables"?

Mr. GREEN. That is correct, sir.

REAPPRAISAL OF 1981 BUDGET REQUESTS

Senator EAGLETON. I ask these questions because, as we all know, the President has asked various departments to reappraise their budgets and to see whether significant dollar savings might be attained in order to come close to a balanced budget for fiscal 1981.

The press has reported that there may well be a $1.8 billion cut in CETA. The press reports that this would be accomplished by a cut of 70,000 public service jobs, half a million summer youth jobs; eliminate the Young Adult Conservation Corps, now enrolling around 21,900.

I'm not asking you to comment on the precise accuracy of the press report, but it is fair to say, is it not, Mr. Green, that you have been asked, through Secretary Marshall, to take a second look to see where some savings might be made? Not you personally——

Mr. GREEN. That's an accurate statement, that we have been asked. But no decisions are final at this point.

Senator EAGLETON. It would appear then that title II–D is probably one ripe source, since you have 250,000 slots with only 193,000 currently filled.

Mr. GREEN. Well, Mr. Chairman, as we all are concerned about inflationary impact and reducing that in a series of controllable programs, I suppose any of them are ripe for possible budget cuts. We have not filled up to the level—and as I indicated before, the adjustment to the new changes in the program and other processes have us now with about 34,500 PSE positions between II–D and VI vacant.

NEW YOUTH LEGISLATION

Senator EAGLETON. Look at the line again from this sheet, "New youth legislation," where budget authorities asked for $1,125,000 for fiscal 1981.

Now, that is not all entirely new money, is it? It comes within that or some other youth programs that would be folded in there; right?

Mr. GREEN. It represents a consolidation of the existing three youth programs under the title IV, and approximately $300 million of new money being asked for in 1981.

Senator EAGLETON. $300 million new.

Now, is it also correct that the Department of Education will have a significant role, significant spending authority under this new youth legislation?

Mr. GREEN. Yes, sir; approximately $900 million would be forward funded to the Department of Education. In fiscal year 1982, the current plan is for each of the two Departments to have $1 billion in additional funds for this program.

Senator EAGLETON. As far as that department is concerned, that would be all new money. There's no consolidation.

Mr. GREEN. That represents new money.

Senator EAGLETON. Once again, since it's new money, maybe that's an area that the President will be taking a look at as well, the aggregate of $300 million new in the Department of Labor and $900 million new in the Department of Education.

Have you ever in your own mind, Mr. Green, done any sort of zero-based budgeting with respect to the various component parts to see——

Mr. GREEN. We engage in zero-based budgeting as part of our budget process continually, we think, Mr. Chairman. And as we have looked at the programs, we think that this present budget process reflects the zero-based budgeting approach.

RATING OF CETA PROGRAMS

Senator EAGLETON. As to the various components of CETA on this sheet, which of the programs do you think offer the greatest promise, which one, two, or three do you think offer the greatest promise? And which are the ones about which you have the greatest doubts?

Mr. GREEN. Well, I would answer it this way, Mr. Chairman, that the act is a comprehensive act, covering various parts of the employment and training spectrum. We have some programs which focus on disadvantaged workers, the economically disadvantaged. We have some focus on youth employment. We have some on workers that are temporarily unemployed because of changes in the labor market. We have programs for older workers.

If we are to maintain a comprehensive employment approach, I see no way to judge one over the other as being most important. You couldn't have a labor market policy that would take care of young people and not take care of their parents. That kind of dislocation I think would be bad policy, and in the end the thrust of our programs would be wiped out.

I don't see being able to make that kind of choice between which ones are most important and which ones the least.

UNCONTROLLABLE PROGRAMS

Senator EAGLETON. Well, it was sort of a dirty question, I admit.

In the second group of categories—the second category, labeled "Other," which ones of those items, 6 through 10, are uncontrolled?

Mr. GREEN. Unemployment insurance and FUBA, as well as advances to the unemployment trust funds and other kinds are uncontrolled. That would be items 7, 8, and 9.

STATUS OF CETA BUDGET CUTS

Senator EAGLETON. Without asking what your findings were, have you at this time transmitted to Secretary Marshall your evaluation of the CETA programs, wherein cuts might be made if they are forced to be made; not that they bear your stamp of approval, but have you been in communication with Secretary Marshall on the question of cutting certain dollar items in CETA?

Mr. GREEN. We have been in communication with the Secretary; yes.

Senator EAGLETON. Has he asked for your recommendations? And have those recommendations gone to him?

Mr. GREEN. Those recommendations have gone with the obvious caveat that we hopefully could maintain this program without having to cut.

CETA QUESTIONED COSTS

Senator EAGLETON. Now we will get into some cost questions on CETA.

Last year the Labor Department reported that 67 percent of CETA costs were questioned by auditors, but were eventually allowed by program administrators. What progress has been made to reduce the high level of CETA-questioned costs which are allowed by CETA pro-gram officials?

Mr. GREEN. Well, we think we have improved our collection process. Another important aspect is training of our branch offices and improving their ability to collect the debts. We have an increase in our debt collection as well as our reduction in our disallowance.

Of the $10,435,000 disallowed, we have 12 percent, $1.273 million repaid, $2.24 million under appeal, and 66 percent or $6,577,000 in debt collection.

Mr. WEATHERFORD. In addition to that sort of information, we are trying to improve those figures. But in the type of program that CETA is, you're going to have a goodly amount of questioned costs, which later can be substantiated by the prime sponsor. That represents a kind of a management problem.

As you know, we have been working hard on trying to improve that over the last 18 months or so. But a typical case is where an enrollee's record is not there to support his eligiblity. Later the prime sponsor can produce the information, and consequently, at that point in time, it ceases to become a question.

Mr. GREEN. I think also, Senator, one of the things the new legislation did in tightening the eligibility criteria was to help reduce the number of the old questioned cost problems that we had. Both in our titles II–A, –B, and –C, and –D, as well as VI, we have seen an increase of disadvantaged participation, as required by statute, requiring the local primes, with their independent monitoring units to set up tracking systems to determine who the individuals are and to have sufficient documentation to prove that.

TIMETABLE FOR RESOLVING QUESTIONED COSTS

Senator EAGLETON. How long does it take program managers on the average to decide whether to allow or disallow the cost questions and audits?

Mr. GREEN. By statute, 120 days.

Senator EAGLETON. In many cases, has it not taken time considerably beyond 120 days?

Mr. GREEN. I think, Mr. Komarek and Bob Jones can handle that.

Mr. KOMAREK. Yes, sir; particularly when ETA was engaged in developing the economic stimulus buildup, the audit reports for many reasons became a lesser priority. At this point in time, through that buildup period, we have established audit resolutions, debt collections as the top priority within the agency.

We are pleased to report that in the last fiscal year we decreased the number of audit backlogs—that is, audits older than 120 days from 1,420 agencywide down to 1,170, which is a reduction of 18 percent in the last fiscal year. Our goal this year is to reduce that backlog by an additional 25 percent, and we feel we can achieve that goal.

Senator EAGLETON. Would it be unreasonable to require that questioned costs be resolved within 90 days?

Mr. GREEN. I think, with the level of staffing and the amount of personnel needed to do that, it would be practically impossible.

Mr. KOMAREK. Sir, there really are two parts to an audit report. One is the administrative findings, the corrective action that is called for in the audit report, and it's important to know that immediate action is taken to correct whatever deficiency was pointed out in the audit report.

What takes time and what makes even the 120 days a hard standard to live by is the liability issue. Whenever you're asking the local government to repay to the Federal Government certain amounts of funds, it gets to be a complicated issue, with lawyers involved and legal points to be made. But immediate action is always taken on the administrative findings of the audit reports.

REDUCTION OF CETA GRANTS FOR DISALLOWED COSTS

Senator EAGLETON. To what extent have you used your new power to reduce current CETA grants by the amount of disallowed costs for previous years?

Mr. GREEN. Well, we have used that in a number of places with local prime sponsors.

Bob?

Mr. JONES. We can supply for the record the exact figure. But in a number of cases we have reduced either the entire program to another prime sponsorship or specific parts of it across the board. We disallowed costs and removed the moneys. It's not only just reducing the amount of CETA funds; in some cases it's requiring jurisdictions to put up funds or services to supplant that money.

Mr. GREEN. A case in point was here in the District, the problem we have with the City Council, that that was a means of——

Senator EAGLETON. That's the tool that you used?

Mr. GREEN. Yes, sir.

[The information follows:]

REDUCING GRANTS FOR DISALLOWED COSTS

In the four regions reporting grant reductions to recover costs disallowed after audit resolution, the offset amounts to $74,300 through September 30, 1979.

PLACEMENTS IN UNSUBSIDIZED JOBS

Senator EAGLETON. A recent GAO report criticized the Labor Department for not doing enough to see to it that more CETA participants move from public service employment to unsubsidized job. The GAO report pointed out figures for fiscal 1978 which show only about 35 percent of those who left public service employment got into unsubsidized job afterwards.

What is your response to this GAO criticism?

Mr. GREEN. Well, I think there are three major items. One, of course, the big change in the statute, is the involvement of the whole private sector thrust, the creation of the local prime sponsors of the PIC council. This is an important departure from when the GAO looked at the program that we now have in place.

Another is the training requirement in title II–D. That increases from 10 percent of funds allocated in 1979 up to 22 percent in fiscal year 1982.

The other one I guess is a fundamental question of what point in time do you look at the picture? Our continuous longitudinal manpower survey shows that that number improved significantly, when you go back and look at those participants, at roughly a 3- to 6-month period, that it improves up to over 50 percent for those individuals who receive employment.

If you look at it immediately after termination, that tends not to be the case. But over a longer period of time, for those individuals terminated from the program who receive job service and labor market assistance, and with the involvement of the private industry councils in interviewing and finding jobs, these actions should result in improvements in our placement activity.

Senator EAGLETON. What are your most up-to-date figures as to job obtainment of public service graduates?

Mr. GREEN. For 1979, the placement rate for title II–D was 46.6 percent and 35.6 percent for title VI. These figures represent placements immediately after termination from the program. Our CLMS data shows that 10 to 12 months after determination approximately 60 percent of the participants are employed.

But again, I think the major focus is, of course, the inclusion of private sector activity, the utilization of the target jobs' tax credit, as well as looking at the point in time that those individuals are terminated from various titles of CETA.

Mr. JONES. Mr. Chairman, I would like to point out also that that's direct employment. In addition to that number, a percentage of those people go into other positive types of termination, to school, or return to military or other kinds of activities which don't represent a failure in the program at all.

Senator EAGLETON. Do you have some statistics on that?

Mr. JONES. Yes, sir; the figures move on up to a total of 56.2 percent in title II–D and 47.4 percent in title VI. These are our reported figures from our fiscal year 1979 programs.

If we look into the CLMS data 6 months later, we'll find that figure approaching 60 to 70 percent in terms of the total positives.

EMPLOYMENT NEED PLANS

Senator EAGLETON. Again referring to that GAO report, it states, "Few participants in five prime-sponsored programs sampled by the GAO—there were few participants that said their employment needs were identified or that the required plan had been developed which detailed job experiences and services to be provided."

What is your comment on that?

Mr. JONES. Yes, sir; that report, as you will note, is based on fiscal 1978 experiences, and probably some in 1979, but most of it was 1978. The requirements of the new CETA amendments now require us to have employability development plans, counseling plans for all those people, so those new amendments address specifically that problem.

I think if you look back in the early parts of the program, the report is probably correct in that a large number of people were not counseled and prepared in terms of the long-term plan.

Senator EAGLETON. That, in your opinion, is in the process of being remedied?

Mr. JONES. Yes, sir; by law, we require now that all of them are approached on that.

Mr. GREEN. And I think activities such as job service assistance, et cetera, are becoming more and more part of local prime sponsor services to the participants.

Mr. JONES. In addition the new amendments also require training in conjunction with public service employment, which further forces the issue of preparation for employment in the unsubsidized market.

Senator EAGLETON. The report also said that most sampled participants reported they had not received formal training, either related or unrelated to the public service jobs.

It also pointed out that the required procedures have generally not developed and identified job-earning participants so that they could be referred to job placement organizations.

Is this again a situation where that was a true criticism, but that, too, has been remedied?

Mr. JONES. This was addressed by the 1978 amendments and is now a fiscally required set-aside for training in every one of our plans for PSE enrollees.

Mr. GREEN. I think the bottom of that, Senator, is the statute clearly didn't require it at that point in time. That was not an obligation on the part of the local prime sponsor, but now is.

CETA AVERAGE WAGE REQUIREMENTS

Senator EAGLETON. All right. Let's talk a little bit about CETA wages. The average wage requirements under the revised CETA law has drawn some criticism from prime sponsors, who claim the average wages are below the entry-level wages in public sector jobs.

Do we have any reliable evidence of entry-level, public sector wages by prime sponsor areas?

Mr. GREEN. We have—we do have wage data. However, at this point in time, we have no plans to alter that or to recommend to Congress to alter that. We think, in looking at the problem of the wage activity, that we can meet the requirements of the program statute. We have worked and are continuing to work with prime sponsors to create methods in which they can live within the wage restriction by better utilization of projects, the utilization of community based groups, and nongovernmental entities, and the utilization of training as a part of the PSE job slot. These all are continuous activities.

Either Bob Anderson or Bob Jones might want to amplify on that.

Mr. JONES. Clearly, the average wage requirement in some cases is below the entry-level wages in some of those jurisdictions, but not below other jobs in nonprofit agencies and organizations. The new amendments clearly move more of the jobs in those areas, and I think that's the intent of the Congress in trying to be a little more cautious of the substitution issue. So we are below those entry levels in some cases, not in all cases.

Mr. GREEN. The other aspect that is a major focus is the targeting that both Congress and the administration were interested in. Targeting to those most in need, has been a big concern as Bob said, in eliminating substitution, and we think the average wage requirement restrictions are helpful in that light.

Senator EAGLETON. Do the cost estimates in the budget assume any change in the CETA wage requirements?

Mr. GREEN. None, sir.

Mr. KOMAREK. The only increase that we have in there are increases reflecting inflation, 7 percent in II–D and 6 percent in title VI.

Mr. JONES. They don't contemplate any change to the wage requirements that are in the law.

UNDERESTIMATES OF PSE FUNDING REQUIREMENTS

Senator EAGLETON. Your latest data shows public service job enrollments continue to slip below your expectation as resulting in the shortfall in spending apparently of about $800 million. Yet you indicate that the entire $800 million is still needed, since the—since you underestimated the amount necessary to finance these jobs in the fiscal 1980 appropriation.

My question then, specifically, where were your estimates off and by how much?

Mr. KOMAREK. The basic problem in estimating that occurred last year was an assumption that all unspent funds at the end of the year would be available to create jobs in the new fiscal year.

In fact, an awful lot of the funds—and this is the reason for the disparity—are actually tied up and committed in the CETA prime sponsor system. For example, there are expenditures being reported at the local level to purchase various items. On the other hand, the bills have not come in for those items at the end-of-the-year cutoff. In fact, those funds have not been outlayed by the Treasury, so the basic estimating problem was tied up with this pipeline flow analysis. And we believe that in our 1981 budget estimates that that problem has been corrected.

YOUNG ADULT CONSERVATION CORPS

Senator EAGLETON. Let's discuss a little the Adult Conservation Corps I referred to earlier that one of the press accounts indicated that it's one program area that's being reevaluated.

The Young Adult Conservation Corps has a projected unit cost of $12,652 for fiscal year 1981, giving it just about the highest unit cost of Department of Labor youth employment program.

By the way, is it the highest unit cost? Or is Job Corps higher?

Mr. GREEN. Job Corps is slightly higher.

Senator EAGLETON. Just for the record, what is the Job Corps figure?

Mr. GREEN. The Job Corps is $13,383, including an increase for energy saving projects.

Senator EAGLETON. $13,383

Why is the unit cost so high for the Young Adult Conservation Corps? And is there any way we can bring that down?

Mr. KOMAREK. Well, the basic reason for the high costs, is that, like Job Corps, it is a residential program with intensive services being provided to the enrollees. Obviously, the costs could be brought down, but that would be done at the expense of providing the services to the enrollees.

Senator EAGLETON. Is it true that a majority of the participants in the program are not economically disadvantaged?

Mr. GREEN. That is correct. The program is the only one of the youth activity that is not targeted on the economically disadvantaged.

Senator EAGLETON. From your Green budget book, the figure appears to be, for the youth program, and that specifically with the one we have before us, the Young Adult Conservation Corps, only 34 percent of the enrollees are economically disadvantaged?

Mr. GREEN. That is correct.

Senator EAGLETON. Shouldn't it be the other way around? I realize that this program is structured a bit different than some of the others. Should there be at least 66 percent of the enrollees be economically disadvantaged, rather than one-third? Shouldn't two-thirds be disadvantaged?

Mr. GREEN. Again, this goes back to the character of a comprehensive program. When the youth legislation was finally in place, it was thought by the Congress that this program should be the untargeted program. And consequently there is no statutory requirement that we have to target it on economically disadvantaged.

Senator EAGLETON. If you were asked to redesign the program, would your personal preference be that it be more directly targeted on the economically disadvantaged?

Mr. GREEN. I think, in a point of scarce resources, we have to look at that. It is an issue that we are continually reexamining. But I don't think, Mr. Chairman, without sufficient authority, we certainly couldn't do that.

We are hoping, under the youth employment legislation, to open up that kind of discussion about whether this activity would be one that would be more targeted on.

PARTICIPANT DROP-OUT PROBLEM

Senator EAGLETON. In 1978, it appeared that 41 percent of the participants in this program left the program for negative reasons, some resigned, some were dismissed, et cetera. Would you comment on that?

Mr. GREEN. Well, there are two comments I would give. One, as you know again, statutorily we don't have responsibility for the operational aspects of the program on a day-to-day basis. That is performed by the Department of the Interior and the Department of Agriculture. We are simply involved in referring the applicants to these agencies for placement.

Second, I would think that we get greater results with our youth participants when we are able to give them connective services such as training for unsubsidized employment and up-to-date information on where the jobs are. Probably this is an area that needs to be looked at in terms of that program.

JOB CORPS UNIT COST

Senator EAGLETON. I mentioned the Job Corps earlier as we began to discuss the Young Adult Conservation Corps. It has, I guess, the highest unit cost, $13,383, you mentioned. Why is it about $1,000 higher than the Conservation Corps?

Mr. GREEN. Well, the range of services the Job Corps provides for participants are much more. As you know, Job Corps has an important

aspect of providing health improvement for the participants, as well as the counseling and training that go in the various Job Corps centers. And this reflects some of the reason for higher costs. It's really the range of supportive services that go into the Job Corps participants.

I might also point out that Job Corps has one of the highest placement rates of our program activity, something in excess of 90 percent of the participants are placed coming out of the Job Corps.

Senator EAGLETON. On that very subject, placements, again the GAO—I guess they're sort of your nemesis.

Mr. GREEN. We spend a lot of time together. [Laughter.]

GAO REPORT ON JOB CORPS

Senator EAGLETON. They report the Labor Department computes the Job Corps placement rate in a manner that depicts the program, I guess, in an unduly favorable light by including placements for youths who are among the following: Spend a minimal amount of time in the Job Corps or have been out of the Corps for extended periods before they meet the placement criteria. Could you comment on that?

The inference in the GAO report is your methodology in computing success tilts unduly optimistically.

Mr. GREEN. Well, that would not be unlike GAO. I think one has to do with positive terminations, and I suppose it has to do also with our focusing on those who complete Job Corps and not those who drop out.

Two things that have changed in the Job Corps, and I think it reflects again the quality of improvement in the Job Corps, are that the participants are staying in for a longer period of time; we are reducing the dropout rate; and we expect to continue increased placement activity.

But when looking at the trends, we see the dropout rate decreasing. And again, we are moving to try to correct and improve placement for those participants.

SUMMER YOUTH EMPLOYMENT PROGRAM

Senator EAGLETON. Summers jobs program next—from a managerial point of view, administrative accounting, and all of those things thrown in, is the summer youth program perhaps your most difficult employment and training program to manage, and to evaluate, and to monitor?

Mr. GREEN. I think it would rank near the top. One major reason, of course, is the size. It's basically a 9-week program. It utilizes a large number of work sites and organizations that operate the program. Over 300,000 work sites are involved in the program and almost 1 million young participants are involved. Organizing that over a 9-week stretch does present some problems.

Senator EAGLETON. How many Job Corps centers are there?

Mr. GREEN. Well, there will be 107 Job Corps centers. We're not up to that.

Senator EAGLETON. So, trying to exercise supervision and ongoing monitoring in the Job Corps programs in 107 sites is, although not sim-

ple of itself, it's by comparison much easier than trying to monitor 300,000.

Mr. GREEN. One of the things we did, Mr. Chairman—a concern expressed last year, particularly by you and some of the other members—we moved to increase significantly our monitoring by our national office people, the regional people, as well as by staff of the local prime sponsors.

We concentrated a great deal of attention on 11 of the largest local units of government that have significant numbers of particpants, not only in overseeing the sites but getting involved in the training of the supervisors, being able to check out work sites and work stations to make certain that they provide a range of services for the young people; and when we found those places being inadequate, we were able to move quickly to change youth participants from poor work sites to ones that had better focus and better operation.

INELIGIBLE PARTICIPANTS

Senator EAGLETON. How many ineligibles did you find in the program this past summer?

Mr. KOMAREK. We do not have records on that at the hearing, but we will be glad to supply it for the record.

Senator EAGLETON. Do you have it for the summer before, for the summer of 1979 or the summer of 1978?

Mr. WEATHERFORD. I expect our monitoring during the past summer I believe revealed a significant number—I believe Mr. Green said—of sites that we shut down. That's not ineligible people. That's just management.

But I expect that the enrollee ineligibles will come in our audit process, which will be ongoing.

[The information follows:]

INELIGIBLE SUMMER ENROLLEES

Data on ineligibility in the summer program is not readily available since under CETA the Department relies upon the sponsors' self-initiatives to police their programs. The summer youth employment program regulations require sponsors to adequately explain in their comprehensive employment and training plan, the process that will be used for determining participant eligibility and verification. The process must include efforts to validate family income, residence, employment, and welfare status of each participant; also, the process must include a verification of a random sample of participant's eligibility on a quarterly basis. The sample must be adequate to establish credibility of the system and determine its reliability. As an additional safeguard, some sponsors request information on family and household size, income, etc., several different ways, on different forms, to cross-check eligibility data while others utilize program staff to follow up on applications for verification. As indicated, these efforts are based on the Department's regulatory criteria.

Although we do not systematically gather data on ineligibles in the CETA programs, all indications tend to support that serving ineligible youth in the SYEP is not an immediate problem. A review by GAO of the New York City's 1977 SYEP reported that after a review of participant records by the Department of Labor staff, only 2 participants were found to be ineligible once income verification was made. Other sources of information resulting from numerous monitoring and review visits conducted by Federal, prime sponsor and staff of the Office of Inspector General (OIG), U.S. Department of Labor, substantiates the absence of participation of ineligible youth in the summer program. The Department has taken steps to strengthen the provisions address-

ing eligibility determination and verification over the past few years and will continue to do so, as necessary, to insure that only eligible youth are served. These efforts, we feel, have minimized this as a significant problem.

EARLY INFORMING OF LOCAL PRIME SPONSORS

Mr. GREEN. I think, Mr. Chairman, three or four things that are important changes in the eligibility question—one is being able to inform local prime sponsors earlier as to what their expected operational level was.

Two, we require more specificity in the documentation of who the participants are.

And three, that we have utilized as part of our review a sampling of participant records against who the individuals are.

And we found last year that about 95 percent of the work sites provided meaningful work, as compared to the GAO report for 1978, which found only 40 percent of the sites providing that.

I think we are moving in a direction to improve both quality of work and training. Part of the history of this program, Mr. Chairman is that it was initially seen as an income maintenance program and not training for the young participants. I mean, we simply stuck money in kids' pockets so that they wouldn't break up things during the summer, rather than to engage in some job counseling, exploration, job attitude questions. All of these are changes that we have made to improve the summer employment program and make it more that just income maintenance.

Senator EAGLETON. Did I hear you say that 95 percent of the enrollees now were in meaningful jobs?

Mr. GREEN. The work experience activity last summer was meaningful work. Most of the participants, over 90 percent of them, returned to school the next year. The majority of the young people that participate in this program are going back to school, so that's an important aspect of it.

Senator EAGLETON. Just about a year ago this time we had a hearing on this subject matter, and the criticism frequently expressed was many thousands of participants, tens of thousands in this program, were not engaged in any form of meaningful work.

In your testimony here today, it is that 90-some percent are in some form of meaningful work. Can you give us some illustrations of the kind of meaningful work you think it has now accomplished?

Mr. GREEN. We have youngsters attached to day care centers, providing not just custodial activity, but engaged in providing assistance for the parents who leave their children there.

We've had some that are stationed in health care facilties, and they participate in that type of activity. We have others that work in public institutions like libraries, in which they get engaged in checkout, get engaged in being able to file records and other activities.

We have some that are involved in other public institutions in which they have a schedule that allows them to learn some skills, things like clerical, typing, numerical computation.

One of the aspects of the library, of course, is being able to improve one's reading skills. These would be just some examples of meaningful work, in which the youth participants are involved.

FOLLOWUP STUDIES ON JOB PLACEMENTS

Senator EAGLETON. Have you done any followup studies as to job placement of these youngsters? You do point out that 90 percent of them go back to school. Have you done any studies on what happens the year after?

Mr. GREEN. There are some longitudinal studies that have been done on summer youth employment participants. The major thing I think to be accomplished is some 90 percent of them are returning to school, that this is a positive work experience, that it builds the dossier of work experience so that when they do leave school. They are able to at least see this as a realistic experience of what a job is about and that they do learn something.

But I think the expectation some people have that they learn specific skills from this seems to me is not the intent of the summer program. It is to improve their employability down the line for these young people, and it's a benefit.

If you look at most people's personal experience on summer jobs, you may have a lousy job that helps you make up your mind not to go into that occupation and be able to be a little bit clearer about where you want to concentrate your efforts.

PRIVATE SECTOR TRAINING

Senator EAGLETON. All right; let's move on to private sector training.

Under the private sector initiative programs, private employers can provide or become involved in classroom training, on-the-job training, and services such as outreach, intake counseling, job development, job search assistance, job placement.

What particular types of private sector training and services do you find to be most promising?

Mr. GREEN. I can give you some anecdotes that I think are important ones that I have seen.

Recently, Rochester, New York, which is an important tool and dye part of our manufacturing industry—what had happened in Rochester was that they used the PIC money to develop, with the tool and dye industry there, employment and training opportunities for some 35 to 40 CETA participants, some of them on welfare, formerly on welfare—a really focused training activity, using up-to-date equipment and materials, and that these individuals will go from that PIC Title VII experience, with two years credit as an apprentice, into the regular tool and dye machine activity.

As you know, we have a shortage in some places of tool and dye workers.

Another example is in St. Louis, which—the PIC is a multi-jurisdictional PIC. It involves both Illinois and Missouri, taking over the entire labor market, not just what the local prime sponsor focuses on,

but bringing together businesses and firms in an organizational arrangement to provide employment in the St. Louis area.

The jobs are going to be—a number of them in the blue collar area, skilled occupations; some that will be in white collar jobs. But we expect a great number of them to be above—far above the minimum wage and to have a career ladder track that will allow the participants to move from the point of entry through the firm.

Senator EAGLETON. What is the PIC program and the private sector training, et cetera? What is the financial arrangement between the private employer and the employee?

Mr. GREEN. Well, the major focus would be on-the-job training stipends contract that the PIC would negotiate with that firm. And it depends upon the degree of difficulty of the job that really determines the amount of on-the-job training.

The other aspect is the utilization——

Senator EAGLETON. Is the full salary, whatever it is, picked up——

Mr. GREEN. Well usually, I think the average of on-the-job training overall is about six months—it's 50 percent of the salary that that individual is paid, depending upon what the occupation is. And we have a schedule for that. Bob Anderson might want to amplify that.

Mr. ANDERSON. Mr. Chairman, while we were talking about the private sector activity, there are several other linkage activities that go kind of hand in glove with our private sector approach.

I think it's interesting to note that recently Secretary Landrieu of the Department of HUD released the first quarter UDAG, approximately about $123 million. Consistent with those UDAG grants, approximately 13,600 jobs would be created as a result of that UDAG activity in the communities where those grants have been let—17 percent of those 13,600 jobs have been set aside for CETA-eligibles.

So that, consistent with our private sector approach, we are linking the CETA program with a variety of economic development activities that are taking place, both generated in the private community as well as generated by other federal agencies, where given the CETA activity, we are able to impact on those economic development activities to provide for more jobs, new jobs in the private community.

The PIC councils will be very much involved in that, looking at those new strategies.

CETA LINKAGES WITH THE PRIVATE SECTOR

Senator EAGLETON. Give me an example of how that linkage works in the specific case with the CETA work. Is the full salary wage of the individual paid for out of CETA funds? You say 50 percent?

Mr. GREEN. Fifty percent of the individual's salary.

Let's say that UDAG is involved building a shopping center and that part of it were retail firms, J. C. Penney, Sears, and the like. We could get involved in paying 50 percent of those new workers' salaries for CETA-eligibles, such as clerks, accountants, inventory control people. We do it over a period of time on an average of about 6 months, to offset the learning process and the loss of productivity of new workers.

Senator EAGLETON. What do your analyses and studies show in terms of continued employment by private sector trainees?

Mr. GREEN. Well, I think all of our data for the last few years that I've seen shows that OJT has the highest benefit to participants, both in terms of attachment to the job and wages after training. So that it is probably at the top of our list—the Rolls Royce of our series of training activities that participants can have and where the benefits are the strongest.

Senator EAGLETON. If it's the program that shows the most promise, why aren't we putting more emphasis on it and perhaps a little less emphasis on some of the others?

Mr. GREEN. Well, I think my answer is, we are. We have, as I indicated earlier, a statutory requirement for training in public service employment. The training component in title II–D increases over the next 3 years.

Second, the mandate of the PIC's and the utilization of the targeted jobs tax credit will both lead to an increase in the training mode.

Senator EAGLETON. This program began in 1979, did it?

Mr. GREEN. Yes; title VII did, yes.

UNDERSPENDING IN PRIVATE SECTOR PROGRAMS

Senator EAGLETON. Is it true that you've only spent $10 million of your $325 million in budget authority?

Mr. GREEN. Yes, that is correct, of the OJT activities.

Senator EAGLETON. Apparently it was slow in starting up. Why was it?

Mr. GREEN. Well, as I think we all recognize, this is a fundamental institutional change in how business was being done. One of the things we tried to work very hard on was setting up the PIC's by bringing together participants from the business community as well as labor and education along with members of the business community.

We also are attempting to focus a lot of our attention on small- and medium-sized firms. In the past, we have had a heavy concentration on Fortune 500 and Fortune 100 firms, and that doesn't reflect the real employing community in the local area. Our problem was not having sufficient mechanism to reach small and medium-sized employers. The PIC, I think, will facilitate on that.

Mr. JONES. I think it's important, Mr. Chairman, to point out that we're basically on schedule for what we would expect to have during that period. The funds for those programs were put out during the end of last year. PIC's across the country have now been formed in 99 percent of the jurisdictions that we have. Expenditure rates are picking up very rapidly.

So rather than try to make a numbers game out of it, we're worrying about the quality of jobs and quality of relationships with the private sector. You'll see that continue to increase throughout this year. That's about the schedule we have predicted.

DISPLACED HOMEMAKER

Senator EAGLETON. Why haven't you earmarked funds in your fiscal 1981 budget, as you did in the 1980 budget, to continue displaced homemaker projects?

Mr. GREEN. We haven't at this point finished any of the earmarking of our national accounts program. That is one of the things under consideration, Mr. Chairman.

Senator EAGLETON. I am not quite sure I comprehended your answer. You think earmarking is essential or not?

Mr. GREEN. Well, we showed it in 1980. I think you have a series of title III activities that we earmarked specifically for 1980. We have not accomplished that as of yet for 1981.

Senator EAGLETON. For section 301, title III, the total amount of that program in the fiscal year 1980 budget was $123 million, correct?

Mr. GREEN. Yes.

Senator EAGLETON. And you are asking for $98 million in the fiscal year 1981 budget, a cut of $25 million, correct?

Mr. KOMAREK. That's correct, sir.

Senator EAGLETON. Where are those cuts going to be made?

Mr. GREEN. We have not determined where they will be. A review of all the programs is something that we want to be able to make as part of improved management against its goals for 1980. And we have not come to a final decision about those programs.

It is important to note that the fiscal year 1980 column reflects a carryover that is not yet reflected in the 1981 numbers.

Senator EAGLETON. On national programs, title III, what part of that is welfare reform demonstrations, et cetera?

Mr. GREEN. $281 million.

Mr. Chairman, this only reflects the special program activity. I guess we have to get you another sheet that will show you the full amount of title III activities, which will be a total of $650,908,000.

Senator EAGLETON. That's your total request for budget?

Mr. GREEN. Yes.

[The information follows:]

FISCAL YEAR 1981 TITLE III PROGRAMS

[Dollars in thousands]

Program:	*Fiscal year 1981 request*
Migrants	83,225
Indians	80,975
National programs	151,298
Program Support:	
Technical Assistance and Training	18,510
Labor Market Information	12,600
Research and Development	15,000
Evaluation	8,300
Welfare Reform Demonstration Projects	281,000
Total title III	650,908

Senator EAGLETON. I'm sort of trying to break it down at least in my own mind. Just breaking down now, the title III: farmworkers, migrant farmworkers, et cetera, the 1980 budget of $79 million has increased to $83 million in 1981, an increase of $3 million.

Mr. GREEN. Yes, sir, that's correct.

Senator EAGLETON. Native Americans and Indians, changed from $78 to $80 million.

Mr. GREEN. That is correct.

WELFARE REFORM DEMONSTRATION PROJECTS

Senator EAGLETON. Now, tell me about the welfare reform demonstration pilot projects. That has the biggest change, apparently, from the 1980 to the 1981 budget. It goes from $175 to $281 million.

Mr. GREEN. Well, as you are aware, Mr. Chairman, the administration has sent up—it's presently before the Congress—legislation to improve how we move individuals on welfare into full employment. As part of this effort, we began 16 demonstration projects, pilots in 16 areas around the country. These would allow us to see the program activity.

One is in central Missouri. I have forgotten the counties, but I think it covers four counties in central Missouri. We are trying to test in these areas the things that we have gained from CETA such as being able to concentrate job counseling information, job search activity, and thereby moving the participants into unsubsidized employment. Where we are unable to do that, we provide subsidized employment on public service employment job slots for those individuals, with heavy training activities, so that we can move them to full-time, unsubsidized employment.

This budget item reflects the maintenance of these 16 demonstration sites throughout the country.

UNSPENT CARRYOVER FUNDS

Senator EAGLETON. How much money is unspent in this year that would be carried over?

Mr. KOMAREK. In the total national account, we project a carryover of $286 million this year versus $228 million for the previous year.

Senator EAGLETON. How much carryover this year?

Mr. KOMAREK. $286 million.

Senator EAGLETON. The fiscal 1980 budget authority was $528 million and you're going to carry over $286 million?

Mr. KOMAREK. We have $536 million in budget authority for 1980. The $286 million is reflected in terms of unspent carryover we're talking about.

Senator EAGLETON. Why that rather sizable, very sizable carryover?

Mr. KOMAREK. Part of that is reflected in lower budget authority requests. For example, as we cited earlier, in the special program accounts we are basically asking for a straight ahead operation; and because of the larger amount of carryover, are able to request a lesser amount of budget authority in that particular account.

Senator EAGLETON. A program roughly of a half a billion dollars should carry over $286 million, carry over more than half of it; I don't understand it.

Mr. WEATHERFORD. Mr. Chairman, many of the contracts that have come out of this are funded throughout the year. It's not a program that starts at the beginning of the fiscal year and ends at the end of the fiscal year. We contract some of the major programs in August, September, something like that, and much of that money has been obligated, but not spent. So it's not truly new money that can be put into new projects, but it's money that has not been spent for projects funded at various points of time during the previous fiscal year.

It's not carry-in as we use it in other programs.

Senator EAGLETON. I'm going to yield to my minority counsel and let him ask the question because it's important.

Mr. KAGANOWICH. Your question was on your point about reducing your expenditure for the succeeding year. How can you do that if you have so much carry-in, but you can't actually use the carry-in?

Mr. KOMAREK. As Mr. Weatherford indicated, a good part of this carry-in was planned carry-in. If you obligate a contract, say, halfway through the fiscal year for a 1-year operation, you in fact plan to carry in half of the money. And essentially what we're saying is that we are operating close to what we planned to do, but we in fact planned to spread the obligation of these contracts throughout the year.

One of the problems that we face in a large grantmaking agency such as ours is a fantastic peak workload business occurring around the first of the fiscal year. If we had every single grant within ETA expiring on September 30, with reobligation on October 1, we'd probably need 10,000 additional staff for those particular months of September and October.

So in fact what we do is we plan to obligate the grants in a phased process throughout the year.

Mr. WEATHERFORD. Mr. Chairman, I might add, you were referring to our green book. Our actual unobligated carry-in for the year was $48 million, not $200 million, as was shown in here. That's the money that was unobligated to carry in to 1981.

Senator EAGLETON. Is it out of that unobligated balance of $48 million that you're going to, in essence, be able to make up the $25 million cut in section 301 budget?

Mr. WEATHERFORD. Yes, sir.

REDUCTION IN SECTION 301 PROGRAMS

Senator EAGLETON. Do I take it that there will, in net sum effect, be no cutback in section 301 funds because of the unobligated balance?

Mr. WEATHERFORD. I don't think I could say that for every item in there, Mr. Chairman. But basically, the total amount is going to be the same. Most of our programs, particularly those targeted for outreach and so forth, the major programs are going to be maintained at the same level.

Ms. KING. We won't know precisely until the end ——

Senator EAGLETON. I can't hear you.

Ms. KING. We will not know precisely until the end of fiscal 1980, when we can identify how much of the fiscal 1980 funds are carried forward into fiscal 1981. In terms of new budget authority, there is about a $1.4 million reduction in other national programs.

Whether we will have an equivalent amount of carry-in funds, unobligated balances available in 1981, as we had for 1980 we will not know until the end of the fiscal year.

Senator EAGLETON. Since we don't know where, if anywhere, cuts are going to be made, that methodology leaves us in the position of appropriating funds but not knowing how they are going to be used in this Section 301 area, doesn't it?

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Mr. GREEN. Mr. Chairman, one of the things on these programs is the ability to review performance and not guarantee, without being able to review them, what the program operation funding level will be. We will not know that until we complete a contract with them, we then review that, determine the effectiveness and see what next year's fundings would allow.

Mr. WEATHERFORD. I think as a general matter we don't envision curtailment of any of these activities in here. One of the biggest items as reflected in the table between 1979 and 1980 is older worker reduction, and that reflects our transition away from our title X projects.

You recall the period of time we were transitioning out of that, and that figure has been coming down over the last several months. But other than that, I don't believe as a general statement we plan to reduce our levels in any of these. Our proposed budget, if you consider the carry-in, would let us continue operating at about the same level.

REDUCED FUNDING FOR DISABLED VETERANS OUTREACH PROGRAM

Senator EAGLETON. Moving on. National programs, veterans—what's your rationale for cutting funding for the disabled veterans outreach program, cut from $26 to $21 million?

Mr. WEATHERFORD. Mr. Chairman, you recall this is a program that we started with an economic stimulus package. It's been one of the more successful ones. It's been successful in two ways: We've had a marked improvement in placement of disabled veterans, particularly Vietnam; but a second area of effect of that has also been that these disabled veterans that we hire, at the local employment offices are finding unsubsidized jobs on their own. About 400 or 500 of them have found jobs within the employment security agency that hired them. Others have found jobs through the work that we have done on it.

Our strategy during the whole period was to phase that program down, the idea being, as we find jobs for disabled veterans, the requirements will ease up. We changed that policy last year because of the emphasis the administration put on the Vietnam era veteran. We still believe in the process of transition. These folks will continue to find jobs in the agency and deliver the service to the veterans as regular employees rather than temporary or contract employees.

It's a very successful program and we're certainly not intending by this move to reduce the service to disabled veterans.

Senator EAGLETON. What are your estimates as to the size of the population needing the outreach by DVOP, and how many of that population are you actually reaching?

Mr. WEATHERFORD. Mr. Chairman, I don't have those figures, but we have in the total scheme of things about half a million disabled veterans in the country that we are trying to provide service, both VA and ETA at the same time. But I don't have the exact figures.

Senator EAGLETON. About half a million——

Mr. WEATHERFORD. Disabled.

Senator EAGLETON. With a $26 million budget last year, how many did we assist?

Mr. WEATHERFORD. Dave, do you happen to have that?

Mr. WILLIAMS. Mr. Chairman, we placed in jobs approximately 45,000 of those disabled veterans.

Senator EAGLETON. That you can attribute to this program?

Mr. WILLIAMS. No; that is with regular employment service funds. But we did have DVOP staff, obviously, working in the local offices. So we can't attribute it directly on a one-to-one ratio. But we certainly think that's helped in providing an understanding of the veterans' problem and assisting them in being placed.

Senator EAGLETON. 45,000, is that it?

Mr. WILLIAMS. Yes, sir.

Senator EAGLETON. Do we have any—do you have any rough figures on how many unemployed disabled veterans there are, that are seeking employment?

Mr. WILLIAMS. We had applications from approximately 132,000 in fiscal year 1979. And as I indicated, about 45,000 were placed in jobs. We were able to counsel about 26,000 more, and I guess about 118,000 of the total of 131,000 who came to our offices we were able to provide some service to. But we were actually only able to place about 45,000 of them in jobs.

Some of them needed additional services. Some of them were not, at the time they came to the office, ready for placement in a job. They needed to be referred for other services.

CONSORTIA BONUSES

Senator EAGLETON. It appears that you're phasing out these consortia bonuses. Could you tell us why that is the case? Have they not lived up to your expectations or what?

Mr. GREEN. I will try to generally answer this. Mr. Komarek or one of my other staff can amplify on it.

We are required to pay attention to a number of other items before we get to the consortia bonus out of the discretionary funds. The other things that we were obligated to pay resulted in a reduction percentagewise of the amount of money we had available for consortia.

Tom?

Mr. KOMAREK. That is correct, Senator. In 1979 we provided a bonus of 7.3 percent or $30 million. In 1980 it is only $9 million or 2 percent of the local prime sponsors' funds. In 1981 we have not determined the final amount, although, as Mr. Green indicated, we are interested in continuing the practice of providing consortia bonuses consistent with the amount of funds available.

Mr. WEATHERFORD. One of the things we are faced with, Mr. Chairman, is that as the obligation or the amount of money becomes less, the hold-harmless provision takes up a larger part of the total money that is available for that program.

Senator EAGLETON. In terms of your own professional evaluation of the effectiveness of these consortia bonuses, do you think they have been effective? Are they a relatively high priority item, as you see it, or should they have a lower focus?

Mr. ANDERSON. Mr. Chairman, they have been very effective and I think go a long way toward keeping our multiregional approach or

comprehensive approach for many of the prime sponsors intact. Prime sponsor communities see them as being very important to them, allows them to do some cooperative kinds of things. We would like to keep the practice in place.

Mr. JONES. We've got 470 prime sponsors today, Mr. Chairman. We'd like not to see that figure grow. We'd like to keep those consortiums going as much as possible.

Senator EAGLETON. If you're cutting back the consortia bonuses——

Mr. JONES. No, sir; we're not cutting them back.

Senator EAGLETON [continuing]. From 7 percent last year to 2 percent this year?

Mr. JONES. We're not cutting them back. We're required by law—the funding in the law mandates how the discretionary money is to be used. It tells us precisely, point by point, and the last item on the list is the consortium bonus. So consortia are funded only with the funds that are left. That happens to be in the last 2 years——

Senator EAGLETON. Did you use some of your title III discretionary funds for that purpose?

Mr. JONES. I can't answer that. But we could by law.

Senator EAGLETON. What did you spend on consortia bonuses in fiscal 1979? What was budgeted for fiscal 1980?

Mr. KOMAREK. $30 million in fiscal 1979, sir, and $9 million in 1980.

Mr. JONES. As he indicated, we can't tell you the 1981 figure until we've got the appropriation and we go through that and determine how much those other items require.

Senator EAGLETON. Except you could use the discretionary title III funds. But if the program serves a useful managerial purpose—and you believe it does; I suspect that it does as well—is the program going to hang together as well with funding at $9 vis-a-vis $30 million?

Mr. JONES. No, sir.

Senator EAGLETON. On February 19, a group of House Members, about 10 of them, wrote to Secretary Marshall on this very subject matter and pointed out some of the things that we have just gone into in this questioning. It would seem if we cut back on the anticipated moneys for these programs, couldn't it lead to a breakup of many of these rather carefully forged local agreements to coordinate employment and training services?

Mr. JONES. Yes, sir; that would be the result if you continue to reduce those funds to a zero level.

Senator EAGLETON. What's your evaluation of the work incentive program? It's the last item on this sheet, item No. 11; an increase of about $20 million in budget authority, 59,000 persons served.

Ms. KING. Senator Eagleton, I would like to mention that 59,000 figure relates only to persons served in the work and training component of the program. Merwin Hans who is our Director of the Office of work incentive programs, might want to elaborate on that.

Senator EAGLETON. So another formulation of this, it's not persons served, it's not size; it's what?

Ms. KING. It's persons served only in the work and training components as estimated for 1980 and 1981. Mr. Chairman, let me give you

about two or three other figures that relate to that. The program registered about 1 million people last year, most of these heads of AFDC families. It appraised over 600,000 of those, and 297,000 of them entered employment. It cared for about 125,000 children on a daily basis. It provided work and training activities to about 100,000 people in that period of time.

That's the broad framework of the program.

Senator EAGLETON. Your costs don't show, do they, that the work incentives programs indeed saves $560 million in welfare benefits?

Mr. GREEN. That is correct. Welfare grants are expected to be reduced in 1981 by about $2 in benefits for each $1 cost, or about $560 million.

Senator EAGLETON. If we are confident of those figures, it's, in your words, almost a two-for-one saving, why wouldn't this be a program that we would want to substantially increase?

Mr. GREEN. I think, as previously, we were talking of the welfare reform demonstration programs and the administration's welfare reform proposals. We built in a lot of the positive aspects of WIN into that and moved toward providing close integration with CETA.

INTEREST CHARGED ON UNEMPLOYMENT BENEFIT LOANS

Senator EAGLETON. I've got a question on charging interest on unemployment benefit loans.

Under the present law, States may obtain interest-free loans from the Federal Government to cover unusually high benefit costs. It currently appears about $5 billion is owed to the Federal Government by a few States.

My first question is: Does the Department favor charging interest on these loans to the States?

Mr. GREEN. Mr. Chairman, let me ask Larry Weatherford to respond to that. He's my expert on UI matters and very knowledgeable.

Mr. WEATHERFORD. I don't know so much about that, Mr. Chairman, but our position on it has been with respect to loans, that we should not make a judgment until the National Study Commission, which Congress commissioned in 1976 headed by Mr. Wilbur Cohen, reports to the Congress and the administration in June.

I might say the figures that you use there happened during the last recession when we had about 25 States that did go broke and had to borrow from this particular loan fund, or as we call it, the Federal unemployment account. They borrowed about $5.6 billion, but they paid back nearly $2 billion of it.

There's been substantial progress in making those payments back. The basic issue of interest on those things is that States get into trouble with funds. In other words, they don't anticipate the level of unemployment to accumulate the right sort of trust fund. There are two sides to that issue. States that need to borrow are already in difficulty from an economic standpoint, and to charge interest just compounds the problem. The philosophy we've had in the past 20-odd years with that fund was not to charge interest on the repayment they are required to make.

Some of these States have tended to take advantage of no interest and delay making repayments. There's no way to prove that, but for example, 11 of them have already repaid all of their loans. With some, we're not making much progress. So there's some thought being given to charging interest on these loans.

Senator EAGLETON. Did I hear you say 11 States——

Mr. WEATHERFORD. Have repaid.

Senator EAGLETON. Have repaid, so they're current—39 have not paid?

Mr. WEATHERFORD. No, sir, only 25 had to borrow in the first place, so we have 14 that now are in debt to the fund.

Senator EAGLETON. Twenty-five States had to borrow, 25 did it on their own; 25 borrowed, 11 have repaid, 14 have not?

Mr. WEATHERFORD. Yes, sir.

Senator EAGLETON. Is there, in your opinion, a need for any legislation, congressional guidance, in order to heighten the repayment process?

Mr. WEATHERFORD. It has come under a good amount of consideration. As you know, the Finance Committee held some hearings and talked about it, but they did not act on that. They did pass a bill yesterday, if you recall, on cost-cutting measures. But by and large they did not address this issue.

Generally, we're waiting for the results of the study commission, and that's one of the items that they talking about. The administration has generally said we shouldn't propose unemployment legislation unless it's absolutely necessary, until we get that comprehensive report back. I would suspect that we would come out though somewhere with some changes that would keep attention on those repayments.

ACCRUED INTEREST DUE ON UNPAID LOANS

Senator EAGLETON. Assuming that the states would not have paid back any more of the debts than they did between fiscal years 1975 and 1979, how much interest income per year would have accrued to the Federal Government, say, at a 6-percent rate?

Mr. WEATHERFORD. Mr. Chairman, I don't have that figure, but we can calculate for you.

You might recall also that one of the reasons that no repayment was made during that period is that we have five years where the repayment was deferred by the Congress. If you recall, we didn't ask them to spell out requirements to start repayment. The law specifically mandates recovery. The State can pay the money back out of its trust fund, or out of any source it wants to. But if they don't their Federal tax credit is decreased to recover the loan that's been made.

[The information follows:]

ESTIMATED INTEREST RECEIPTS ON FUA LOANS TO STATES

Since 1975, at a 6-percent rate compounded annually, the Federal Government would have derived an estimated $1.1 to $1.3 billion in interest payments from States with outstanding Federal unemployment account (FUA) loan balances.

Senator EAGLETON. Of the 11 States that have borrowed and not paid back——

Mr. WEATHERFORD. They have made some payments now. They're just not out of debt yet. Some of the 11 have made payments, and all of them will make payments this year.

Senator EAGLETON. Some payments.

What States are the most delinquent for the longest period of time?

Mr. WEATHERFORD. I think two. The longest terms are Pennsylvania and Connecticut, Pennsylvania was $1.2 billion and Connecticut $370 million over a longer period of time.

Senator EAGLETON. Pennsylvania, $1.2 billion; and Connecticut——

Mr. WEATHERFORD. $370 million. We have several others that are higher than Connecticut that have not been in debt quite as long. For example, New Jersey owes $650 million and Illinois $946 million. Michigan was a big borrower, but they made a payment and paid off their debt.

Senator EAGLETON. What's Missouri's record?

Mr. WEATHERFORD. Missouri has not borrowed.

Senator EAGLETON. Well, I didn't know the answer I was risking. [Laughter.]

Now I can decry those States that haven't paid back. [Laughter.]

PROGRAM ADMINISTRATION

OK; on program administration, your budget justification indicates a 12-percent cut in staff for the requirement of the training administration between fiscal 1979 and 1981, despite, I might point out, an increased workload.

How do you justify this, despite that criticism that poor management of CETA is partially due to insufficient staff to properly monitor some of the programs?

Mr. GREEN. Well, I think, Mr. Chairman, that a number of improvements including our reorganizational activities, creation of the Office of Management Assistance, the increased focus and strengthening in the legislation on eligibility requirements, the ability of the Department to direct some grantees, the increased focus on audits and the creation within the Department of the Inspector General's Office, have all led to improved management.

We live in a world, Mr. Chairman, in which we have to try to get as great a capacity out of those resources, and the staffing issue is one that we have had to adjust. I think we have met that mandate, and this is a manner in which we have attempted to do it.

Senator EAGLETON. Well, the budget justification indicates the new CETA law—we made some reference to that law from time to time this morning, that new law has increased the number of grants that must be monitored in the typical prime sponsor from 4 to 12.

Mr. GREEN. That is an accurate number.

Senator EAGLETON. So that gives you more programs and more prime sponsors to monitor, you need to evaluate almost three times as many. How are you going to do that with a smaller staff?

Mr. GREEN. Well, some of the reorganization activity involves focus-

ing more staff at the regional level, rather than national. Some indicate moving individuals from various program components to the CETA activity. The other involves the kind of training we talked about earlier of grant managers and being able to get a division of labor that allows us to concentrate services on one side and review and followup on the other. It is a difficult task. We probably are at the point, I think, where we have key staff, but not much more.

We think we have reached the point, but we have tried to achieve it through good management practices.

Mr. JONES. Part of that change, Mr. Chairman, institutes a new philosophy that impacts this question. The new CETA amendment requires, as you know, that each prime sponsor have an independent monitoring unit to conduct a formal monitoring program of all of its subcontractors in the whole system.

What that suggests, instead of our staff coming in and having to do a lot of that work, now we provide more of an oversight role. We get a little more mileage for the staff we've got by implementing those changes. The same is true in the eligibility area and several other areas set up by the new law. It puts us in a different position and makes much heavier requirements on the prime sponsor system. So there is some savings in that sequence.

Senator EAGLETON. How long has this new philosophy been in place?

Mr. JONES. It was implemented during last year, I would say at this point that it has just recently been totally put in place.

Senator EAGLETON. It would be too early, I guess, to evaluate its efficacy, but what do some of the preliminary observations reveal?

Mr. JONES. I think very clearly there are indications already that the motivations of prime sponsors to take those responsibilities are not only in the area of independent monitoring unit, but for release from audit exceptions and problems, as well as the eligibility. It's having a very distinct impact. It's also costing more money for prime sponsors to engage in those activities, but it's clearly taking place. It's clearly going to have an impact. Exactly, statistically, what difference that will make, we don't know.

We know specifically, for example, that many prime sponsors are now beginning to place very stringent program performance requirements on subcontractors, and they've been using those requirements in many cases, to eliminate or reduce subcontractors that have not been performing or having difficulties.

Mr. GREEN. If you want to take the summer program as an example, concentrating more personnel and resources at the local level on the eligibility determination of participants for this program is an aspect that we can see as a quantifiable improvement.

It also in some ways takes away from the amount of money available for the participants, but it is a trend that we have been trying to focus on to improve quality of the programs and to have that responsibility borne by the local programs as well.

Senator EAGLETON. We have a series of questions, both staff's and individual Senators have some questions that they want answered for the record. We will put those in writing, and I know you will respond to them in due time.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

NEW OMB REGULATION ON PAPERWORK

Question: OMB has issued preliminary regulations on paperwork reduction. Have you reviewed these and do you think they will be effective in reducing the number of forms to be filled out?

Answer: The Department of Labor has received OMB's proposed regulations on paperwork reduction and we have submitted written comments in accordance with OMB's Notice of Proposed Rulemaking.

While the Department does not support all of the sections of the proposal, in general we believe the proposal, once implemented, will serve to improve paperwork management and reduce the paperwork burden placed on the public by government agencies. We are reluctant to estimate the actual net impact of these regulations on Department of Labor programs and the public until we have had an opportunity to analyze OMB's final regulations.

PROGRAM ADMINISTRATION STAFFING

Question: How many of the 3,185 positions in the Employment and Training Administration are currently filled?

Answer: There are 3,147 positions in the Employment and Training Administration currently filled.

Question: What are the reasons for the vacancies?

Answer: The vacancies are part of Employment and Training Administration's need to achieve the 1980 end-of-year ceiling of 3,091.

Question: What is your OMB position ceiling?

Answer: The 1980 OMB ceiling for the Program Administraton account is 3,091.

PROLIFERATION OF EMPLOYMENT AND TRAINING PROGRAMS

Question: On May 8, 1979, HRD-79-11, the GAO issued a report describing the myriad of federally assisted employment and training programs -- 44 in all. In doing so, the GAO called attention to the need to simplify the federal effort through consolidation of programs. What specific actions have been taken by the Department to reduce the number of federally assisted employment and training programs?

Answer: The Department continues to be alert to possibilities for consolidation and coordination of federally assisted employment and training programs especially those authorized under the Comprehensive Employment and Training Act (CETA). The new youth legislation proposed by the Administration consolidates and integrates three youth programs authorized by the 1978 Comprehensive Employment and Training Act amendments. Furthermore, we will look for opportunities to improve the remaining CETA programs as we near 1982, when the current CETA law expires and we are considering options for reauthorization.

CETA FORWARD FUNDING

Question: What did you request of OMB in the way of forward funding?

Answer: Forward funding was requested for those programs which are most severely effected by uncertainty of funding. The request for budget authority from OMB, by program, was:

Program	Requested BA (in millions)
Title II A, B, & C	$2,396.7
Title II-D	2,893.0
YETP	864.8
YCCIP	157.4
Native Americans	91.7
Migrant and Seasonal Farmworkers	101.9
Older Americans	267.1
	$6,772.6

Question: What is the rationale in favor of forward funding?

Answer: Forward funding was proposed to provide continuity of program operations by reducing the impact of uncertainty of future funding levels on current operations. At present, appropriations are made for a single fiscal year during the annual budget process. Due to the legislative schedule and workload, program administrators are often unsure of the level of program activities funded for the following year, particularly when funding is under a continuing resolution. This uncertainty causes disruption in the planning process and results in fluctuation in program activity. Forward funding would improve grant and contract administration by allowing program planning with clearly delineated appropriation levels.

Question: How much would it cost to forward fund the CETA II A, B, and C program, as well as the youth programs?

Answer: The following estimates for budget authority for Fiscal Year 1982 represent the costs of forward funding these programs in 1981:

Program	Budget Authority (in millions)
Title II A, B, & C	$2,134.0
New Youth Initiatives	1,184.0
Job Corps	635.1
Summer Youth Employment Program	895.0
Young Adult Conservation Corps	291.5
Total	$5,139.6

Question: Why is forward funding being requested for the Education Department portion of your youth initiatives request, but not the DOL portion?

Answer: Forward funding of the Education portion of the youth initiatives is requested because of the lead time necessary for establishing a new program at the school district level. Considerable local planning will be necessary to put the new program in place and 1981 will be devoted to that planning. Since education has forward funding authority this is their normal mode of operation. DOL, on the other hand, does not have comparable forward funding authority. Moreover, while the DOL portion of the youth initiative has some new features, it will be operated through the existing system of grantees--CETA prime sponsors--so that we are confident that the necessary changes can be brought about over the period of a single planning cycle.

SAVINGS IN INCOME TRANSFER PAYMENTS

Question: In your cost estimates for the jobs component of Welfare Reform, you always supply a gross cost estimate and a net cost, in which you deduct the savings in income transfer payments and the increases in taxes that result from the creation of these jobs. Why do you not give us similar gross and net costs for other public service employment programs?

Answer: Over the past couple of years, the Department has regularly provided the Congress with both gross and net costs. The net costs, which have been roughly estimated at about 15 percent lower than gross costs on average, have not been highlighted as a rule, but have nevertheless been made available. The reason that they have not been highlighted is that the primary interest in the PSE programs is usually in their job creation (for countercyclical purposes) or employability development effects, not in their ability to act as an income maintenance offset. The typical PSE enrollee is not a welfare recipient; in FY 1979--after the 1978 reauthorization which focused PSE much more on low-income workers--only 1 in 5 enrollees had been receiving either Aid to Families with Dependent Children or other public assistance.

CONFLICT OF INTEREST ISSUE

Question: Please document for us all the relationships between organizations that administer programs under contract and organizations that evaluate them.

Answer: All the organizations funded to evaluate national programs are wholly separate from organizations that administer such programs. Beyond the contacts with each other customary in the course of any field evaluation, they have no relationships, organizational or financial.

Question: Are you satisfied that there are no potential conflicts of interest created by the close relationships of administrators and evaluators?

Answer: Yes, we are satisfied that there are no conflicts of interest among our national evaluation contractors. No one can ever be certain about "potential" conflicts of interest, but we believe that the nature of the organizations conducting the national program evaluations, their focus on samples of the programs (rather than just a specific individual program), and our Evaluation Office's sensi-

tivity to possible conflicts of interest, make conflicts of interest highly unlikely. We have had no charges ever arise since the enactment of CETA that a national evaluation contractor had a conflict of interest in conducting an evaluation or preparing evaluation findings.

Question: What procedures do you have in place to ensure compliance with Section 121(H)(1) of CETA which provides that: "No nongovernmental individual, institution, or organization shall be paid funds provided under the Act to conduct an evaluation of any program under this Act if such an individual, institution, or organization is associated with that program as a consultant or technical advisor, or in any similar capacity."

Answer: We have not prepared formal written procedures, both because the volume of national program evaluations we seek is small and because, since it is not clear beforehand what specific questions might arise as to interpretation of Section 121(H)(1), we planned to rely on legal interpretation as specific issues arose.

We rely on our Evaluation Office to review potential contractors it is considering, to determine whether they are associated with the program to be evaluated, before contracting for any evaluation. In a number of cases, organizations interested in conducting an evaluation were found to have some association with the program involved (usually conducting operations at some site or providing technical assistance), and were informed that Section 121(H)(1) might be applicable to them; they withdrew from consideration. No organization has sought from our Evaluation Office a formal interpretation of possible questions under this section.

NATIONAL CONTRACT FOR TEXTILE WORKERS

Question: Why do you have a national contract for $507,000 to train and upgrade 300 textile workers when it was recently announced that 3,500 workers in this industry have been certified for unemployment assistance under the Trade Act? Is CETA funding a dying occupation?

Answer: Our Nation's textile industry is hardly in the morbid condition suggested by the question. This industry still encompasses many productive, well-financed, and profitable enterprises that provide employment to hundreds of thousands of American workers. The contract you mention will have a two-fold benefit. First, it will help the workers who receive the training, both new entrants to the industry and already-employed workers who are stuck in dead-end jobs for lack of the skills needed to advance. Second, it will strengthen the industry itself by helping it acquire workers with needed skills and by fostering more systematic methods within the industry for the recruitment, training, and retention of workers.

CETA CONTRACT FOR DEVELOPING COUNTRIES

Question: It appears CETA Discretionary funds were used to contract for technical assistance manuals for developing countries on international and corporative income security issues and manpower policy. Is this an appropriate use of CETA discretionary funds?

Answer: The contract in question is with the National Institute of Public Management (NIPM). The contract provided, in part, that NIPM was to develop two technical assistance manuals--geared to the needs of developing countries--on how to design and install specific employment and training programs in these countries. The two subject areas in which NIPM agreed to develop manuals were: (1) job creation programs and (2) programs to promote the employment of women. The contract was funded out of the CETA Title III discretionary account. We believe that this is an appropriate use of these funds. In contracting for the preparation of these manuals, it was our expectation that they would be used by ETA staff on technical assistance assignments in developing countries under the Department of Labor International Technical Assistance Corps (DOLITAC) program and in connection with briefings by our staff, in Washington, of official visitors from these countries.

Question: Explain the value of this contract to the Labor Department in terms of meeting its mission.

Answer: While the primary purpose of these manuals is to enhance the effectiveness of ETA staff participation in the Department's DOLITAC and international visitor programs, we believe that potentially, our domestic programs can also benefit from the insights gained through our staff's contacts with their counterparts from other countries. For these reasons, we feel that this contract can be of value in meeting the Labor Department's mission.

LOW PRIORITY WITHIN CETA FOR ELDERLY

Question: A Labor Department report prepared for the Senate Appropriations Committee indicates that only 1.2 percent of CETA funds are used for projects serving the elderly (Title II A, B, &C). What can you do to encourage local prime sponsors to give a higher priority to employment and training programs for the elderly?

Answer: The Department recognizes that efforts can and should be made to increase existing services provided by prime sponsors to older workers. In order to gain a better understanding of the issue, we surveyed prime sponsors to determine how many have undertaken programs for older workers, the number of older workers served and the total funding levels for these programs. The findings of this survey indicate that a number of CETA prime sponsors are planning on substantially increasing their level of effort for older Americans. At the same time, the data indicate that a substantial portion of the prime sponsors do not intend to operate separate programs specifically designed for older workers. However, this is not an indication that employment and training services are not being provided to older workers in these prime sponsor's areas. Rather, it means that prime sponsors are electing to serve these people through existing programs available to all CETA eligible persons. As you are aware, CETA requires that all significant segments, including older workers, be served according to their representation in the eligible population. In FY 1979, approximately 3 percent of all Title II B/C participants were 55 and older. This gives a more favorable picture of services to this group than the figure mentioned in your question.

The Department has or is considering taking a number of actions which we believe will potentially improve services to older workers.

For one, we will use monies received under Section 308 to fund programs providing employment opportunities and appropriate training and supportive services through innovative replicable projects. The fundings of these programs will no doubt provide information to prime sponsors on how best to serve older workers. In addition to these demonstration projects, the Department is considering using a portion of available funds to provide related training and technical assistance on older worker programs directly to prime sponsors.

JOBS FOR ELDERLY -- CHANGING CONTRACT FUNDING PERIOD

Question: The Community Service Employment for Older Americans Program is funded from July 1 to June 30, rather than from October 1 to September 30, as are other programs. Wouldn't it be better if the Jobs for the Elderly program were forward funded on a full fiscal year basis?

Answer: This program, known as the Senior Community Service Employment Program (SCSEP), is already on a "forward funding cycle" whereby the annual appropriation is made nine months in advance of the 12-month period when the funds are needed for expenditure. In the case of the FY 1981 appropriation, for example, the funds that are appropriated for the SCSEP will support the program during the period of July 1, 1981, through June 30, 1982. It has been our experience that there are two very significant advantages to the present funding cycle. First, we have found that nine months seems to be an ideal length of time to complete the SCSEP planning and grant application processes that must take place before we award the funds to our program operators. Second, we have found that the present arrangements tend to even out the workload of the many organizational units (both Federal and non-Federal) that are involved in the administration of the SCSEP and which are also involved in the administration of other Federal programs that are on a fiscal year funding cycle.

Question: How much more would it cost to forward fund this program throughout fiscal 1982, instead of the 75 percent forward funding now?

Answer: The funding cycle now used in connection with the SCSEP has a high level of support among the Federal staff and the grantee organizations that are responsible for managing the program. There appear to be no good reasons for altering what has shown itself to be a very workable system.

As to the amount of funds that would need to be added to our FY 1981 request in order to forward fund the program to the end of FY 1982, we estimate the figure to be $66.8 million.

RURAL TRANSPORTATION INITIATIVES FOR ELDERLY

Question: What was the rationale for establishing the Rural Transportation Initiatives utilizing older Americans?

Answer: It provided the Department of Labor with an opportunity to demonstrate that older Americans have skills, talents, and abilities which render them capable of performing in occupations which provide essential transportation services to Americans in isolated rural areas. It also provided an opportunity for the Department of Labor to provide further visibility to the successfully operated Title V Senior Commu-

nity Service Employment Program (SCSEP) and a chance to provide further coordination efforts in support of federally funded programs.

Question: What funds were used, and how long do you plan on funding the project?

Answer: Comprehensive Employment and Training Act (CETA) funds were used to fund the initiative which was stated to be a one-time funding effort for a one-year period. However, due to severe delays in the Department of Transportation's establishment of Section 18 programs in the 14 demonstration States, the Rural Transportation Initiatives program will probably run for a period of 18 to 24 months.

Question: How did you select the organizations to carry out the Rural Transportation project?

Answer: The Department of Labor decided to fund national organizations with proven expertise in sponsoring programs such as the SCSEP for older Americans, particularly in rural areas. These organizations have demonstrated a special interest in the welfare of elderly persons and have the unique capability and flexibility to take quick action to effect the operation of new program initiatives, such as the Rural Transportation Initiative. Some of these organizations such as Green Thumb Incorporated, were already engaged in rural transportation efforts. That sponsor had more than 500 SCSEP enrollees employed as drivers, dispatchers, and escorts in various transportation projects. By funding these national organizations, the Department of Labor virtually assured the success of the initiative, and fulfilled the Department's responsibility under the Interagency Agreement.

Question: How equitable was your distribution of positions among States and within States for this project?

Answer: The selection of the 14 States was largely a function of the Department of Transportation's recommendations. The $4.5 million in CETA funds was allocated to States basically using the Title V allocation formula in order to effect an equitable distribution of resources in accordance with the incidence of older workers in the respective State's population. Within States, sponsors are working with State Department of Transportation officials to place older workers in areas where Section 18 Programs have been implemented or will be implemented shortly.

OLDER WORKER EMPLOYMENT PROGRAMS

Question: How does the program operated under Title V of the Older Americans Act authority differ from Older Worker programs operated under CETA 301 (b)(4) and CETA Section 308 for such areas as (1) participant eligibility, (2) part-time or full-time participation, (3) type of services offered participants, and (4) administrative costs allowed?

Answer: The Department operates two programs under authority provided by CETA Title III Section 301 (b)(4), The Jobs for the Elderly Program and the Rural Transportation Initiative. These two programs, the Section 308 projects and the Title V program have some similarities, since the target population is essentially the same and the programs are dealing with the employment problems faced by the older population in our society.

The differences in the older worker programs originate in the thrust of the individual programs. For example, the purpose of the Senior Community Service Employment Program (SCSEP) operated under Title V of the Older Americans Act is to provide part-time employment in community service jobs for unemployed economically disadvantaged

persons 55 and over and has a modest goal of moving fifteen percent of the enrollees into nonsubsidized employment. Contrariwise, the thrust of the projects to be funded under CETA Section 308 will be to increase the nonsubsidized labor force participation for all older persons who are currently unemployed or underemployed. This will be accomplished through the implementation of innovative employment training modes including work experience, vocational education, on-the-job training, occupational upgrading and the like.

The Jobs for the Elderly Programs currently operated under CETA 301 (b)(4) were authorized originally under Title X of the Public Works and Economic Development Act and administered by the Administration on Aging. This program is very similar to the SCSEP except that funds are available to support 2,000 jobs versus 52,250 jobs for the SCSEP; funds are not formula allocated and projects are in only twenty-seven States.

In accordance with the thrust of the White House's Rural Transportation Initiative, the Department of Labor has funded projects to hire 1,500 older workers during Fiscal Year 1979 and 1980 under CETA for placement in coordinated rural transportation systems. This program is an interagency effort to help enhance the access of people in nonurbanized areas to health care, social services, shopping, education, recreation, other public services, and employment by encouraging the maintenance, development, and use of coordinated transportation services.

From the Fiscal Year 1979 CETA Title III funds, approximately $4.5 million has been obligated to implement demonstration projects in fourteen States. These funds will be utilized to train and employ older workers as drivers, mechanics, dispatchers, and transportation aides in rural transportation systems funded under this initiative.

(1) Participant Eligibility: The eligibility criteria for Title V, CETA Section 308, and the Rural Transportation Initiative is the same: (a) age 55 and over; and, (b) having a family income which does not exceed 125 percent of the OMB poverty guidelines. The CETA Title III Jobs for the Elderly Program originally had no income criteria. Persons had only to be unemployed and over the age of 45. (No new hiring is permitted in this program.)

(2) Part-time versus Full-time: Title V, Rural Transportation, and the majority of participants in the Jobs for the Elderly Program work part-time, generally averaging 20 hours per week.

Innovative arrangements anticipated under Section 308 will likely be suited to the particular needs of the older worker; thus, allowing for part-time, full-time, and flexible-time participation.

(3) Types of Services Provided: Under Title V, Rural Transportation, and the Jobs for the Elderly Program, limited training, transportation, and supportive services are offered to participants. Supportive services include counseling on job-related problems, referral to local resources available from public or private social service agencies, and items which may be necessary for successful program participation such as: work shoes, uniforms, safety and eye glasses. Training may take place either in a group or an individualized setting. Extensive formalized training is limited due to funding or regulatory considerations.

The projects to be funded under Section 308 may be more service-oriented and individualized to include such services as vocational testing and counseling, costs for tuition and educational materials.

(4) Administrative Costs Allowed: Under Title V, no more than fifteen percent of the Federal funds provided may be expended for administrative costs. These administrative costs may include salaries and fringe benefits for project administrators, costs of supplies, equipment, and materials used by the project staff; costs of establishing and maintaining accounting and management information systems; travel of project administrators; as well as rent, utilities, and appropriate indirect costs allowable to the project.

The administrative costs allowable under the Jobs for the Elderly program are essentially the same as Title V, although the percentage of Federal funds expended for administrative costs has historically been higher than Title V. The maximum under Title V is fifteen percent. Jobs for the Elderly has a maximum of twenty percent.

We anticipate allowable administrative costs for CETA Section 308 to be similar to Title V consisting of overhead and indirect costs.

The Rural Transportation Initiative program, also funded with CETA Title III funds, has administrative costs requirements similar to Title V, with a fifteen percent limitation.

Question: Do the same organizations carry out projects under all three programs?

Answer: Some of the Title V sponsors are also sponsors for the Jobs for the Elderly Program. These organizations are: National Council on the Aging (NCOA); National Center on Black Aged (NCBA); National Retired Teachers Association/American Association of Retired Persons (NRTA/AARP); Indiana Commission on Aging; Illinois Office on Aging; and the Mississippi Council on Aging.

Other Jobs for the Elderly sponsors are: Area Agency on Aging of Western Michigan; Great Lakes Inter-Tribal Council; Amigos del Valle; and the New York City Office of the Aging.

Plans to implement the solicitation process for applications for Section 308 projects are now being developed. The Department anticipates awarding from 2-10 grants for multi-State activities for some $2 million this fiscal year.

Funds for the Rural Transportation Initiative were awarded to five of the national private nonprofit organizations which are currently operating Title V programs. These sponsors are: National Council of Senior Citizens; Green Thumb; National Center on Black Aged; National Retired Teachers' Association; and the National Council on the Aging.

Question: What is the ratio of administration cost to participants served for the three older worker programs?

Answer: In order to control administrative costs and to insure that as much funding as possible will be provided for program activities, the Department limits administrative costs through regulatory and management means.

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The Title V Older Americans Act program requires that no more than fifteen percent of the Federal funds may be expended for administrative purposes. As a matter of practical experience, however, we find that only ten to eleven percent of the Federal funds are used for administrative purposes. Additional funds are provided from nonfederal sources which are also used to match the Federal administrative cost.

The Jobs for the Elderly program has taken a somewhat different course. When the Department first inherited this program from the Administration on Aging, administrative costs were well above those normally provided for the Title V program. In order to make the Jobs for the Elderly program conform to the Title V model and to reduce administrative costs, the Department placed a twenty percent limitation on the amount of allowable administrative costs. After taking over the program, a hiring freeze was placed on the program. Consequently, the size of the program has been dramatically reduced from $20,000,000 to less than $10,000,000 and enrollment has gone from over 5,000 to about 2,000 persons. This decline in enrollment has resulted in a large reduction in administrative costs although these costs may not be declining in direct proportion to the overall program reduction.

At the present time, only one or two of the Jobs for the Elderly sponsors have administrative costs over the Title V level and all are less than twenty percent.

The Rural Transporation Initiative program, which is also funded with CETA Title III funds, has requirements on administrative costs which are similar to Title V. All projects have administrative costs at or below fifteen percent.

The Section 308 programs have not been implemented to date; however, it is anticipated that administrative costs will be limited to fifteen percent or less. Since grants will be awarded on a competitive basis these costs may be much lower than the level of the other employment programs for the same target group.

As you will note, the differing programs have somewhat different administrative costs. However, the Department's general thrust is to limit these costs as much as possible without damaging the administrative capability of program sponsors.

USE OF COMMUNITY BASED ORGANIZATIONS

Question: In the Fiscal 1980 conference report, Congress instructed the Secretary to assure that community-based organizations of demonstrated effectiveness continue to receive special consideration from recipients of CETA financial assistance. What have you done to implement this congressional directive?

Answer: Through regulation and grant package instruction, the Department has taken the following steps to implement Section 123(L) of the Act which requires prime sponsors to give special consideration to community-based organizations (CBO's) of demonstrated effectiveness:

1. The prime sponsor is required to detail its procedures in

its grant application and to give special consideration to CBO's of demonstrated effectiveness.

2. The regulations specifically set forth steps that sponsors must undertake in giving such special consideration including among other procedures, actively involving CBO's in the prime sponsor planning process and ensuring that CBO's are notified of fund availability.

3. In addition to being represented on prime sponsor planning councils, CBO's are also to be represented on the Private Industry Councils (PIC's).

4. Prime sponsors are by regulation advised to provide at least one-third of Title VI project funds to nonprofit organizations, thereby increasing the opportunity for CBO funding.

In addition, the Department continues to award funds to the national headquarters of Opportunities Industrialization Centers (OIC), SER-Jobs for Progress, the National Urban League, and other community based organizations. These organizations are thus enabled to conduct training and technical assistance activities intended to strengthen the service-delivery capabilities of their respective local affiliates. This, of course, ultimately tends to foster greater utilization of CBO's by State and local prime sponsors under CETA.

Question: What amounts of additional funding will go to CBO's under this directive, particularly for programs carried out under Titles II, IV, VI, and VII?

Answer: At present the Department of Labor has no reporting mechanism that allows us to ascertain nationally the amount of funds under Titles II, IV, VI, and VII that are allocated to CBO's by prime sponsors.

EMPLOYABILITY DEVELOPMENT PLANS

Question: What has the Department done to assure that employability development plans are being used as a tool to help individuals gain skills needed to become employed?

Answer: The CETA regulations now contain specific requirements related to the intake and assessment process, including the types of information which must be included in employability development plans. Furthermore, the plans must be reviewed periodically during participation and revised as necessary. Prime sponsor systems for EDP development and use must be included in Master Plans and are reviewed and approved by DOL Regional Offices. Review of actual operations is conducted through regular monitoring and through the annual formal performance assessment.

Question: What guidance has been provided to prime sponsors to help them develop adequate employability development plans?

Answer: The CETA regulations specify in some detail the requirements for employability development plans. In addition Regional Offices have provided significant training and technical assistance on EDP development and use, building on the large body of experience and materials on EDP's which has evolved since the mid-1960's.

APPRENTICESHIP OUTREACH TRAINING PROGRAMS

Question: A GAO report (HRD-78-4, April 10, 1978), questioned continued funding of the Apprenticeship Outreach and Construction Program and construction-related National On-the-Job Training Programs because of high unemployment in the construction industry, limited apprenticeship opportunities, and numerous program problems. Has the Department of Labor evaluated the goals and accomplishments of the programs, as well as the manner in which they are administered?

Answer: With regard to the Apprenticeship Outreach Program (now known as the Targeted Outreach Program) a full discussion of these and related points can be found in the report entitled, "Targeted Outreach Program: Report of Evaluation" which we furnished to the Subcommittee on January 30, 1980. An additional copy of this report is being furnished for the record.

With respect to the National On-the-Job (OJT) Program, it continues to be our position that it has made and should continue to make substantial and worthwhile contributions in advancing minorities, women, and members of other groups into skilled, good-paying jobs found in private industry. The GAO report prompted the Department to give the National OJT Program a thorough examination in terms of its goals and accomplishments and the methods by which it is administered. This examination showed that the National OJT Program was essentially sound in concept and approach, but that it could benefit from certain improvements.

Question: Do you belive that the programs whould be eliminated or redirected?

Answer: As a result of the DOL examination of National OJT guidelines governing the operation of the National OJT Program were amended to bring about better targeting of training and job opportunities for minorities, women, and the economically disadvantaged generally. We have also taken steps to ensure that administrative expenses incurred by these programs are kept to reasonable levels.

Question: What actions has the Department taken to improve the administration of the programs?

Answer: The National OJT Program is one of our strongest efforts aimed at private-sector jobs and it is our intention to maintain it and the Targeted Outreach Program in Fiscal Year 1981.

FUNDING FOR OIC PROJECTS

Question: We have been advised that you plan to increase funding for OIC under CETA youth programs from $3.7 million to about $5.9 million. Is this still your plan?

Answer: In FY 1979 we funded the following OIC projects:

o Career Intern Program (CIP)	1977-1979 $5,095,529
o Philadelphia CIP	1979 $375,000
o Career Exploration Project (CEP)	1979 $3,369,708
TOTAL	$8,840,237

In 1980 we intend to fund or continue funding the following projects:

Career Intern Program CIP	$2,457,333
Career Exploration Project CEP	$3,369,708
Comprehensive Opportunity Program COP	$4,500,000
Job Corps	$ 750,000
TOTAL	$11,077,041

Question: What are the Career Intern Program and the Summer Vocational Exploration Project that would be carried out with these funds?

Answer: The Career Intern Program Demonstration was developed based on a prototype program developed by OIC in Philadelphia, PA. This program gave promise of showing how to turn around the high youth unemployment statistics. The Career Intern Program (CIP) is an alternative high school for 16-21 year olds who have dropped out of school or are at the risk of dropping out before graduation. The goals of the program are to enable these students to complete high school, acquire occupational knowledge, plan for a career and improve their reading and mathematics skills. Basically, they hope to facilitate the transition from high school to work or further education.

The Summer Vocational Exploration Project will target in on disadvantaged youth aged 16 to 21 especially those under the jurisdiction of the criminal justice system and those students classified as dropouts or potential dropouts. The Career Exploration Program (CEP) will be a ten-week summer program with a focus on increasing the future employability of youth through classroom training and work experience. This program is designed to improve the students' career planning abilities so that by the end of the program they are capable of formulating realistic career plans based on their abilities, achievements and aspirations. More specifically, the objectives of the program are:

o to improve the students career knowledge base and career research utilization skills in order that they have a thorough knowledge of all of the educational and/or training experiences necessary for securing an entry level position.

o to improve the students' academic self-esteem and

o to increase the likelihood that students who have dropped out of school or potential dropouts will reenroll or stay in school.

The CEP program will be structured to provide youth with a successful blend of careers, academic and employability skills.

Question: How many students have participated and will participate in this project?

Answer: During the summer of 1979, 1,072 students participated in the CEP. It is anticipated that about the same number will participate in the 1980 summer demonstration project.

Question: You already have had some experience with the Summer Project. What have been the results?

Answer: When the youth were followed up three months later, with specific questions, there were very positive results. For the most part the youth had either returned to school or were working full time. When asked about their plans for the next six months, the youths had made plans to either continue working, return to school, enter other programs, or go into the armed forces. Only a few of the youth had been in trouble with the law. Most (96 percent) had not had any involvement.

Question: In fiscal 1979 you apparently spent $376,000 for an "Assessment of Alternative School Experience." What were the results of this study and how will they be used?

Answer: The Career Intern Program portion of the demonstration operated by OIC/A and evaluated by the National Institute of Education instituted an evaluation which is described as an "Assessment of Alternative School Experience." The four part evaluation design includes (1) assessment of the process of implementation and adaptation of the original CIP model; (2) analysis of the outcomes on enrollees relative to a randomly selected control group, a comparison group, and national norms; (3) determination of the importance of the various functional components of the CIP; and (4) comparison with other similar programs. The progress of the program is being carefully studied and documented in the following reports:

1. Study of the Career Intern Program: The Process of Implementation

2. Study of the Career Intern Program: Interim Assessment of Intern Outcomes

3. Study of the Career Intern Program: Interim Report on Functional Interrelationships Among Program Components and Intern Outcomes

4. Study of the Career Intern Program: Interim Comparison of the CIP with Other Youth Programs

The four interim reports cover the startup and stabilization period of the four new CIPs over the first 18 months of operations. As more cohorts participate and complete, as the learning curve problems are overcome, the findings will become more definitive. However, there are some important findings already:

-- Four alternative education projects were successfully implemented, and although the CIP model was adapted differently in each site, the common elements were retained. In other words, the basic design and delivery approach appears replicable.

-- Alternative education programs are undermined by rapid implementation and uncertain funding. The complexity of mounting such projects is reduced somewhat by replication of a model, but most of the problems are site specific such as negotiation with vested interests, staffing and administration. It takes as much as a year before and during implementation to fully develop the necessary linkages. It takes a year of operations, at least, to stabilize the performance.

-- The community based delivery approach of OIC/A was critical to the successful implementation of these projects. The outside intervention of the national and local CPOs was necessary both to assure performance of the CIPs and to facilitate the necessary linkages.

-- The early cohorts experienced statistically and programmatically significant gains in math and reading compared to control groups and national norms. The impact appears to be increasing as the programs stabilize. There were also significant gains in career planning.

-- The various elements in the CIP approach are mutually interactive and supportive. Problems are less in design than implementation. A basic issue is the degree of discipline; it appears that firm discipline of students is required. A second issue is administrative flexibility at sites; in some cases, the CIP model has become a "procrustean bed" hindering effective adaptation. A third issue is the coordination of all the elements in the model as well as the staff who offer them; if one element does not function adequately, such an integrative model is vulnerable.

-- Comparison with other programs suggests the need to target CIP carefully on youth who really want to make the investment in their education. It also suggests the importance of such alternative arrangements and the value of delivery by community based organizations in order to reach out to those most in need. Experience has shown the difficulty of recruiting dropouts unless there is credibility and a community network. Even in these cases, stable operations over a period of time are needed to achieve a regular recruiting flow.

In general, then, the CIP replication has been successful and it appears that the model and delivery approach are promising.

USE OF NONPROFIT INTERMEDIARIES

Question: Why do you use organizations such as MDRC and Youthwork to administer programs?

Answer: MDRC is a nonprofit corporation which designs, manages and tests experimental and demonstration programs under the supervision and direction of a consortium of Federal agencies. The use of MDRC as a management arm of the Department of Labor (the lead agency in the National Supported Work Demonstration Program) came about as a result of a range of circumstances. These include (1) the need to give the research contractors and the 19 site opera-

tors single and unified direction rather than have them answering to the 4-5 Federal agencies supporting the project; (2) the need to have a single entity which could contract with both the Federal Government and private philanthropic foundations for a single purpose; (3) the need to have a central administrative organization which could respond quickly to the diverse needs of the funding agencies and (4) the inability of the various agencies to make available on a long-term basis key staff needed to monitor and manage such a large scale effort.

The Office of Youth Programs has prepared a paper entitled, "The Role of Non-profit Intermediaries Under the Youth Initiatives" which provides a rationale for the use of Youthwork in its demonstration activities.

Question: Isn't the responsibility for administering public programs the proper responsibility of your Department?

Answer: Title III Part B Section 311(b) of the CETA legislation directs the Secretary of Labor to "establish a program of experimental, developmental, demonstration and pilot projects, through grants to or contracts with public agencies or private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training programs."

By entering into a contractual relationship with a private nonprofit corporation such as MDRC to conduct major research and demonstration efforts, the Department has not in any way relinquished its administrative, managerial, fiscal and particularly policy setting responsibilities in carrying out its mission as mandated by CETA.

Question: How do you select these administering organizations?

Answer: Organizations are selected on the basis of the proven capability of staff, past performance, and cost considerations.

Question: Are there any published criteria for the selection of these contractors?

Answer: Federal agencies and departments are governed in procurement matters by the Federal Procurement Regulations.

Question: Are other interested persons given the opportunity to form such organizations so that they may compete for this role?

Answer: The Department follows federal policy in encouraging competition among interested contractors and grantees for its procurements.

DISPLACED HOMEMAKER FUNDING

Question: What is the status of these funds?

Answer: Displaced Homemaker funds are being utilized in three separate activities:

1) a set aside for CETA prime sponsors of $3.25 million;

2) a total of $750,000 for national activities; and

3) a set aside for national level demonstration projects of $1 million.

In regard to the $3.25 million set aside for CETA prime sponsors, our regional offices obligated the full amount in December 1979 in the form of special grants awarded to 31 CETA prime sponsors. Spending of this money began in March 1980 and will continue through March 1981.

As to the $750,000 budgeted for national activities, approximately $165,000 was awarded in the form of a promotion and development contract with Displaced Homemaker Network, Inc. Under this contract they will assist community based organizations and CETA prime sponsors in enhancing and improving employment-related services and opportunities for displaced homemakers. An additional $500,000 will be used to retain a contractor to evaluate and document the methods and outcomes of the displaced homemaker programs being conducted by the 31 prime sponsors and the five or six demonstration programs that will be conducted by private nonprofit groups. We expect this contract to be awarded by May 1980 for a twelve month period. The remaining $85,000 will be used for a variety of activities in support of the overall effort.

With respect to the $1 million set aside for national level demonstration projects, we are now reviewing 300 applications submitted by nonprofit groups. From these 300 applications we will select five or six for funding. Given the large number of applications, we do not anticipate awarding any of the grants before mid May 1980. These grants will support program operations for a 12-month period.

Question: What percentage has been spent in each category?

Answer: As indicated in the preceding question a good percentage of the funds have been obligated, but spending has only just begun. To date a small amount has been outlayed.

Question: Will these funds be completely spent by the end of FY 1980?

Answer: The Department expects that all of these funds will be obligated by the end of FY 1980. Projections are that roughly $1.5 million of the $3.25 million for CETA prime sponsors will be expended by the close of FY 1980, with the remaining $1.75 million being expended in the first six months of FY 1981. Of the $750,000 budgeted for national activities, we anticipate upwards of $200,000 will be spent in FY 1980. In addition the Department anticipates approximately $250,000 of the $1 million for national demonstration projects will be expended by the close of fiscal year 1980, with the remaining $750,000 being spent in fiscal year 1981.

Question: It is my understanding that out of the 220 applications from prime sponsors, only 31 were funded. Approximately 300 applications have been sent in for the National Demonstration projects, yet less than ten are expected to be awarded. This indicates that out of the four million displaced homemakers needing access to this program, only 4,000 or 5,000 will receive assistance. What are your plans for FY 1981 regarding funding for these programs?

Answer: The special displaced homemaker grants to CETA prime sponsors and the demonstration program grants to nonprofit organizations are being made on a one-time basis. Our strategy here is to gain practical experience and knowledge in the types of training and employment-related services and opportunities that are most effective for displaced homemakers. This experience and knowledge

will be translated into technical assistance materials that will be disseminated throughout the CETA network. It is also possible that this knowledge and expertise will be conveyed through additional means, such as on-site technical assistance or formal classroom instruction.

Our strategy does not contemplate long-term funding of displaced homemaker programs under CETA Title III, as the resources available under Title III would only be sufficient for what amount to token efforts. If CETA is to make a dent in the employment-related problems of displaced homemakers, it can only be done in the form of services and opportunities provided by the prime sponsors under their formula grants; and that is the thrust of our strategy. In short, what we are aiming to do is help prime sponsors be more responsive to the needs of displaced homemakers and to give them practical guidance on how to meet those needs.

If Fiscal Year 1981, we will concentrate on developing, refining, and delivering technical assistance to prime sponsors based on our experience with the special programs we are funding this year. It is quite likely that we will continue to support the promotion and development activities being carried out by Displaced Homemaker Network, Inc.

UNCERTAINTY IN CETA FUNDING

Question: How could uncertainty over funding levels be a major problem, since conference agreement levels were known in July, 1979 -- and were included in the first continuing resolution, enacted only sixteen days after the start of Fiscal Year 1980?

Answer: CETA prime sponsors were operating on the basis of preliminary planning estimates issued in May. These levels were based on the President's budget request and the latest data available at the time these estimates were issued. Final allocations could not be released until the Department received the actual Fiscal Year 1980 appropriation level since the law requires that such allocations be based on the latest unemployment data available. Therefore, it was not possible to prepare and issue revised allocations in August or September based on the Conference Report. At the same time the prime sponsors were moving to assure, to the maximum extent possible, that the actual levels of operation were not excessive in light of possible significant reductions in their allocations levels, which in fact did occur. Finally, prime sponsors had to operate in a way to conserve funds since no additional funds were actually available to pay for operations at the start of Fiscal Year 1980, and while the first continuing resolution was made available in late October, it was for only thirty days. All of these factors plus the concern that even more cuts might be imposed created a "go slow" picture within the CETA system.

REALLOCATION LEVELS IN FISCAL 1981

Question: Your budget justification indicates that $318 million was reallocated in FY 1980 to augment CETA services in areas of high unemployment. Do you plan to sustain these reallocation levels in 81?

Answer: Fiscal Year 1981 funds will be allocated in accordance with the statutory formulas. Since individual prime sponsor allocations are affected by changes in the relative levels of unemployment, it is not possible to indicate at this time whether particular areas will receive as much in Fiscal Year 1981 as they received in Fiscal

Year 1980. These levels will also be affected by the level of total funds available. The results of the initial allocation process will be reviewed before a determination regarding use of excess carry forward funds, if any, is made.

TITLE II - A, B, C SERVICE LEVEL IN 1981

Question: For Employment and Training Services, (Titles II-A, B, and C of CETA), How can you continue serving the same number of people in 1981 as you did in 1980, with only a 3 percent budget increase, given the high rate of inflation?

Answer: The Department feels that increased efficiencies in program operations will result in a more efficient use of available resources and will help maintain the Fiscal Year 1980 levels during Fiscal Year 1981. At the same time, the Department recognizes that the program mix selected by prime sponsors will to a great extent determine the numbers of people which will be served. The elimination in Fiscal Year 1979 of the use of Title II-A, B, C funds for PSE, in accordance with the Act, is an example of this issue. Since PSE is an expensive program, the use of funds for other types of services means that more individuals can be served. Therefore, the number of individuals served in Fiscal Year 1981 will also to a certain extent be dependent upon the types of services prime sponsors elect to provide with II-A, B, C levels.

TRACKING LENGTH OF CETA ENROLLMENT

Question: What has Labor done to assure that prime sponsors have adequate systems in place to track the period an individual has been enrolled?

Answer: Prime sponsors must provide a description of their tracking systems in the Master Plan of their grant. These systems must be reviewed and approved by our Regional Offices. On-site review of systems is conducted by regional staff as a regular part of monitoring and in the annual formal performance assessment.

The Department has also developed and issued a technical assistance guide which provides a model tracking system. Regional Office staff have been trained on the system and have, in turn, provided training to prime sponsors.

CETA INCARCERATED OFFENDER PROGRAMS

Question: What amounts of CETA funds were expended during Fiscal Year 1979 for incarcerated offender programs?

Answer: Approximately 13 million dollars of CETA funds were expended during Fiscal Year 1979 for institutionalized offender programs. The following represents the results of an informal survey of CETA prime sponsors nationwide, and therefore, is unvalidated.

Type of Service	Number of Offenders	Approximate Funding (Annually)
Classroom Training	6,587	$ 6,195,516
Work Experience	1,519	2,241,719
PSE	320	2,423,335
On-the-job Training	176	352,490
Other Services	6,014	2,109,105
	14,616	$13,322,155

a) Most participants (12,601) were enrolled in Classroom Training and other Services.

b) Participants in Classroom Training may or may not receive compensation in the form of allowances. Costs for Classroom Training include staff salaries, equipment, supplies, etc.

c) Participants receiving "Other Services" (counseling, employability assessment, job search assistance) generally received no compensation. These services are the normal types of services made available to make individuals job ready.

d) Most PSE and OJT participants received the minimum wage of $2.90 per hour; a few received $4.25 per hour.

e) Of the number of inmates receiving compensation only 15 had 18 months or more of imprisonment remaining at the time of enrollment in CETA.

f) The costs incurred in each program activity includes staff salaries, equipment, supplies, etc.

Question: Does the Department plan a special monitoring effort on incarcerated offender program activity in light of the recent problems at the District of Columbia Lorton Prison where several long-term prisoners were receiving CETA funds?

Answer: The Department is not planning any special monitoring effort for incarcerated offender program activity. However, on January 4, 1980, the Secretary issued a clarification of the eligibility requirements for institutionalized prisoners. The final rule published in 20 CFR, Part 676 limits the participation in all prime sponsor programs to prisoners who have a reasonable expectation of release, parole or work release within 12 months of enrollment in activities under the Act.

PICs TO HELP PSE PARTICIPANTS FIND JOBS

Question: How will the Private Industry Council (PICs) relate to the Public Service Jobs Program?

Answer: The PIC's are expected to be involved in a prime sponsor's overall CETA program, including the public service employment program. It is expected that PIC's will be instrumental in

helping prime sponsors plan their transitional strategies so that many PSE participants will be able to move into unsubsidized private sector employment.

Question: To what extent will PICs try to make use of, and find jobs for, PSE participants in the private sector?

Answer: Indications are that many PIC's are including in their plans long-range activities aimed at ultimately placing PSE participants in the private sector. Specific examples of such activities are:

The Atlanta PIC is working with the prime sponsor to establish a Public Service Employment Transition Center. The center will be housed in the offices of the Chamber of Commerce and will provide counseling and placement services for terminating PSE enrollees.

In San Francisco, the PIC is hiring Urban Management Consultants to provide terminating PSE participants with motivational and self-directed job search training.

In New York City, the PIC held a job fair at which 13 companies interviewed 150 PSE terminees. The PIC has also helped the City develop a bid for proposals for contractors to provide transition services to terminating PSE enrollees, and also participated in the review of the proposals.

The South Bend, Indiana PIC, is teaching PSE enrollees to prepare resumes, and then is personally transmitting the resumes to private employers.

The Butler County, Ohio PIC conducts a job development workshop every two weeks for CETA participants, including PSE enrollees. The purpose of the workshop is to prepare participants for job seeking in the private sector. Resumes are prepared, mock interviews conducted and video taped, and every aspect of employment in the private sector is discussed. The PIC then works towards developing jobs for those who have completed the workshop.

Question: What problems in training or other areas may PICs run into in assisting PSE participants find useful work?

Answer: It may be that the work experience and training gained by participants while on a public service job may not be directly applicable to available private sector employment opportunities.

If such is the case, however, the early involvement of the PIC in the prime sponsor's transition plans can work toward remedying such a situation. A program could be designed to determine what additional training needs PSE participants may need with the PIC and prime sponsor providing such training prior to the enrollees being terminated from CETA. The Boston PIC is currently designing a similar procedure whereby: (1) the job skills of small groups of PSE employees will be studied; (2) private sector employers will be interviewed to determine what additional skills these employees need; (3) the employees will be trained in the identified skills; and (4) placements will be made.

Question: To what extent were prime sponsors able to use the Private Sector Initiatives Program to help public service employment

participants who were terminated in September 1979 after being enrolled for 18 months?

Answer: Since the $75 million in funds for PSIP for FY 1979 was not released until the end of May 1979, there were very few PICs actually in operation in September 1979.

Most were still in the early stages of formulating the programmatic directions in which they were to go. Thus, although PIC's now are planning to become involved in PSE placements, the private sector initiative program was of limited value in helping those PSE participants who were terminated in September 1979. There are a few exceptions, however, where some PIC's which were formed early with demonstration grant funds were ready to help the September 1979 terminees. Most notable was the New York City PIC which held a job fair for PSE terminees. Thirteen companies interviewed the terminees and a substantial number were placed in private sector jobs as a result of the fair.

VETERANS INCARCERATION PROJECT

Question: What is the status of the Veterans Incarceration Project run by the National Council of Churches? Does the Department plan to refund it?

Answer: The initial contract between the Department and the National Council of Churches was written for one year, starting September 9, 1978. A six month no cost extension was subsequently granted. The Department has extended the contract through April 10, 1980. No decision has been made on refunding the program to date. The decision will be made following an assessment of the contractor's final report.

Question: What are the present and proposed funding levels?

Answer: The National Council of Churches' Veterans Incarceration Project was funded at $500,000 through March 10, 1980. A one month extension of the contract for $31,000 has been approved. The National Council of Churches has submitted a proposal for refunding at $840,000.

Question: Does the Department of Labor operate any other veterans project aimed at improving the employability prospects of the incarcerated Vietnam-era veteran? If so, explain.

Answer: The Department currently funds no other projects specifically directed to the needs of incarcerated veterans. However, the Department is the contracting agency for the Veterans Outreach and Community Services (VOCS) program which was developed by the White House Veterans Federal Coordinating Committee. In each of the twelve participating VOCS projects, a component for incarcerated veterans has been built in.

Question: What project data does the Department have on: (a) the number of veterans whose military discharges were upgraded, and (b) number of veterans who have entered educational programs as a result of the project's efforts?

Answer: Available data on services to incarcerated veterans under the National Council of Churches project is still preliminary. A complete summary of services will be provided in the project's final report, expected to be submitted during the first week in April.

NCC has, however, provided the following data on services:

a. Discharge Upgrade. As of January 1, 1980, 234 cases were adjudicated and approximately 60 percent of these resulted in upgraded discharges. This relatively small number of completed cases contrasts sharply with the number of pending cases. A total of 229 cases have been prepared and are awaiting review, and 2,079 cases are in preparation. The backlog of cases is attributable both to the time required for the startup of the project itself, and the average 18-month processing time required for most discharge upgrade cases.

b. As of January 1, 1980, the project has placed 1,889 incarcerated veterans in education programs.

AUDITS OF INDIAN GRANTEES

Question: According to a press report, Labor Department auditors recommended forcing repayment of maore than $2 million in Fiscal 1978 funds spent to train Indians for jobs on reservations - but none of the funds have yet been recovered. What is the current status of efforts to reclaim disallowed costs from Indian grantees?

Answer: The press report is erroneous. The Department of Labor, Office of the Inspector General (OIG) is responsible for conducting audits of CETA grantees. Fiscal Year 1978 grant funds have not yet been audited. Fiscal Year 1977 grant funds were audited. The auditors who performed the audits of Fiscal Year 1977 grant funds to Native American grantees followed the practice of submitting audit reports which included the amount of grantee costs which they questioned and the amount which they recommended for disallowance. However, only the grant officer can issue a Findings and Determination (F&D) to a grantee which disallows costs and demands repayment.

Before doing this, the grant officer is obliged to consider each grantee's response to each questioned cost and to allow the grantee to provide documentation, if it can, which will support the cost. The grant officer need not accept the recommendations of the auditor without challenge. Within the Employment and Training Administration, a special audit and grant closeout taskforce was established in October of 1979 with the mission of processing unresolved audits and closing out expired grants up through October 31, 1979. This task force, comprised of Federal staff and contractor staff, is systematically reducing the backlog and making steady progress.

Question: How widespread are mismanagement and fraud with respect to Indian grantees?

Answer: Audits of Native American CETA grantees are conducted by CPA firms under contract to the Office of the Inspector General (OIG). Normally, audit reports which reach the grantee and the grant officer for action contain no information related to fraud.

Such information is deleted before release of either the draft of final audit report. When all legal matters are settled, OIG issues a report relating to fraud. We have been informed by the Audit Operations staff of the OIG that with respect to audits of 161 Fiscal Year 1977 Native American CETA grantees, not more than 2 percent disclosed findings of possible fraud.

Fraud possibilities are more likely to come to the grant officer's attention through other means. For example, reports submitted by Federal Representatives after onsite visits to grantees may contain information concerning possible or potential fraud or criminal malfeasance, misapplication of funds or gross mismanagement. When such information is made available to the grant officer, an incident report must be submitted to the OIG. Since 1976, the grant officer has submitted approximately 75 such reports.

PRIME SPONSOR MONITORING OF SUBCONTRACTORS

Question: The 1978 amendments require that each prime sponsor establish an independent unit to monitor CETA programs operated under the sponsor's jurisdiction. What has the Department done to assure that these units are:

(1) Adequately staffed and trained;

(2) Independent, and;

(3) Objective in their monitoring practices and methods?

Answer: The Department has expended a great deal of effort in implementing the Independent Monitoring Unit (IMU) provision of the 1978 amendments. During the last half of FY 1979 and throughout FY 1980, Regional Offices, through their Regional Training Centers, provided extensive training on the roles and responsibilities of these monitoring units. Further, prime sponsor master plans were carefully reviewed to insure that monitoring units were independent of the functions to be monitored and that acceptable monitoring practices and schedules were included; many initial plans were returned to prime sponsors for revision in these areas. Finally, the FY 1980 annual performance assessment emphasizes the role and performance of IMUs and is used as a review of the IMUs' effectiveness to date.

MANAGEMENT ASSISTANCE

Question: The 1978 Amendments required Labor to establish an Office of Management Assistance to provide prime sponsors with management assistance to operate their programs. What steps has Labor taken to make the sponsors aware of the Office of Management Assistance's services and to assure that this office is responsive to the technical assistance and management needs of the prime sponsors?

Answer: The Department has taken steps in two areas to be responsive to technical assistance needs of sponsors.

Organization - Establishment of Office of Management Assistance and Regional Counterparts

- The CETA authorization of October 27, 1978, included language in Section 135 directing the Department of Labor to establish an Office of Management Assistance (OMA) to provide management

assistance to any prime sponsor seeking or requiring assistance. This is in addition to the Training and Technical Assistance (TA&T) authority in Section 314.

- After passage, a comprehensive study and analysis of the Employment and Training Administration (ETA) was mounted to determine the most effective location and necessary responsibilities of a new Office of Management Assistance. This was completed in January 1979.

- This analysis indicated a more comprehensive reorganization of ETA was required to supplement and support OMA management assistance and training activities. A major ETA reorganization process was started involving all National Office and Regional Office components and with input from any constituent groups. This process was essentially completed in August 1979, although some fine tuning is still taking place. Concurrent with this process, a special TA&T Committee and Work Group made an indepth analysis of TA&T with a final report and recommendations made in August 1979.

- The special TA&T report, the GAO CETA report, the overall ETA and constituent group reviews and recommendations were all synthesized and a reorganization plan, with options, was developed. The newly organized Office of Management Assistance (OMA) was officially implemented on December 10, 1979, placing this component directly under the Deputy Assistant Secretary for ETA.

- The Regional Office reorganization was effective on March 3, 1980. This part of the overall ETA reorganization includes the formation of a special regional CETA component, a Job Service component, and a Management Assistance Staff (MAS) component as a counterpart to the National Office of Management Assistance. All clearances, including appropriate Union reviews, have been accomplished and we are now staffing these new components. The MAS will have staff and full-time capacity to provide TA&T to prime sponsors.

Implementation Process - Prime Sponsor Participation and On-Going Advisory Role

- Work groups are being formed which will be developing the Management Assistance Training System. The system will include definitions of grantee and subgrantee TA&T responsibilities. Work group composition will include members from all levels of ETA, but with primary emphasis on prime sponsor participation. The revised system will be installed to be effective prior to the planning cycle for next fiscal year beginning in June 1980.

- An advisory group of CETA prime sponsors and other users is being formed to assure that overall TA&T activities relate directly to prime sponsor needs.

- This advisory group will meet regularly with the Office of Management Assistance in all aspects of TA&T activities, especially during this formative stage, in developing the system and the guidelines for its operation.

Each Regional Office is also establishing an advisory group of prime sponsors and other grantees to review and advise the regional ETA on overall regional TA&T operations for the Management Assistance and Training System.

This information with draft papers, have been distributed to prime sponsors and other components of the ETA system as well as Public Interest Groups, Community Based Organizations, etc.

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Use of ETA publications and newsletters as well as presentations at many conferences, etc. have also been utilized to provide current information and progress reports.

HOUSE GOVERNMENT OPERATIONS COMMITTEE REPORT ON CETA

A report on CETA issued last year by the House Government Operations Committee charges that the Department is hesitant to challenge prime sponsors and deficiencies often go uncorrected. The report says only one prime sponsor has been closed down in five years of CETA operations and "very little money has been returned to the Treasury" even where improperly spent.

Question: What is your response to this charge?

Answer: Regional Offices often approve annual plans conditionally or in part until they conform with the law, the regulations and other federal requirements because of the Department's strong commitment to the people served by the CETA program. During the past three fiscal years, the Department conducted an annual onsite indepth review of CETA operations to identify problems and issues with prime sponsors. These assessments provide the starting point for improving performance so that deficiencies may be corrected. This action taken in conjunction with recent ETA issuances on debt collection which require aggressive action should provide positive results in collection of debts. DOL agrees with the report regarding the need to obtain cash repayment where the situation warrants and the attendant public exposure of grantee officials who have failed to prevent misspending of grant fund's appropriate. The Department's full response to the Committee's Report provides a more detailed answer to this and other related issues.

Question: Is it true, as the report alleges, that biannual audits are called for in the regulations but that some prime sponsors have never been audited? How many?

Answer: Yes, as of the beginning of FY 1980, there were a total of 52 prime sponsors who had never been audited by or for the Department. This figure, however, includes 21 new primes which have not been in operation long enough to warrant an audit.

The 31 prime sponsors who have been in operation for two years or more, and had never been audited, are nearly all located in our Chicago Region, where, until recently, the backlog of unaudited primes was quite critical. By making audit resources available from all of the regions, we have been able to eliminate this backlog; all of the 31 prime sponsors are scheduled to be audited this year according to our work plan.

Question: To what extent are the 50,000 CETA subgrantees not audited by prime sponsors?

Answer: All subgrantees funded over $100,000 and a sample of 25 percent of subgrantees funded under $100,000 must be audited by CETA prime sponsors.

Question: Do you ever make awards to exemplary programs as an incentive to other prime sponsors to do a better job?

Answer: The Department is in the process of developing a system for recognizing exemplary programs. The Department feels that such a system is appropriate; however, the Department also feels that it is necessary to assure that recognition granted relates to specific

achievements. In this respect we intend to develop a system which will provide recognition for specific activities. The specific form for recognition is still under study. Consideration is being given to different types of recognition ranging from letters of commendation to special consideration for discretionary funds, depending on the significance of the achievement.

DISTRIBUTION OF TECHNICAL ASSISTANCE

Question: List the amount of funds for Fiscal Year 1979 you:

- Allocated to the Division of Farmworker Programs to provide technical assistance to its approximately 70 grantees,

- Allocated to the Division of Indian and Native American Programs to provide technical assistance to its approximately 164 grantees,

- Allocated to the Older Worker Program Group to provide technical assistance to its approximately 64 grantees, and

- Allocated to the approximately 470 Title II and VI Sponsors for technical assistance.

Answer: The Farmworker, Indian and Native American and Older Worker Programs are part of the Office of National Programs (ONP) and are operated out of the National Office. The ONP was allocated $475,000, out of the TA&T funds available, to support ONP programs in FY 1979.

The funds were distributed within the Office of National Programs, with $345,000 for TA to Indian and Native American Programs, $95,000 to Farmworker programs and $20,000 to the older worker program. The remaining $15,000 was used to train and provide TA to contract and compliance specialists.

These programs also receive TA&T through the Title II and VI sponsors and as the Report to the Committee on Appropriations, U.S. House of Representatives, by their Surveys and Investigations Staff, states, "Indian grantees interviewed indicated that they receive both TA&T funds from the Office of National Programs and they participate in training courses offered by the regions in the Training Centers and were, in general, quite pleased with the training."

The Training Centers indicated are funded from TA&T funds allocated to each Regional Office and provide training to prime sponsors and other grantees based on regional needs assessments and requests for management and technical training.

TA&T funds are not allocated directly to the Title II and VI prime sponsors. TA&T is provided to primes by or through the Regional Offices by training through the Regional Training Center developed and provided by the Regional Office and/or National Office components, and on-site TA as identified by needs assessments, monitoring visits, audits, evaluations, and special surveys and reports.

The new Management Assistance and Training System (MATS) now being developed for implementation prior to next fiscal year will more accurately identify, assess and determine the priorities and

content of specific training courses and management assistance needs that will be delivered and provide the specific data needed for budgeting and allocating TA&T funds in FY 1981.

Question: Do the activities that are receiving the smallest amount of technical assistance need more than they are receiving?

Answer: All program operators request more TA&T funds for projects including technical assistance and/or staff training than they receive.

The process of reducing the requests from a long list of what is desirable to the most necessary projects needed to meet priority program objective includes:

o Matching projects against approved ETA goals and objectives.

o Determining if the request supports the approved Annual Work Plan for implementing the goals and objectives.

o Assuring National Program emphases are addressed by both National and Regional Offices.

o Eliminating possible areas of duplication in the development of new training modules for technical assistance guides.

o Determining areas of "cross-cutting" needs and assigning coordinating responsibility to a lead ETA component.

Despite this process of weeding out, many projects that match the priority criteria cannot be funded with the available TA&T funds. This is the reason we have requested additional funds for FY 1981. National Office program components and Regional Offices list the requested TA&T projects in order of their priority and as a last measure of approval, are funded within a tentative planning target allocation set each year for each component, based primarily on past experience and Regional and National Office program assessments done unilaterally.

The newly formed Office of Management Assistance (OMA) and the regional OMA counterparts in each region are designing and developing a Management Assistance and Training System (MATS) that will more accurately identify, assess, and determine the priorities and content of specific training courses and management assistance projects that will be delivered by the MATS network. A long-range 5-year MATS plan is being developed with an annual delivery plan providing the data for budget justifications, including types and description of need and their distribution. This MATS will be installed in the fourth quarter of FY 1980 for planning and operation in FY 1981.

Question: If there is a significant variation of funds per project served in the above activities receiving technical assistance, what is the Department's justification for the imbalance and does the Department have any plans to correct the imbalance?

Answer: TA&T funds are not directly allocated to the approximately 470 prime sponsors, the 164 Indian and Native American Program grantees or the approximately 70 Farmworker Program grantees. TA&T funds are provided for specific projects providing technical assistance and/or staff training support to program components based on

their Annual Work Plans, which are in accord with annually approved ETA goals and objectives. For example, many training courses are developed by other national components or other primes and provided through our training centers to prime sponsors. On-site Technical Assistance to primes may be provided by many different program components depending on the expertise required. This means that TA&T funding and allocations to specified programs will vary year-to-year based on national policy, basic program emphases, grass roots assessment of program needs and the determination of the best deliverer of services needed.

Question: Of the approximately $15 million allocated to CETA Section 314 (Technical Assistance), how much was allocated to assist the organizations receiving funds from the Division of National Training Programs, the Division of Indian and Native American Programs, and the Division of Farmworker Programs?

Answer: These three divisions are part of the Office of National Programs (ONP). The ONP administrator was allocated $475,000 in FY 1979 to provide priority TA&T support directly to his special program grantees. The ONP Administrator, with his unit staff, determined the TA&T funding needs within his office program areas based on program reviews and identified items of most crucial need. Of the $475,000 allocated to ONP, $345,000 went to the Indian and Native American program, $95,000 to the Farmworker programs and $20,000 to Older Worker programs in the Division of National Training Programs. The staff of ONP assigned to these national programs are also available and are used to provide ongoing technical and management assistance and training as part of their regular job assignments.

Also, the Report to the Committee on Appropriations, U.S. House of Representatives, by their Surveys and Investigations Staff, states that, "Indian grantees interviewed indicated that they receive both TA&T funds from the Office of National Programs and they participate in training courses offered by the regions in the Training Centers and were, in general, quite pleased with the training."

The Training Centers indicated are funded from TA&T funds allocated to each Regional Office and provide training to prime sponsors and other grantees based on regional needs and requests for management and technical training.

Question: Did you have any Fiscal Year 1979 Title III funds that were not obligated as of the end of the fiscal year that could have been used for technical assistance for the activities funded by the above three divisions?

Answer: At the end of each fiscal year there are minimum amounts of CETA Title III Section 314 TA&T funds that remain unexpended. Since these are not known during the fiscal year, when and if they become available, they are included in the total funds available for the new fiscal year's TA&T projects.

SECTION 314 FUNDS

Question: What other organizations in the Employment and Training Administration received Section 314 funds and what did they use the funds for?

Answer: All National Office components and Regional Offices of the Employment and Training Administration receive Section 314 Technical Assistance and Training (TA&T) funds based on an annual approved workplan.

The National and Regional Offices have complementary roles in providing TA&T. The National Office has the major responsibility for designing and developing the needed Technical Assistance and Training packages and designing and monitoring the system for delivery of services.

The primary role of Regional Offices is in the delivery of TA&T, as well as overall responsibility for assessing prime sponsor needs, planning, managing, and evaluating TA&T activities within the region.

Approximately 60 percent of Section 314 funds are spent on training center operations. In 1979, twenty national training courses were designed and developed under the National Training Center and conducted in 60 centralized training sessions for approximately 2,500 Federal, State, and CETA prime sponsor staff. The ten Regional Training Centers conducted 940 training sessions for 20,900 staff members of regional, State, and local program operations.

The majority of training offered by training centers is designed to meet the basic needs of the trainees on a continuing basis. The courses offered include Counseling, Job Development, Interviewing, Financial Management, Grants Management, and courses related to Employer Relations. Training is also conducted in areas mandated by CETA regulations such as in the areas of Management Information Systems, Internal Monitoring, and on the CETA reauthorization legislation.

Besides the development of needed training programs to be delivered through the training centers, other major uses of TA&T funds include:

o On-site technical assistance support to CETA Prime Sponsors.

o Technical assistance provided to special emphasis programs and national Grantee Support Services to migrant, Indian, Veterans, and older worker programs, youth initiatives, women initiatives, Private Industry Councils (PICs), and Community Based Organizations.

o Technical assistance services to prime sponsors provided by Institutional Grants, Universities, Black Colleges, Public Interest Groups, and Community Based Organizations.

o Special IPA assignments to prime sponsors for hands-on technical assistance support.

SUPPORTED WORK DEMONSTRATION PROJECT

Question: Results of a massive 5-year study, known as the National Demonstration Project, were released last week. It appears that, while significant employment gains were made by welfare mothers, high school dropouts and ex-convicts showed no significant long-term

benefit from the program. Don't these findings call into questi the value of your new proposal to attack youth unemployment?

Answer: The National Supported Work Demonstration is an inte sive work experience program which was created to determine whether a significant number of hard core unemployed could be brought into the labor force and induced to stop engaging in socially destructive or dependent behavior. Target groups which participated in the program were women who had been on Aid to Families with Dependent Children for more than three years, ex-drug addicts, former law breakers and ex-convicts, and young school dropouts, often with records of delinquency. The program provided these individuals with work experience of a year or so, under conditions of gradually increasing demands, close supervision, and of work in association with a crew of peers.

Results of the program, after five years, showed that it was most effective in enhancing the employability and earnings of women who had been long-term AFDC recipients. The program also had an impact on a significant segment of the ex-addict population, who did better in getting jobs and in earnings than numbers of a control group who were not in the program. In addition, the ex-addicts in the program were less prone to commit drug-related and other crimes than those who were not.

The program was found to have a marginal impact on ex-offenders. They did not show less criminal behavior, and their rate of employment and earnings was only slightly better than those of ex-offenders who did not participate.

For the youth group -- school dropouts between the ages of 17 and 20, with one of every two enrollees having had a record of delinquency or crime -- supported work had no significant long-term impact on the earnings, employment, criminal activity or drug abuse. The data do suggest, however, that the younger segment of the youth group benefited more from the program. Many youth find it difficult to decide what kind of work to do and, when they do, to carry out their plans. Thus, they tend to seek short-term experiences, either in or out of work, and many quickly tire of their jobs. This attitude makes the discipline and routine of supported work unattractive to them.

A modified supported work program for youth is currently being conducted at several sites. It includes these additional elements: remedial education, skill training and support services. It is possible that such an enriched model of supported work may prove more effective for certain youth groups.

We do not believe that the Supported Work findings call into question the value of the Administration's youth proposal. To begin with, work experience is only one of a number of options available under the proposal to serve the dropout population. Secondly, work experience under the youth proposal differs from that under the Supported Work Demonstration. For example, work experience would be of the enriched variety and would be carefully linked to education (for in-school youth) and development of basic literacy and computation skills (for out-of-school youth). Finally, there are many elements in the proposed program that were not present in the Supported Work Demonstration, including performance standards for program operators, and special incentive grants.

TRAINING OF WELFARE MOTHERS

Question: What efforts are you making to increase enrollment of welfare mothers in employment and training programs?

Answer: All AFDC recipients 16 years of age or older are required to register with the Work Incentive (WIN) program, unless legally exempt. In FY 1979, approximately 2.2 million persons were registered in WIN at some time during the year. About three-fourths of WIN registrants are women, the great majority of whom are mothers.

The legal exemptions from WIN relate to a person's ability or readiness for work (factors such as illness, incapacity, or having children under 6 years of age). However, exempt persons may volunteer for the program. Currently, about 17 percent of WIN registrants are volunteers. A special demonstration project in Denver is attempting to increase the number of such volunteers.

In order to get the most "mileage" out of its funds, WIN has been emphasizing a policy of tapping into other program resources as much as possible in arranging for employment and training services for WIN participants. These other programs include CETA, Title XX, Vocational Education, Vocational Rehabilitation, and Basic Educational Opportunity Grants. About 40 percent of all WIN registrants in work and training components are being served in programs other than WIN.

WIN is also undertaking special demonstration projects providing special services to teenage AFDC mothers.

With regard to other employment and training programs, the CETA Amendments of 1978 (Public Law 95-524) more sharply targeted CETA programs and services on those most in need, including welfare recipients. Under the reauthorized CETA, nearly all CETA programs are limited to the economically disadvantaged. The definition of economically disadvantaged in Public Law 95-524 automatically qualifies a person or family member who receives cash welfare payments under a Federal, State, or local welfare program. Within the overall eligibility criteria, CETA prime sponsors are permitted under the Act to set specific clientele priorities in accord with the needs of their specific areas. Welfare recipients, including welfare mothers, are one of the major priority target groups in CETA programs. The proportion of welfare recipients in CETA programs has increased since the CETA reauthorization; in FY 1979, nearly half a million of the participants served under CETA Titles II and VI were welfare recipients.

The Administration's welfare reform proposal would increase services to welfare recipients under CETA. Specifically, a new Part E in Title II of CETA would provide job search assistance programs for AFDC and WIN participants and, if the job search is unsuccessful after an eight week period, would provide work and training opportunities for the principal earner in a family with a child (in many cases this would be a welfare mother). These new provisions would become effective in FY 1982.

Sixteen welfare demonstration projects, for which the Administration has requested $281 million in FY 1981, are testing the concepts in the welfare reform proposal.

WIN COST/BENEFIT RATIO

Question: If the Work Incentive Program indeed saves $560 million in welfare benefits, why is no substantial increase requested for such a cost effective program?

Answer: Because of WIN's effectiveness in serving employable AFDC recipients, the Administration's welfare reform proposal is basically an expansion of the WIN program concept, with particular emphasis on initial job search activities and enriched work and training components. A much greater increase is planned for FY 1982, when the Work and Training Opportunities Act is expected to be implemented nationwide.

WIN PILOT PROJECTS

Question: It was recently announced that $12 million in Work Incentive Program funds was being allocated to 5 cities for a 2-year demonstration called the Total Registration Involvement Project.

What is the purpose of this demonstration program, and how does it relate to your request for $281 million for Welfare Reform Demonstration projects?

Answer: The purpose of this demonstration is to determine what the impact on the client population would be if the WIN model were expanded to serve all WIN registrants in the project area. A Total Registrant Involvement Project (TRIP) is nothing more than a well managed and operating WIN project with funding constraints removed. Participating projects are given sufficient additional WIN funding to insure that lack of resources is not a reason for failure to provide needed social and employment services to their WIN registrants. The only significant limitation on the TRIP projects is that they cannot increase their use of WIN-funded public service employment. At the time we determined the desirability of testing this concept, an announcement was made throughout the WIN system soliciting States to participate. From those who replied, the following project sites were selected for the 2-year TRIP program: Kent County, Michigan; Atlantic County, N.J.; Harris County (Houston), Texas; Columbia; S.C.; and the four-county area around Vicksburg, Mississippi.

The DOL request of $281 million for Welfare Reform Demonstration Projects does not include any funds for these projects. The TRIP projects will be funded completely by the WIN appropriation and the required ten percent State match.

Question: How much is included in the fiscal 1981 WIN budget for the Total Registrant Involvement Project?

Answer: The projected FY 1981 requirement for the 5 TRIP areas is about $3.1 million.

Question: What amount of WIN funds are being used to evaluate the TRIP project?

Answer: A contract for $194,713 was awarded for evaluation of the TRIP projects. All projects are operational now and some preliminary contractor data has been collected.

WIN LANGUAGE CHANGE

Question: You are asking for new bill language to establish a $10,885,000 contingency fund, to provide for unanticipated State salary increases of Work Incentive Program staff.

After years of operating the WIN program, why is special bill language needed now?

Answer: Such language would also have been helpful in past years, but is particularly important now during times of rapidly increasing costs. This contingency fund will help States maintain program levels in the face of such rising costs, where they would otherwise have to decrease service levels when anticipated State salary increases occurred. The incidence of salary increases and the percentages of increase vary among the States and have caused uneven impacts upon operating funds. This language will provide relief to those States unduly affected.

Question: How have you handled unanticipated State salary increases in past years?

Answer: In the past, States have had to absorb these costs at the expense of program operations.

Question: How many State employees are financed under the WIN appropriation; at what total cost?

Answer: There are approximately 13,000 State employees that are financed with WIN funds. We anticipate fiscal year 1981 costs to be $248.6 million.

WORK INCENTIVE PROGRAM

Question: Last year, your budget was cut $20 million, primarily because you utilized the Work Incentives appropriation to fund special demonstration projects, without telling the Appropriations Committees. Do you have any money in the Fiscal 1981 Work Incentives budget for demonstration projects?

Answer: In Fiscal Year 1979, there were no funds used outside the Grants to States program activity. We experienced approximately $4 million of expenditures for activities funded at the Secretary's discretion and we anticipate a like expenditure in Fiscal Year 1981.

Question: Why can't you utilize the Secretary's discretionary funds under CETA for special projects?

Answer: CETA discretionary funds are being used for several major demonstration projects testing alternative ways of providing employment and training services to WIN registrants and other welfare recipients. These include the Employment Opportunity Pilot Projects, the Minnesota Work Equity Program, and the Supported Employment projects. The CETA program, however, furnishes resources primarily to the CETA prime sponsor system.

FOOD STAMP PROGRAM

Question: What evidence is there that the Food Stamp program creates a disincentive to work?

Answer: To our knowledge, there is no evidence one way or the other as to whether the food stamp program creates a disincentive to work nor are there any major research efforts in this area. The Departments of Labor and Agriculture are experimenting with different methods of job assistance to determine which are most productive in assisting and encouraging unemployed food stamp recipients to find work at the least cost. These will include workfare, job search and job finding clubs.

Question: How much is budgeted to register Food Stamp recipients for work, and find them jobs?

Answer: A total of $70,000,000 is budgeted for food stamp work registration and job search activities in FY 1981. These funds will be used to carry out the new joint regulations (now in clearance) which implement the job search requirement mandated by the Food Stamp Act of 1977.

NEW YOUTH LEGISLATION

Question: As you know, this Committee requires authorizing legislation to be enacted before we can fund a program. When do you anticipate that youth legislation will be enacted and will that give us time to consider your funding request?

Answer: As we indicated earlier, perhaps the best strategy for extending the CETA youth activities would be to reauthorize only the current YETP program and provide technical authorization with the appropriations process to allow the Department to consolidate and plan for a comprehensive youth initiative. This decision could come within the next two or three months, allowing you to act in June or July. If this strategy were accepted, such technical amendments as: single unified plan for YETP and SYEP; common eligibility requirements; and exemptions to the limitations in work experience, allowances, and length of over-all participation in CETA; would be needed.

NEW YOUTH INITIATIVES

Question: What restrictions do you plan to impose on prime sponsors under your new Youth Initiatives legislation, to see that they emphasize training and other employability development services, rather than merely work experience?

Background: Prime sponsors, primarily city and county governments, up to now have had wide flexibility in how they use their CETA money - and have a tendency to spend it for easily developed work experience projects, which recent studies show do little for enhancing long-term employment prospects for youth.

Answer: The restrictions for turning around the emphasis in the youth employment and training initiative have to be viewed in terms of the structuring and design of the program. The new youth initiative provides an approach which parallels the youth development realities of transitioning youth from school to work. The key is the structuring of the system to deliver services for meeting

the individual needs of youth as assessed by the sponsor. The new initiatives will emphasize the consolidation of youth program activities into a year-round planning and service delivery system. Our emphasis will be responding to each youth's needs based upon the maturation level of the individual such that the least experienced youth would receive attention through vocational exploration, career information, and job search techniques. Older youth and in particular out-of-school youth more willing to make a commitment to a specific job, would receive attention through dual education and skill development to insure they have the basic requisites to hold a particular job. This approach would be individualized and sequenced through career development plans for each youth. A "career development plan" will be established and would be based upon an assessment of each youth's needs. This plan would insure the sequencing of services as needed by each youth, be updated periodically to reflect the gains and experiences of the youth, and provide for an individualized record of each youth's career advancement. Each individual may develop at his or her own pace in attaining competencies.

The system must be able to track development of individuals, and to provide assistance based on previous experiences in the program. The attainment of competencies over time must be benchmarked and recognition of accomplishment will provide individual incentives. More importantly, it can provide a proof to employers of the abilities and commitment of young people who might otherwise be considered too risky to hire.

The new youth program structure will emphasize:

A. a system of multi-year sequencing of activities;

B. performance requirements for youth and locally defined performance standards;

C. attainment of competencies; and

D. greater recognition of the individual developmental process.

GAO REPORT ON SUMMER YOUTH EMPLOYMENT PROGRAM

Question: On February 5, 1980, GAO reported that Labor Department monitors of the 1979 Summer Youth jobs program did not take all steps necessary to assure that sponsors took corrective action after problems were identified. GAO also noted that some prime sponsor staff complained that technical assistance was provided too late to be of use. Also, it appears that Regional Office staff did not make as many worksite visits as required by headquarters. What is your response to these criticisms, and what are your plans for further improvements in the 1980 summer program?

Answer: Federal monitoring of the Summer Youth Employment Program was a major priority in 1979. The program was more carefully and comprehensively monitored than perhaps any other Department of Labor program. This intensive effort was part of an overall effort to improve the summer program and provide the foundation for continued focus on improving both the administration and operation of the summer program for 1980.

Regional Office personnel of the Employment and Training Administration were required to monitor prime sponsor operations

three times, once during the planning stage and twice more during program operations. The Labor Department's Regional Offices conducted more than 2,000 monitoring visits of prime sponsors during the implementation and operation of the 1979 SYEP. This represented 4.5 visits by Regional Office staff per prime sponsor. More than 7,600 worksites, which represent 1 in 20 and contained seven percent of all participants, were monitored during these visits. In addition, over 20,000 summer participants were interviewed representing one-third of those in the monitored sites.

Of the Regional Office monitoring visits, 87 percent of all monitored sites received a satisfactory rating on the first visit. Among the unsatisfactory sites, a fifth were revisited by Regional Office staff in order to assure that corrective actions had been carried out.

Monitoring activities of the summer program were also carried out to a great extent by the Office of the Inspector General (OIG) of the Department of Labor, and individual summer program prime sponsors. Finally, the Department's Office of Youth Programs' special monitoring group conducted an intensive review of eleven large cities. Over 1,200 prime sponsor worksite visits were conducted, and 3,800 of the 24,000 participants in these worksite visits were conducted, more than 10,000 of which had Federal participation.

There were an estimated 164,000 worksites with nearly 900,000 participants in the fiscal 1979 summer program. The incidence of the types of problems, both serious and more modest, varied significantly.

Throughout the summer, feedback was provided to the respective Regional Offices responsible for developing corrective action plans with the appropriate sponsor, resulting in many of the problems being corrected during the 1979 summer program. However, certain problems were longstanding and resulted from major system difficulties such as poor planning and lack of staff training and therefore could only be corrected by focusing on year-to-year corrective action strategy rather than "in summer" corrections. These problems were more systemic and required more adequate planning and policy attention. This made it difficult to always achieve mid-course corrections in the program. Since it was recognized from the outset that feedback and action would not be possible for reviews conducted in the last several weeks of the program, the primary purpose was to achieve year-to-year rather than in-summer corrective actions. Nevertheless, the monitoring activities did result in substantial corrective action during the 1979 summer and, in many instances, encouraged prime sponsors to intensify their own efforts.

In the 1980 SYEP, efforts will be made to build on the foundations that exist for further improvements. Sponsors are being instructed to develop more worksites than will be needed so that youth may be moved from deficient sites if necessary. Corrective action procedures will be clearly specified for quick turnaround.

Worksite agreements will be made more specific and kept up-to-date. Training of worksite supervisors will be emphasized. Most prime sponsors already meet these requirements, however, the Department will maintain focus on these areas to insure that these improvements are sustained.

Continued emphasis will be placed on year-round planning for the summer program, and administrative consolidation with other prime sponsor youth programs but within essentially the existing operational guidelines.

SYEP improvement efforts for 1980 will concentrate on larger prime sponsors and those which experienced the most severe problems in 1979.

A streamlined worksite review instrument has been prepared for Regional Offices which can also be used by prime sponsors. Planning allocations and program emphasis statements have been distributed six months earlier than in the past. Special funds are being made available to the Regional Offices to implement a special summer intern monitoring program to target Regional Office resources. This will insure sufficient staff resources and travel resources at the regional level to accomplish the National Office monitoring policy for the 1980 SYEP.

As we enter the 1980's there is encouraging evidence that the employment and training system can respond and correct problems and effectively manage one of the most administratively challenging of the youth programs. The 1979 SYEP represents a significant record of accomplishment.

YOUTH COMPETING WITH ADULTS

Question: What is the rationale for expanding employment opportunities for youth, when the level of adult unemployment is rising?

Answer: A review of the youth unemployment statistics over the past ten years clearly indicates the severity and intractability of the youth unemployment problems. A few examples highlight these facts:

Despite a significant reduction in adult unemployment in recent years, similar gains have not been enjoyed by younger Americans.

Young people 16 through 24 have accounted for nearly one-half of all unemployed persons in the last five years.

Although Federal youth programs have significantaly increased employment among black teens over the past 2 years, at least 400,000 minority teenagers remain unemployed.

While the unemployment rate for white teenagers has remained constant at about 13 percent over the past 25 years, the unemployment rate for black teenagers has grown from 17 to 36 percent.

Special studies indicate the standard methodologies used for measuring youth unemployment may understate the problem by nearly 20 percent.

In order to address this challenge of youth unemployment, special efforts and sufficient resource levels are required to impact on this great loss of human potential.

Question: Shouldn't an unemployed parent be given priority in Federal employment and training programs before their work age children are enrolled?

Answer: Adults maintain significantly, increased accessibility over youth in all aspects of labor market dynamics and are eligible for and have available Federal and State government job protection mechanisms; layoff aid; work rule priorities (first hired, last fired) and additional organizational, economic and social assistance available both during periods of economic downturn and recovery periods. These are special priorities which are not available to youth. In addition, the eligibility requirements of the CETA Title II-D and VI countercyclical public service employment programs also favor adults.

Studies of labor market experience clearly indicate that adults have shorter and fewer periods of unemployment than youth during periods of slow economic growth ("bad times") and even in the "good times" (periods of economic growth) the unemployment rate for youth remains over three times the unemployment rate of adults. In some youth groups the unemployment rates are over 8 times the average adult unemployment rate and have remained in that disproportionate negative ratio for decades.

The severity and pervasiveness of youth unemployment requires massive and long term efforts to simply achieve or approach a parity with adult unemployment rates.

Question: What is the rationale for "Holding the Line" on the one program which gives local officials flexibility to design projects best suited to local needs, while expanding "earmarked" funding?

Answer: The justification for "earmarked" funding to address this country's high unemployment rates among teenagers must be traced back to the evidence presented to the Congress in the Spring of 1977 when this same body was addressing the need for special attention on youth employment problems. In late 1977, the Congress passed the Youth Employment and Demonstration Projects Act of 1977 (YEDPA) and extended this authorization again in 1978. This legislation was a response to these facts:

1. The unemployment rate for teenagers ranges from 18 to 23 percent;

2. The unemployment rate for minority youth is 35 to 40 percent;

3. While unemployment rates for the general population seem to respond to economic conditions, black teenage unemployment goes only one way - up.

Fewer and fewer of these youth are accurately counted as unemployed; and

4. Employment and training programs earmarked and targeted for poor youth have reduced the unemployment rates of teenagers. The YEDPA initiatives have had a favorable impact on the unemployment rate of teenagers and through the extensive research and evaluation components of YEDPA, we have gained extensive knowledge to continue to respond to this problem. This knowledge is reflected in the proposed new youth employment and education initiatives which the Congress is now considering.

PHASING OUT YOUTH INCENTIVE PILOT PROJECTS

Question: If Congress accepts your plan to eliminate Youth Incentive Entitlement Pilot Projects, how many of the 60,700 people served in fiscal 1980 will be phased out through attrition, and how many will be layed off?

Answer: The 60,700 figure indicates the approximate number of people served since the inception of the Entitlement rather than just during FY 1980. If the program is allowed to end on September 30, 1980, there will be approximately 19,000 participants who will be layed off.

Question: When would the lay-offs actually occur?

Answer: The current plan is to stop intake at the beginning of the summer to allow for the guaranteed minimum entitlement to be completed by the end of August. Layoffs would therefore occur effective August 31, 1980.

Question: How much more would it cost to phase out all current enrollees through attrition?

Answer: By stopping intake in June, it would cost approximately $135.9 million to phase out all current enrollees through attrition. If the prime sponsors were to contribute 20 percent match funds, the cost would drop to approximately $108.7 million.

Question: The Youth Incentive Entitlement Pilot Projects were designed to test the concept of guaranteeing a job to youths who stay in school or are willing to return to school. Has this concept proven to be sound and do you believe we should eventually expand the concept to all prime sponsors?

Answer: It is too early to draw conclusions from the qualitative data. However, the empirical evidence indicates that large numbers of youths are willing to enroll in a paid work experience program that requires progress toward completing their secondary education. We also know that, when youths indicate their willingness to participate, there are employers who are willing to take them on, and that in a variety of communities, schools, prime sponsors, and other agencies are able to put together a workable program that matches young people to jobs on a continuous basis and keep track of how they are progressing in school and work. In light of this achievement, we feel that it would be much wiser at this point to build rather than to dismantle.

Question: If we were to expand entitlement to all prime sponsors, what is your best estimate of the cost of guaranteeing jobs for youths who stay in school or are willing to return to school?

Answer: The estimated cost of this expansion during FY 1981 would be $1.173 billion assuming a 20 percent match from the prime sponsor.

EXISTING YOUTH LEGISLATION

Question: Suppose the existing youth programs are given a simple one-year extension, and your new legislative proposals are delayed until Fiscal 1982. Would you still ask for $1.1 billion in Budget Authority, an increase of $300 million over the current level?

Answer: The increased Budget Authority would be even more needed in the event of an extension of existing youth legislation. A $300 million increase in Budget Authority (BA) must be contrasted against the minimal $100 million increase in 1981 outlays anticipated in the first year of passage of the new youth initiatives. At the end of FY 1980 it is expected that the youth programs will be operating at an outlay level of at least $962 million. If new legislation is enacted, existing programs will be phasing out and new, more intensive services and activities will be starting, resulting in an enrollment impact of a limited net increase in the total number of youth served in a transition year.

If there is no new youth legislation enacted and the existing programs continue to operate at full capacity (and at an increased cost due to larger than anticipated inflationary increase) the $300 million in new budget authority will be needed to simply keep pace with the required outlays needed to simply sustain prior service year levels.

Question: Why shouldn't the committee simply zero-fund all but the Youth Employment and Training Program (YETP), which should go a long way toward consolidating the youth programs as you proposed?

Answer: The President's FY 1981 budget proposals request separate funding for the summer program and the new youth initiatives; whereas no funding is requested for the YETP, YCCIP, and YIEPP programs. Zero-funding of all but the YETP program is a feasible alternative provided that separate budget authority is maintained for SYEP. Under this alternative we would need assistance from Congress to programmatically plan for the consolidation of all CETA youth activities by requesting appropriation language to permit:

1) that the CETA youth activities be consolidated through one plan and administered and operated as one program. Thus the SYEP program should be planned as a component of the consolidated YETP plan. This would require technical language;

2) that the CETA youth activities utilize a common eligibility criteria (the YETP criteria). Currently SYEP, YCCIP, YIEPP, and YETP have different eligibility criteria; and

3) that there be an exemption to the existing CETA limitations on participation in Title I, Part B, Section 121(c)(1) and (2)(i). The objective is to provide a coordinated range of services through an employability development plan for 14-21 year old participants.

Question: To what degree could your new proposals be carried out under existing youth program authority?

Answer: In order for the effective consolidation of the youth programs to transpire under the existing youth program authority, we would have to obtain a technical amendment to the expiring authorization. Such an amendment should sanction the development of one comprehensive youth employment and training plan and program operation for each prime sponsor. To substantially implement the new youth initiatives we would need Congress to grant a technical adjustment to relinquish the following:

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o twenty-two percent limitation of funding for local educational agency agreements,

o restriction of CETA participation to 2,000 hours of work experience, 104 weeks of classroom training and 30 months of financial assistance during a five year period, and

o restriction of 1,000 hours work experience in one year.

In addition to the above waivers we would need authorization to change the eligibility requirements of the Summer Youth Employment Program to be common with YETP and to allow sponsors to plan the SYEP as an integrated component of the consolidated, comprehensive youth program.

Should these modifications occur under the existing authority we would be able to implement the fundamentals of consolidating the youth employment programs and developing a comprehensive strategy for attacking youth unemployment.

LABOR/EDUCATION COOPERATION ON YOUTH INITIATIVES

Question: What kind of cooperative efforts will you undertake with the new Department of Education to insure coordination of your Youth Initiatives Proposal?

Answer: We have already undertaken direct discussions with the Department of Education officials on coordination arrangements. Each agency is to have an implementation task force for their respective responsibilities in the new youth initiatives. We already have ours in place. One of the principal responsibilities of the task forces will be to coordinate closely the entire process of program development in order to assure that CETA and the companion education programs are fully coordinated at the local level. We will accomplish this through continous coordination and communications on the development of program elements. We further expect that we might jointly administer training for federal staff and local operators, which will further serve to link the programs.

IMPACT OF NEW LEGISLATION ON SUMMER YOUTH

Question: What specific proposals are contained in your new youth legislation to better tie the Summer Youth jobs program into the year-round youth programs?

Answer: The new youth initiatives will consolidate the youth employment and employability development activities at the local level. The consolidation would include SYEP, YETP, and YCCIP CETA Title IV programs. There is almost total agreement among program operators, planners and administrators in support of this approach. The summer program would be planned and administered as a component within the consolidated program. There would still be a summer component in local programs, but with year-round planning and levels determined by local labor market conditions rather than directed as a categorically separate program.

This will increase flexibility for local decision making. Prime sponsors recognize the need for summer opportunities for youth and are perhaps more cognizant of local needs for expanded summer activities to meet the seasonal employment patterns of youth. Local

areas are better able to assess seasonal priorities based on their experience and the consolidation of youth programs will provide this opportunity. The system must provide for a multi-year sequencing of activities which will build competencies including, first, the coping skills needed to search for employment and remain employed at an entry level job during which time the acquisition of occupational information will provide a basis for establishing career choices, second, the ability to document dependably at an entry job, third, the achievement of basic reading and writing skills, and fourth, the development of a career job skill.

There has been a concerted and productive effort to move to year-round planning under SYEP and to better integrate summer with year-round components. Most prime sponsors have moved in this direction because of the efforts of the National Office in providing early 1980 SYEP planning estimates, planning strategies and instructions, and the specific development of national regulations and guidelines requiring comprehensive and year-round SYEP planning.

ENROLLEES IN THE YOUTH EMPLOYMENT AND TRAINING PROGRAM

Question: Your statistics indicate that 65 percent of enrollees in the Youth Employment and Training Program (YETP) are high school students.

What will happen to services for these students in 1981, when you plan to abolish YETP, and start a new program focusing on dropouts?

(Background: The Department of Education would presumably pick up services to in-school students -- but the Administration's proposal does not start that program until Fiscal Year 1982.)

Answer: FY 1981 is envisioned as a transition year in which prime sponsors would assess their existing program mix and service delivery agents and begin to consolidate services consistent with the new youth employment and training legislation. Our experience both when CETA was originally implemented in 1973 and more recently under a number of demonstration projects has been that it takes at least one full year after the start of a program before any major change in program delivery becomes evident at the prime sponsor level. Thus, we do not anticipate that prime sponsors would drop or significantly decrease their in-school program during FY 1981.

Although the 22 percent set-aside will be eliminated and there will be a move to provide more intensive services to young adults, there would be no attempt to eliminate services to in-school youth particularly in areas not covered under the education portion of the initiative. Prime sponsors as before will have to set their own priorities based on the needs in their communities.

Furthermore, the heavy emphasis on coordination with school systems involved in the youth employment and education program and under the incentive funding categories of the youth employment and training act clearly signal the prime sponsor system that coordination and cooperation with schools are important. It would make little sense for a prime sponsor to disrupt operational relationships during the transition year. Planning guidelines from the National Office will address the particular issues such as the need to assure continuity of service during the transition.

NEW YOUTH INITIATIVE AND PICS

Question: How would your new "Youth Initiative" proposal relate to private industry councils (PICs)?

Answer: The youth plan will be developed in consultation with and reviewed by the PIC to assure that programs are designed to lead to employment. Further, youth programs are to be specifically coordinated with programs and services offered by the PIC. The PIC would be represented on the Youth Opportunity Council.

Question: Doesn't the Private Sector Initiative Program (PSIP) do some or many of the things which you propose to do under the "Youth Initiative?"

Answer: The basic concepts and purposes of PSIP are in fact reflected in the youth proposal because we have learned that it is absolutely essential to have the private sector involved if programs are to be successful in transitioning participants into unsubsidized private sector jobs. The Youth Employment and Training Program goes further, however, in specifying what prime sponsors must do in setting competency standards. These are the minimum competency levels in terms of basic education, skills, and work experience which are generally needed in order to obtain entry level employment in the local labor market. Such standards will necessarily be developed in conjunction with the private sector.

Question: Why not give PSIP a chance to work before embarking on another new, costly youth employment program?

Answer: We need to apply new designs and expanded resources now to the critical youth employment problem. Any further knowledge that we gain from PSIP, or any other sources, we will apply to improve ongoing programs. In other words, we do not view the new youth initiative as the final work in program design, but as an approach which will be continually refined and improved.

PROGRAMS FOR YOUTH

Question: The $2 billion provided under Title II A, B, and C of CETA gives local project sponsors the authority to determine the types and levels of program services they will provide. Your budget justification indicates 48 percent of this money is spent for youth.

With this heavy emphasis on youth services, why do we need separate programs exclusively for youth?

Answer: The CETA participant characteristic data reports indicate that 48 percent of the cumulative total "enrollees served" in title II B, C activities during FY 1979 were under 22 years of age. It does not necessarily follow that 48 percent of the total funds were expended on this age group. Many youth participants work only part-time and are enrolled in low cost, short term program activities. The CETA reporting system does not identify program expenditures by age group.

The high percentage of Title II B/C youth participation indicates the tremendous need and demand for youth services that prime sponsors face each day at the intake centers around the country.

In addition to the absolute need for youth services (as evidenced by perennial national teenange unemployment rates ranging from 13 to 50 percent), it is quite evident from evaluations of CETA program trends that:

(1) special CETA programs and intervention strategies are needed in order to impact on the long term structural unemployment problems of youth;

(2) improvements in the economy have little impact on the rate at which youth are absorbed into the labor market. The unemployment rate for youth, especially minority youth remains more than double the comparable white unemployment rates, with the largest disparity occurring among workers under age twenty-five; and

(3) there are also major differences (even between minority groups) evidenced by the duration of unemployment and the reason for unemployment (status at the time of unemployment). In the fourth quarter of 1979, a greater proportion of unemployed Blacks than Hispanics were new in the labor force or reentering the job market. On the other hand, Hispanics were much more likely than Blacks to have lost their jobs in the fourth quarter of 1979. Blacks were considerably more likely to experience long term unemployment (over 15 weeks) than were Hispanics, and more than half of the unemployed Hispanics were jobless for less than five (5) weeks.

These factors clearly indicate the need for separate youth employment strategies.

The consensus of opinion among those who have reviewed and evaluated youth programs is that a comprehensive multi-disciplinary approach, combining the education, labor and business community, is needed in order to assist youth in achieving employability.

With enactment of Youth legislation being considered by Congress at the moment or as reauthorization of the current CETA Title IV programs with the technical changes proposed by the Department in response to this committee's earlier questions, a favorable, separate strategy for assisting needy unemployed youth can be accomplished.

REASONS FOR DELAYS IN MARKETING PSIP

Question: What are the basic reasons for the delay in starting the marketing actions?

Answer: The marketing program for PSIP was delayed somewhat in its start up for several reasons. The most important of these was the identification of funds with which to carry out the campaign. Because no money was provided for this effort, it was necessary to finance it out of existing funds. These funds included any amounts the Department could save through negotiations with NAB on its basic and PSIP contracts, and also any residual and forced savings

from the NAB 1978 contracts. These dollars were not therefore identified or available until late in Calendar Year 1979.

A short delay did follow until the new president of NAB was selected, since it was felt that he should have a significant input into the campaign design.

We are now at the stage where we will have a completed design, work statement, budget and method of operation by mid-March.

It should also be noted that since last July the PSIP Division of ETA has been actively involved in seeking assistance in marketing through 30 trade associations. Several of these projects, including a film, national newspaper inserts and trade journal articles, have already been completed. Several other print and audio-visual media projects are about to be completed in the coming weeks.

CONTINUING RESOLUTION LEVEL

Question: Suppose it becomes necessary to place both Private Sector Initiatives and Youth Programs under a Continuing Resolution. Would you be in favor of language clarifying that the Continuing Resolution only sustain end of Fiscal Year 1980 Enrollment Levels?

Answer: It is not precisely clear what is meant by "sustain end of Fiscal Year 1980 Enrollment Levels." This could mean end of quarter; average annual enrollment levels; or end of fourth quarter (carry-over) enrollments. Any language specifying enrollment levels would severely restrict the efforts of youth program consolidation and destroy the CETA legislative intent of a decentralized employment and training system in which prime sponsors are allowed the flexibility to make local determinations of program need.

Specific continuing resolution language is recommended which would allow the consolidation and continuation of CETA Title IV, Part A, and Part C programs and provide sufficient funds to account for inflationary and wage increases.

It is anticipated that FY 1981 will be a transition year where existing programs will be phased out and new initiatives (or tests of consolidated program operations in the event of no new legislation) will begin.

Maximum flexibility in enrollment levels would be required in FY 1981 in order to effectively implement consolidated youth program strategies and test the impact of comprehensive youth program operations.

In addition, some of the youth programs will have a very small or zero enrollment level (SYEP) at the end of FY 1980 since the programs will report no youth or a minimal number of youth on-board at the end of the fiscal year. The use of consolidated youth employment intervention strategies would be effectively eliminated if the enrollment levels were simply sustained at specific end of fiscal year levels through continuing resolution language.

HIRE II AND PSIP

Question: The Employment and Training Administration viewed HIRE II as a trial balloon for PSIP. According to an October 1979 article in the Employment and Training Reporter, HIRE II's near failure was due largely to poor program design, hurried implementation, and lack of interest on the part of prime sponsors. How has the Department applied the lessons learned from HIRE II and PSIP?

Answer: In implementing PSIP, care has been taken in allowing Private Industry Councils (PICs) the necessary time for thorough planning and institution building, thereby avoiding the problems accompanying a more hurried implementation, which, as an economic stimulus package program, HIRE II encountered. In addition, care has also been taken to foster good relationships between the prime sponsors and their respective PIC's so as to ease the burden prime sponsors' may feel by assuming the additional responsibilities inherent in the introduction of a new program. Although the degree of commitment on the part of the prime sponsor to PSIP of course varies based on local circumstances, the fact that PIC's have been established in 96 percent of the prime sponsor areas is indicative of the overall support for the program. One main objective that HIRE II and PSIP have in common is that of increasing the involvement of the private sector in program operations. By allowing PSIP to be as flexible as possible within legislative and regulatory constraints, this objective is more unlikely to be realized than it was in the HIRE II program where program operators were more rigidly defined.

LOW LEVEL OF OUTLAYS IN PSIP

Question: It is surprising to learn that although Congress has provided $400 million to the PSIP program to date, through FY 1979 only $10 million has actually been expended. How do you explain this seeming snail-paced approach to expenditures?

Answer: There are two primary reasons for PSIP's low expenditures to date: (1) delays in implementation of the program due to uncertainty about the timing and amount of funding; and (2) the lengthy startup process required for employment and training programs in the private sector, made more acute by the capacity and institution-building nature of PSIP implementation.

The low rate of expenditure was anticipated and has been encouraged by the Department. PSIP is a demonstration program. The purpose is to explore a variety of ways of involving the private sector in Federal employment and training efforts. It is designed to utilize the existing CETA system to gain the involvement of businesses at the State and local level. As with any demonstration program, the establishment of new relationships and a fresh operational base requires considerable lead time. The substantial, as opposed to superficial, involvement of business in CETA programs is the task of PSIP and, therefore, requires time and considerable effort to achieve.

Question: Does this reflect uncertainty about the program within the private sector?

Answer: The deliberate pace at which business and prime sponsors are working together on PSIP indicates the seriousness which all parties are devoting to the program. The enthusiasm of business persons for the local PICs and through their national organizations for PSIP, and its potential, is indicated by the fact that they have formed in excess of 450 Private Industry Councils across the country and are actively participating through their national associations in publicizing the program.

Question: What are the main areas for future expenditure that will absorb most of the $400 million already provided?

Answer: By the end of FY 1980, it is expected that all prime sponsors will have the PSIP programs in operation with participants being enrolled. At that time a picture of the types of innovative programs which are being developed could be drawn. At this point, the innovation is just beginning and predictions on how prime sponsors and business will expend their PSIP resources would be premature.

PRIVATE SECTOR EMPLOYMENT DURING RECESSION

Question: How effectively can a program designed to find jobs in the private sector work during a recession?

Answer: It is the intent of Private Sector Initiative Program (PSIP) to increase the job-acquiring capability of the economically disadvantaged, regardless of the state of the economy. With few restrictions, PICs are free to design and develop the kinds of programs that make sense for their local communities.

We anticipate that PSIP will prove attractive to small and minority businesses. New provisions authorize self-employment (entrepreneurship) training and small business internships, which could be the means for assisting some unemployed persons to go into business for themselves.

In some European countries, citizens routinely upgrade their skills or learn new skills during periods of sustained unemployment, particularly in the event of a downturn in the economy. PICs may similarly plan and conduct such classroom training activities for local residents that meet the CETA eligibility requirements.

A recession could be an especially good time for PICs to operate training programs geared to local labor force projections. Then as soon as there is an upturn in the economy, skilled workers would be available to fill those projected jobs.

Even in a recession, some industries are harder hit than others. The local PIC, with its knowledge of the specific needs of the business community, is in the best position to target unemployed persons into those industries which are least affected by the downturn in the economy.

Finally, the new CETA law and regulations strongly encourage closer ties between employment and training, and economic development activities. To the extent that local economic development efforts can alleviate some of the disruptions of a downward turn in the economy, CETA can further assist by making such efforts more effective.

These are just a few suggestions. PSIP is a demonstration program designed to test the effectiveness of a variety of approaches to dealing with employment and training problems. We anticipate that local businessmen and women will develop a number of innovative ways to deal with the problems of unemployment in their local communities.

TECHNICAL ASSISTANCE TO INDIAN GRANTEES

Question: Indian and Native American CETA grantees have asked for increased technical assistance support to help them improve the effectiveness of their programs.

What is the Labor Department doing to respond to such requests?

Answer: CETA Section 315 provides $15 million per year to the Department of Labor for Technical Assistance and Training. These funds support a multitude of activities, including the Regional Training Centers, SES, UI, among others. Native American Grantees are provided on the average of $250,000 per year.

Additionally, they are eligible for training at the Regional Training Centers. It is difficult to stretch the relatively small amount of dollars to meet the many demands. However, it is very important that an equitable distribution be made. A task force has studied the situation and the Department will announce its plans for implementing their report shortly.

PRIVATE SECTOR/INDIAN GRANTEES

Question: The Labor Department request for Title VII Private Sector Initiative Program funds for fiscal 81 is based on an assumption that outlays in fiscal 80 will be relatively low and a considerable amount of carry-in Title VII funds will be available. What steps will be taken to insure that this does not adversely impact the Title VII programs of Indian and Native American grantees?

Answer: Indian and Native American Title VII programs are not funded by formula allocation as are CETA Title II prime sponsor programs. Instead, Indian and Native American grantees compete for available Title VII funds. The most promising proposals are funded by the Department, to the extent of available funding. Thus, ongoing Indian and Native American Title VII programs will not be adversely affected by reduced availability in FY 1981. The reduced availability simply means that fewer proposals can be funded through the competitive process.

Question: What level of Title VII funds will be made available to eligible Indian and Native American grantees in Fiscal 81?

Answer: In FY 1981, not less than two percent of funds made available for Title VII will be provided to Indian and Native American grantees. Our request of $150 million includes $14 million for the Targeted Jobs Tax Credit, leaving $136 million available for Title VII. Indian and Native American grantees will receive at least $2.72 million of the funds available.

In FY 1980, considerably more than the minimum two percent will be provided to Indian and Native American grantees. Although the exact amount has not yet been determined, we expect it to approximate 2.6 percent of total Title VII funds available.

ROLE OF NATIONAL ALLIANCE OF BUSINESS

Question: What was the total amount of CETA funds awarded to finance the activities of the National Alliance of Business during fiscal 1979?

Answer: Total funding for the National Alliance of Business during FY 1979 was $19.7 million, as follows:

$13.0 million for the prime promotion and development contract to provide technical assistance and manage a clearinghouse for the Private Sector Initiative Program, and other NAB-sponsored programs for youth, ex-offenders and adult disadvantaged groups.

$3.1 million is funded for the Managers, Employment and Training (MET) program (operated through U.S. Employment Service) to provide personnel to NAB METRO offices to facilitate placements as a result of job pledges by industry.

$3.6 million provides for a Vocational Exploration Program funded by the Office of Youth Programs.

Question: With the establishment of the Private Industry Councils and the Job Service Improvement Program, has the role of the National Alliance of Business in the employment and training activities been significantly reduced?

Answer: Although the broad committment of each group is to accomplish a greater involvement of the private sector in employment and training programs, each group is involved in a different way: JSIP through actively seeking employer suggestions for local employment service streamlining, the PICs through private sector involvement in improving CETA functions and suggesting or running specific programs. Although NAB has urged active private sector involvement in employment and training programs, has solicited job placements through pledge campaigns, encouraged youth work/school relationships and generally encouraging the employment of target groups, it has not been involved to any siginificant extent in changing or operating programs. The NAB job has been one of promotion. Since the inception of PSIP, NAB functions have increased with the addition of a technical assistance function for PICs, prime sponsors and interested businesses.

PRIVATE SECTOR INITIATIVE PROGRAM

Question: At the end of Fiscal Year 1979, only $3.5 million of the $75 million in fiscal 1979 PSIP funds had been spent. Funds can not be provided to prime sponsors unless a Private Industry Council (PIC) has been formed, has participated in developing the plan, and has indicated its concurrence in the plan. How many prime sponsors have appointed all private industry council members?

Answer: At this time, 449 of 470 prime sponsors (96 percent) have Private Industry Council members appointed, and have held at least one meeting.

Question: How many prime sponsors have approved Private Sector Initiative Program grants?

Answer: As of December 31, 1979, a total of 402 prime sponsors (86 percent) had Title VII grants that had been approved by our Regional Offices.

Question: How many prime sponsors have Private Industry Councils operating programs using CETA funds from other titles?

Answer: There are 42 Private Industry Councils (PIC's) that are involved with other CETA titles as of the end of the calendar year. We expect this to increase as Title VII programs become operational, so that PIC's can turn their attention to other CETA employment and training activities.

PSIP ADMINISTRATION

Question: Has the Department established a specific office solely for the purpose of administering the Private Sector Initiative Program?

Answer: Yes, the Division of Private Sector Initiatives was established to administer PSIP at the national level, within the Office of Community Employment Programs (OCEP) which in turn is part of ETA's Office of Comprehensive Employment Development.

Question: If so, how is the office staffed and where does it fit organizationally within the Department?

Answer: The PSIP staff is composed of a division chief, two unit chiefs (Program Planning and Design, and Technical Assistance and Coordination), ten other full time professional staff members, one part-time professional and three clerical positions.

The Division is one of four components within the office that has overall responsibility for administration of titles II, VI, and VII of CETA.

Questions Submitted by Senator Schweiker

PSIP IN PENNSYLVANIA

Question: How are you implementing PSIP in my home State of Pennsylvania?

Answer: The implementation of PSIP in Pennsylvania is going relatively well. Only two new prime sponsors for FY 1980 have not yet established Private Industry Councils (PIC's). Fiscal Year 1980 plans have been submitted to our Regional Office by all of the prime sponsors that have established PIC's. Ten of the PIC's (one-third) have incorporated as non-profit entities.

Question: How many prime sponsors have formed PICs?

Answer: Thirty of the 32 prime sponsors in Pennsylvania (94 percent) have formed Private Industry Councils (PIC's). The remaining two, Lancaster and Lebanon Counties, are new prime sponsors for Fiscal Year 1980 and thus are faced with establishing entire

CETA strucutres and not just implementing PSIP. We expect that PIC's will be established in these areas by the end of March.

Question: How much has been expended as of the end of the first quarter of fiscal 1980?

Answer: All of the prime sponsors that have established PIC's have submitted approvable Fiscal Year 1980 Title VII plans to our Regional Office, and funds for program operations have been allocated to them. At the end of the first quarter, more than $1,179,000 had been expended by PIC's in Pennsylvania.

Question: What percentage of the labor market area is covered?

Answer: There are 10 multi-jurisdictional arrangements in the State, including three newly-formed Private Industry Councils (PIC's) that cover two or more prime sponsor areas. Thus, one-third of Pennsylvania's PIC's are serving substantial portions of their affected labor market areas.

Question: What links are there between the PICs and public service jobs and youth programs run by CETA?

Answer: Many plans are still in the developmental stage, so that we do not have detailed information at this time. However, we do expect PICs to be broadly involved in all aspects of local CETA programs eventually.

Many PICs are becoming involved in public service employment activities. As you know, the 1978 amendments to CETA require that PSE participants receive training (15 percent of title II-D and 5 percent of title VI funds). Some PIC's are providing that training in their prime sponsor areas. The Lehigh Valley Consortium is providing PSE training in titles II-D and VI. The Mercer County Consortium is also providing training to PSE participants in titles II-D and VI, focussing upon light construction work.

Many PIC's will include youth in their overall program. In York County, the PIC is linking the Title VII program with the Title IV youth program. In Lehigh Valley, a special youth program provides tutoring after school hours, coupled with part-time employment in the private sector.

Question: Please provide some examples of PIC activity and accomplishments in Pennsylvania.

Answer: Examples of PIC activity and accomplishments in Pennsylvania are as follows:

o In York County, the PIC is contracting for a traffic management training program, consisting of nine months of classroom training coupled with on-site job experience. The program has a 90 percent placement rate with trucking and freight companies. It is also linking the Title VII program with Title IV youth programs.

o The PIC for the Schuylkill-Carbon Consortium is contracting with the Economic Development Council of Northeastern Pennsylvania to establish a business development office to identify employers seeking Federal contracts and matching these with appropriate

Federal procurement orders. This should better link CETA employment and training activities with economic development efforts.

o A special focus of the Allegheny County PIC is to create jobs and entrepreneurial opportunities for minorities and females in the county. The PIC is also developing a county-wide long range plan for minority economic development.

o The City of Philadelphia was one of 14 local jurisdictions awarded a two-year Targeted Jobs Demonstration Program grant to link economic development projects with local employment and training programs, under the President's Employment Initiatives. The PIC will administer the $193,475 grant for the city.

o The Lehigh Valley PIC is training 69 workers in 50 week programs in the fields of diesel truck mechanics, automotive mechanics, and machine shop trades. The PIC is also considering training CETA participants to insulate buildings and to install and maintain electric, oil and gas burners.

STUDIES OF PRIVATE SECTOR INITIATIVES PROGRAM

Question: A number of groups, such as the National Alliance of Businessmen, the Human Resources Development Institute, and Ohio State University, are either studying the Private Sector Initiative Program or providing Private Industry Councils with technical assistance. How many groups have been so funded and how much in Federal funds has each one received to either study or give technical assistance relations to the Private Sector Initiative Program?

Answer: Eleven organizations are being funded to address twelve areas of research, demonstration and evaluation activity, or to provide technical assistance and training on the Private Sector Initiative Program (PSIP) to CETA prime sponsors, Private Industry Councils (PIC's) and the business community. Total funding for these activities is nearly $5 million. A summary of organizations funded, the amount, and a description of activity follows.

Human Resources Development Institute (HRDI)

PSIP Funding - $1 million

HRDI's activities in support of PSIP implementation are focused on 59 "core" cities which already constituted the established base of operations for all HRDI activities, and 25 additional targeted sites selected for provision of technical assistance. HRDI works closely with national and regional ETA staff, prime sponsors, and local labor organizations, resolves problems related to labor's role in CETA/PSIP, monitors labor's participation in PIC's and CETA, develops information and educational materials, reviews CETA program proposals, and identifies and involves appropriate labor organizations.

National Alliance of Business (NAB)

PSIP Funding - $2.5 million

As part of their overall contract with DOL, NAB provides technical assistance to prime sponsors, PIC's, and the private sector through their staff of 44 technical assistants. NAB is also spearheading a major marketing effort which includes development of basic materials for use on the local levels. In addition, NAB operates the PSIP Clearinghouse which disseminates information, reports, and studies to prime sponsors, PIC's, and others on exemplary or innovative programs.

They also produce a newsletter, Showcase, which highlights programs or issues of interest to those involved in private sector initiative activities.

Public Interest Groups

Total Funding - $400,000

Contracts for technical assistance were let with public interest groups to inform CETA prime sponsors of the purpose and direction of the Department's Title VII effort and to facilitate the development of internal expertise in dealing with the private sector at the prime sponsor level. These groups are the best and only organizations which can provide these services through their existing networks of communication with CETA prime sponsors, and they reflect the concerns and thus have the confidence of the prime sponsors.

National Governors Association	- $100,000
U.S. Conference of Mayors	- "
National Association of Counties	- "
National League of Cities	- "

National Business League (NBL)

Funding - $100,000

The National Business League will develop a technical assistance or reference guide intended to increase small and minority business participation in CETA/PSIP. The guide will be specifically aimed at these target groups. NBL will use its present information systems to inform small and minority business of the purpose of Title VII and CETA and the benefits available to them through private sector initiative programs.

Studies

National Council for Urban and Economic Development

Funding - $100,000

This study will research and analyze economic and manpower development coordinative efforts in large cities with populations of over 50,000. The findings of the research, along with recommendations on how to increase coordinative efforts, will be presented in a handbook and one special report for use by economic development and manpower planners and policymakers.

Employment Generating Services (including Labor Market Information Activities)

Manpower Development Corporation

Funding - $200,000

The study will determine the types of activities being undertaken in the newly established Title VII category of employment generating services, will describe the start-up process associated with these activities and will determine whether the products of these activities are being tied into prime sponsor planning efforts. A section of the study will be exclusively focused on review of labor market

analysis activities as one of the authorized employment generating services.

Role of Small and Minority Business

8(a) Contractor - Selection made: awaiting SBA action

Funding - $100,000

This study will examine both the nature of CETA prime sponsors' response to the legislative mandate that small and minority business interests be represented on PIC's, and the types of experiences resulting from their participation in PSIP.

PSIP Technical Assistance and Promotional Materials for BOS Prime Sponsors

Manpower Development Corporation

Funding - $87,000

This project is to develop appropriate technical assistance and promotional materials for use by balance-of-State (BOS) CETA prime sponsors in the operation of their Private Sector Initiative Programs. It will involve site visits to a sample of BOS prime sponsors, written reports to PSIP coordinators, conferences and workshops on issues and needs identified and the actual preparation of the TA and promotional materials.

Ohio State University Research Foundation

Funding - $273,519 (2/1/79 through 3/31/80)
(A small portion of this amount was used to study HIRE II.)

OSU was awarded a grant to conduct an evaluation of the implementation of PSIP. The first phase of the evaluation focuses primarily on the processes through which prime sponsors have planned and institutionalized PSIP in their local program operations.

DEVELOPMENT OF THE PRIVATE INDUSTRY COUNCILS

Question: The development of Private Industry Councils appears to be a complex, time-consuming process. How much time does it take to start up a PIC and begin to train people and find jobs for them?

Answer: A PIC may be established in a relatively short period of time as evidenced by the fact that once the Department made funds available for startup activities late in FY 1979, nearly 90% of the CETA system responded by putting PIC's in place within four months. However, once established, PICs begin the lengthy process of planning and institution-building activities. For example, PICs must conduct or otherwise obtain a labor market survey, identify skill shortages in the area, develop training programs to address these needs, develop a process for and proceed toward selecting program operators, and provide for a system to be used in monitoring programs to ensure that the PIC's objectives will be achieved. All of these time-consuming activities must take place before the actual training of program participants begins. The length of training programs will vary according to the content, extent, and degree of preparation required

in order to make program participants job-ready. Because the training programs developed for PSIP participants are in response to local labor market needs, the expectation is that the PSIP participant will move directly into the job market at the successful conclusion of a training program.

At the present time, it is not possible to say with any degree of certainty the length of time needed for a PIC to move a PSIP participant through a training program and into the job market.

Our expectation is that Title VII training will be of longer duration, and provide higher level skills, than is generally the case under Title II of CETA. As a consequence, similar to the experience with STIP, we expect participants to obtain higher paying jobs and to retain those jobs for longer periods of time.

Question: In view of the complex process involved in beginning the PICs, why do you show only about $10 million in outlays out of the $400 million Congress provided?

Answer: The complex processes involved in startup activities of PICs are not reflected in program expenditures. That is why only $10 million of $400 million appropriated by Congress has been spent to date. However, the $10 million in expenditures is a very conservative figure. Actual data are unavailable pending redesign of the reporting system occasioned by the 1978 amendments to CETA.

Another reason PSIP's expenditures are so low is the fact that program startup was delayed because of uncertainty about the timing and amount of funding. Although the program was proposed over two years ago, funding at its desired level of $400 million has been available for only five months. Many prime sponsors were reluctant to approach the private sector because they were fearful that funding would not materialize or that long delays in receiving funds would result in a loss of interest. Conversely, many members of the business community were unwilling to commit themselves to participate in the absence of any assurance that funds would be forthcoming.

However, PICs are now in place in 97 percent of the CETA system, and they are actively engaged in planning and institution-building activities. Most of the funds expended for these activities do not show up as Title VII expenditures but are included in prime sponsors' administrative cost pools. We anticipate that when PSIP becomes fully operational later this year, expenditures will reflect program activity more accurately.

Question: Are there costs incurred in the start up of a PIC that do not show up as Title VII expenditures?

Answer: Most costs incurred in the start up of a PIC do not show up as Title VII expenditures. The lengthy planning activities and complex institution-building activities that PICs engage in are not reflected in Title VII expenditures. Many PIC members involved in activities such as organizational development, program planning and design, and the structuring and establishment of committees volunteer their time. In addition, since startup activities are administrative, many costs are reported in prime sponsors' administrative cost pools, where separate Titles are not delineated. In other instances, prime sponsors used funds from other CETA titles to set up their PICs and those outlays are reflected in expenditures from Titles II B, II-D, and VI. Hence, the majority of PIC start-up activities do not show up as Title VII expenditures.

UNION INVOLVEMENT WITH PSIP

Question: As one of the goals of the Private Sector Initiatives Program, the Department planned to seek enough participation of businesses and labor unions at the local level to ensure that training, skill level, and the type of equipment trained for are most appropriate to the jobs available.

To what extent has the Department been able to get Labor unions to participate in the Private Sector Initiatives Program?

Answer: As required by law, labor unions have at least one representative on the Private Industry Councils (PIC's).

Labor unions' participation in the Private Sector Initiative Program (PSIP) may include: operation of training programs; being consulted to provide advice and assistance on employment and training activities where organized labor has an interest; developing programs for apprenticeable occupations; participating in the program sponsor's planning activities; or providing technical assistance.

To expand the role of organized labor in CETA generally and PSIP specifically, a $1 million technical assistance contract has been provided to the AFL-CIO's Human Resources Development Institute (HRDI). We anticipate that, with HRDI's assistance, PSIP will serve as the mechanism to broaden the involvement of organized labor in all elements of local employment and training activity.

JUDGING PSIP PERFORMANCE

Question: Has a process for establishing criteria by which to judge PSIP performance been arrived at? What is it?

Answer: The process by which criteria for judging PSIP performance will be established is still in its embryonic stages. Informal discussions indicate that we will work with representatives from business and industry, public interest groups, NAB, HRDI, and DOL to focus on PSIP effectiveness measures. In the short run, preliminary thinking would focus on plan versus performance; in the long run, the focus will be the impact of the PIC on local employment and training program mix and outcomes. There are a number of ways measurement can be made of PSIP performance--through assessment which rates program compliance with the law and regulations, through the annual work plan and quarterly reports which reflect plan versus performance, or a combination of these. We are also considering development of a report system to assure that we are able to retrieve information required to evaluate PSIP's ability to meet the purposes of the Act.

The grant to the Ohio State University Research Foundation has been extended to evaluate PSIP. The first phase of their evaluation dealt with the processes for institution building and decision-making.

The second phase will include detailed planning for operations, program operations, and results in terms of changes in institutions and processes.

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STATUS OF ORIGINAL 34 PRIVATE INDUSTRY COUNCILS

Question: What is the present status of the original 34 PICs that were funded in May 1978?

Answer: The original 34 PICs that were funded in May of 1978 all have FY 1980 plans executed and funds have been obligated. Seventeen of these orginal PIC's had executed plans in FY 1979.

Question: Have all of them now established a membership, elected a chairman, and held at least one meeting?

Answer: All of the orginal 34 PIC's are established; i.e., members appointed, chairperson named, and at least one meeting has been held.

COST TO HOLD PSIP CURRENT LEVEL

Question: How much new budget authority would be needed in Fiscal 1981 to hold the Private Sector Initiative Program at the planned 1980 level of 85,100 persons served?

Answer: To hold the Private Sector Initiative Program at the planned 1980 level of 85,100 persons served, $150 million is requested for new budget authority for Fiscal Year 1981. This will permit the program to continue to operate at its designed level.

EARNINGS OF JOB CORPS GRADUATES

Question: GAO recommended that Labor follow-up on youths after they leave the Job Corps to determine whether earnings have improved sufficiently to break the poverty cycle. Since you concurred with this recommendation, can you share any additional information you may have concerning the adequacy of earnings of Job Corps graduates to break the poverty cycle?

Answer: In regard to your request for additional information concerning the adequacy of Job Corps' graduates to break the poverty cycle, Mathematica Policy Research, Inc., has established in its first Follow-Up Study dated December, 1978, that Job Corps graduates earned $23.00 per week more than their comparison group counterparts. (Evaluation of the Economic Impact of the Job Corps Program, First Follow-Up Report, December, 1978.)

Preliminary data for the Second Follow-Up Survey show that male graduates earnings gains will be somewhat above $30.00 per week; whereas for females, earnings gains exceed $40.00 per week. (See Draft, Second Follow-Up Report, Chapter III, Figures III.3, and III.r, dated February 1, 1980.)

We attribute these earnings gains directly to Job Corps as an educational vocational skills training treatment.

JOB CORPS EFFORTS TO ASSIST REFUGEES

Question: What efforts are being made to utilize the Job Corps to assist refugees?

Answer: The Office of Job Corps has made a commitment to recruit 2,000 Indochinese refugees in FY 1980 and to maintain that level in the future. As of February 28, 1980, there were 575 Indochinese youth enrolled in Job Corps Centers.

The Job Corps Centers will be hiring bi-lingual staff as positions become available, will conduct English as a second language training for the Indochinese youth, will conduct cross-cultural awareness training for all corpsmembers and will develop liaisons with various community organizations involved in the resettlement effort.

Additionally, the Office of Job Corps will be providing technical assistance to center staff in how to handle Indochinese youth in areas of orientation, residential living, health situations, and educational and vocational programming.

Question: Are any other CETA funds being set aside for special employment and training activities on behalf of refugees?

Answer: No, there are no other CETA funds set aside for this purpose.

JOB CORPS ELIGIBILITY

Question: GAO reported (HRD-79-60, July 9, 1979) that Job Corps had established eligibility requirements which are so broad that eligibility determinations are not very meaningful in identifying the target population. Have you established new eligibility guidelines to enable Job Corps recruiters to identify only those youths needing this unique last resort program? If so, how are they more specific?

Answer: The Office of Job Corps has not established new eligibility guidelines. However, the Job Corps has instituted new screening procedures which will enable recruiters to identify only those youths whose needs would best be met by a residential program. The new screening procedures involve the use of a revised Job Corps data sheet which includes a consent record to be signed by all youths and by the parents of youths under the age of majority. This consent record requires the screener to discuss with the youth the residential nature of the Job Corps program, the criteria and nature of other employment and training programs, the Job Corps Privacy Act statement, a list of vocational course offerings and Your Guide To Job Corps. Your Guide To Job Corps deals in great detail with eligibility, pay and benefits, training and education, rules, regulations and responsibilities, and center life. After having all these items explained to the applicant, if the applicant signs the consent record, he/she is attesting to the fact his/her needs would best be met by a residential program.

JOB CORPS ENROLLMENTS

Question: Why didn't you request an increase in enrollments for the Job Corps, which serves disadvantaged, out-of-school youth--the same target group you propose to serve with your new Youth Initiatives legislation?

Answer: Setting up the 47 new Job Corps centers established during the current expansion of the program is an extremely staff-intensive undertaking. Experience has shown that a new center needs a year to 18 months break-in period, with intensive technical assistance to be operating at top efficiency. This is especially true given the large number of new, inexperienced center operators. The Department considers the Job Corps to be one of the most effective programs for economically disadvantaged youth. It is a cornerstone in the Administration's youth initiative. However, it is our judgment that the Job Corps should first complete the current expansion, and allow new centers to complete the necessary break-in period before diverting staff to begin preparation for a new wave of expansion.

JOB CORPS INTAKE PROCESS

Question: What is the status of the Department's review of the feasibility of a uniform intake process? Do you envision incorporating Job Corps recruiting into this process or will recruiters continue to be paid separately for their Job Corps efforts?

Answer: The Office of Job Corps' review of the feasibility of a uniform intake process is still in the developmental stage. The intent was not to incorporate Job Corps recruitment into this process, but to have a uniform CETA application for all programs. Therefore, recruiters will still be paid separately for their efforts.

OPPORTUNITIES INDUSTRIALIZATION CENTERS' OPERATION OF JOB CORPS CENTER

Question: We note OIC is scheduled to spend $1.4 million this year in connection with a Job Corps Center in Little Rock. What will the money be used for and what will be OIC's role?

Answer: At an estimated cost of $1.4 million per year OIC will be awarded the prime contract to operate the Little Rock, Arkansas Job Corps Center. It is scheduled to activate on or about May 1, 1980 and will spend approximately $700,000 during FY 1980. The center will accommodate 175 residents, and 25 non-resident trainees.

JOB CORPS MONITORING

Question: GAO recommended that Labor monitor to see that Job Corps recruiters properly determine eligibility and give applicants a full understanding of the program. Since Labor concurred with this recommendation, will you please provide information on the results of your Job Corps monitoring effort?

Answer: The Office of Job Corps has instituted new screening procedures which involve the use of a new screening application (revised Job Corps Data Sheet ETA 652) and a pamphlet entitled, Your Guide to Job Corps to ensure proper determination of eligibility criteria and to give applicants a full understanding of the program. However, these forms were not printed and distributed until the first week in March 1980. Consequently, monitoring visits were not scheduled as yet. Providing that travel funds exist for National Office staff, monitoring visits will begin in May 1980.

QUALITY OF JOB CORPS PLACEMENT DATA

Question: Has Labor started to randomly validate Job Corps placements in its efforts to improve the quality of placement data?

Answer: No, Job Corps has not yet developed validation procedures. The Employment and Training Administration's policy regarding validation of Employment Service placement reporting is that validation is a State Employment Security Agency function under federal direction. The Job Corps plans to establish a new placement reporting system, and to incorporate validation requirements in the new system which will surmount State Agency objections.

Question: What type of information is the placement validation yielding concerning the length of time former Corpsmembers spend in their first job or other placement activity?

Answer: Placement validation will not yield "tracking" information such as length of time in initial placement. The high costs involved in secondary surveys of even sample terminee populations (to determine length of time in placement, number of jobs held, etc.) rule out follow-up as a part of the validation process.

PLANS FOR MOVING PSE ENROLLEES INTO UNSUBSIDIZED JOBS

Question: What have you done to develop systematic procedures, including employability plans, by which PSE participants can be moved into unsubsidized employment?

Answer: The CETA regulations and grant guidelines provide specific requirements for prime sponsor development of systems for job development, transition services, and unsubsidized placement of PSE participants. The regulations also contain specific requirements on use of employability development plans and on the information which must be contained in them. In monitoring and formal performance assessment emphasis is being placed on actual operation and effectiveness of these systems.

Question: According to the GAO study, the Department failed to assure that prime sponsors developed reasonable transition goals and planned adequate systems to move participants into unsubsidized employment. Why was this?

Answer: It should be noted that the GAO report, while not issued until October of 1979, actually dealt with the PSE program more than one year earlier, i.e., prior to the 1978 reauthorization. The findings of the GAO report must, therefore, be viewed in the context of previous legal requirements and conditions at that time. There were, for example, no limitations on the length of PSE participation, and PSE funds available for training and services were very limited. During most of the period studied by GAO, PSE was expanding rapidly, with a major emphasis on the achievement of countercyclical goals. The changes in PSE required by law, particularly in Title II-D, combined with vigorous DOL management, have clearly placed emphasis on goals and systems to move participants into unsubsidized employment.

Question: GAO says Labor inadequately monitored the implementation of prime sponsor transition plans and Labor's instructions. GAO claims Labor and prime sponsor officials "Generally had not

emphasized transition to unsubsidized employment." What are the reasons for Labor's failures in these areas?

Answer: Again it should be noted that the GAO report focused on PSE in 1977 and 1978, prior to reauthorization and during a period of substantial program expansion designed to deal with countercyclical problems. With regard to the specific concern about monitoring, the Department certainly agreed with GAO that more effective monitoring efforts were needed. To this end, the Department has taken specific action to enhance the effectiveness of these activities at all levels. At the prime sponsor level, the establishment of independent monitoring units is noteworthy. The Department has, in addition, established the Office of Management Assistance (OMA) at the national level and Regional Management Assistance units. OMA will provide a higher level of coordinated management control over ETA's programs than has existed in the past and will strengthen and systematize program monitoring capability.

Question: Why would the GAO say in its study that it "has some concern as to whether its recommendations will be effectively implemented" by those responsible?

Answer: The GAO stated on page 48 of its report the reasons for its reservations about recommendation implementation. To quote the report "... (1) in some instances the regulations or guidance are too general to adequately address our recommendations and (2) in other instances, where adequate regulations are in place, Labor needs to see that regulations are effectively implemented."

The Department takes the position that regulations and guidelines are now sufficient and is focusing its attention on monitoring and assessment to assure that systems are full implemented and operational.

EXCESS FUNDS IN TITLE II-D

Question: How much excess unspent funds have built up in the Title II-D program?

Answer: The Department is now in the process of reviewing prime sponsor operations to determine the amount, if any, of underutilized funds. Any funds identified will be reallocated, in accordance with the Act and the regulations, to other prime sponsors which need and can effectively utilize such funds during the current fiscal year. The Department intends to review prime sponsors use of II-D funds on a monthly basis to assure that the funds are being effectively utilized.

Question: How much excess do you expect by the end of Fiscal Year 1980?

Answer: As indicated in the preceding response, it is the intent of the Department to identify and reallocate underutilized funds during Fiscal Year 1980 in order to avoid to the extent possible extensive amounts of excess carry forward funds at the end of the fiscal year.

Question: What schedule of enrollments do you predict for each month from now on?

Answer: The Department feels that the enrollments will gradually increase from the current level of approximately 400,000 to the planned end-of-year level of 450,000, assuming there are no changes in the current authorization levels.

PUBLIC SERVICE JOBS/INDIAN ALLOCATIONS

Question: Indian tribes and native Alaskan organizations have complained that the way in which the Department handled the distribution of public service jobs carryover funds from Fiscal 1979 into 1980 resulted in serious, adverse impacts on their programs. What is being done to alleviate these problems during Fiscal Year 1980?

Answer: In February of this year, DOL allocated $4.7 million of discretionary funds on a formula basis to all Native American grantees that were eligible for PSE funds.

The DOL anticipates that other funds may become available for allocation at the National level during the course of the next three months. DOL is now taking steps to insure that if State and local CETA prime sponsors cannot use the PSE funds allocated to them these funds will be recaptured for distribution to PSE grantees which can effectively use them.

As PSE funds become available for reallocation at the National level, the DOL will assign the highest priority to awarding such funds to those recipients which face severe layoffs of on-board PSE participants because of the reduction in Fiscal Year 1980 PSE funding levels. On the basis of the evidence which Native American grantees and other organizations have presented, DOL recognizes that Native American grantees are in this situation and has included them in the highest priority category for the use of such funds as may become available for reallocation during the next several months.

It is impossible for the DOL to predict, at this time, just what the level of funds availabe for reallocation at the National level may be. Therefore, it cannot be said at this point what will be the exact amount that may be allocated to Native American grantees later in Fiscal Year 1980. The precise figure should be known between now and the end of May.

Question: What will you do to avoid such problems in FY 1981?

Answer: The President's Budget calls for PSE allocations for the Native American program in FY 1981 at levels of $51,080,000 for Title II-D, and $40,880,000 for Title VI. If these are the actual levels, there will be no need to supplement the funding from discretionary resources as was the case in Fiscal Year 1980.

EXTRA EMPLOYMENT SERVICE STAFF

Question: What would it cost to finance an additional 3,000 Employment Service positions in fiscal 1981?

Answer: At an average yearly cost-per-position of $27,170, it would cost approximately $81,510,000 to finance an additional 3,000 positions in the Employment Service.

Question: Do you feel 3,000 additional Employment Service positions could be effectively used in fiscal 1981?

Answer: Yes, additional Employment Service positions could be used effectively in FY 1981. With 3,000 more positions, the employment service would undertake the following activities:

o Provide selective file search, call-in, and job development efforts leading to reduced spells of unemployment for UI claimants and unsubsidized employment for other jobseekers including CETA trainees and targeted groups such as veterans, minorities, females and youth.

o Increase Employment Service responsiveness to employer needs through strengthened employer relations activities including increased penetration of the private sector labor market, closer linkages with employer advisory committees, improved recruitment efforts for employers involved with the Targeted Jobs Tax Credit (TJTC) program, and the Private Sector Initiatives Program (PSIP).

o Improve Employment Service operations and client services by increasing staffing levels in critically understaffed agencies and by providing equity of access for all applicants including migrants and seasonal farmworkers and the handicapped.

In terms of outcomes, the increased staffing would enable the Employment Service to:

o Make 622,500 additional employer visits (leading to an additional 1.0 million job openings in FY 1981). During these visits, employer relations staff would market Employment Service and CETA services including the TJTC program.

o Fill 72 percent of the employer job openings listed with the Employment Service.

o Provide 665,000 more individuals with jobs placing emphasis on special target groups.

o Increase Employment Service penetration rate to ten percent of private sector hires.

While these additional staff positions would enhance the capability of Employment Service to improve its delivery of services, the need to address other, more critical departmental priorities within prescribed budgetary limits precluded any such request for FY 1981.

JOB SERVICE IMPROVEMENT PROGRAM

Question: Describe the activities carried out in the Job Service Improvement Program (JSIP).

Answer: The Job Service Improvement Program (JSIP), functioning as a component of the Employer Services program of the USES is a major effort to provide better and more personalized services to employers, to enhance the image of the public employment service in the community, and to increase the employers' use of the service. The program is designed to assist the Job Service (ES) in attaining the goal of increased numbers of job openings from employers and increased placements. To accomplish this goal, committees of private sector employers have been established at the local, State, regional and national levels to inform, advise and provide assistance to officials of the Federal-State Employment Security system.

An experimental project carried out during fiscal years 1972 and 1973 in eight cities resulted in the development of the process model used to implement JSIP at the local level. Key elements of the process model are:

1. An employers committee of major and representative community employers which is responsible for identifying problems and recommending improvements in employer relationships.

2. A task force of local Job Service staff which is involved in developing solutions to the problems identified by employers. The involvement of staff increases Job Service morale and productivity, as well as reducing potential staff resistance to change.

3. A supportive local Job Service manager who approves of the program goals and methods.

4. A system of support to the local manager from all levels--State, regional and national.

5. A catalyst or change agent who serves as liaison and catalyst and provides initial technical assistance to ensure an effective program. The change agent brings the involved parties together, coordinates the activities, and imparts the techniques necessary to maintain the approach.

6. A plan of action that results from the task force reaction to the problems identified by the employers committee.

JSIP now has over 900 local employer committees in fifty States with 20,000 employees involved. Several State and regional committees have been formed and an Employers' National Job Service Committee has been functioning since FY 1975.

Some major accomplishments of JSIP are:

o Establishing the fact that the Job Service is a viable source of job applicants for private sector employers and the resultant increased penetration of the private sector labor market.

o Improved and more personalized services to employers and applicants.

o Development of a system of participative management that allows local staff the opportunity to recommend desired operational and policy changes.

Question: Indicate the amount being requested for JSIP in FY 1981.

Answer: No funds were specifically requested for JSIP in the FY 1981 budget but were included in the overall budget strategy for increasing the penetration of the private sector labor market. If FY 1981 budget level are approved as requested, an administrative decision will be made regarding the funding of JSIP. Tentatively, the amount projected is $3,000 per Job Service Employer Committee functioning at the end of FY 1980. It is estimated that there will be 1,100 committees at that time, so the JSIP funding level will be about $3,300,000 in FY 1981.

Question: How much of the requested amount will be used to pay for administrative staff and office space?

Answer: The entire amount requested will be used for program implementation. It will not be used to purchase office space or pay administrative staff.

Question: What funding sources have been used to support this program since its inception?

Answer: The JSIP has been implemented through the use of ES Grants, CETA Title III and CETA TAT funds.

EMPLOYMENT SERVICE FUND SOURCES

Question: Provide a table for the record, indicating Employment Service staff from all sources of funding, detailing each source, for Fiscal Years 1979, 1980 and 1981.

Answer: The table requested follows:

Fund Source	1979	1980	1981
Grants to States for UI and ES	29,558	30,000	30,000
CETA	9,133	9,133	9,133
WIN	8,222	8,222	8,222
BLS	229	232	232
Food Stamps	1,488	1,395	3,274
Total	48,630	48,982	50,861

AIRLINE DEREGULATION

Question: There's an item of $400,000 in the Grants supplemental "to enable the States to perform mandatory functions under the Airline Deregulation Act of 1978." Briefly explain this program.

Answer: Individuals employed four years with a certificated air carrier as of October 23, 1978, and who lose their employment after October 23, for reasons other than cause, are eligible for industry-wide rehire rights and recall/seniority rights with the previous employing carrier. Such individuals are referred to in the Act as protected employees. The Act mandates that certain services be provided to these protected employees. Pursuant to agreements with the Department of Labor, the State Employment Security Agencies will administer the mandatory functions of the Airline Employee Protection Program by determining who are protected workers and providing protected workers employment assistance, referring protected workers to job vacancies, and by maintaining a national listing of job vacancies in the airline industry.

Question: How many workers are affected, in which States?

Answer: Our request is based on total employment in the airline industry and assumes that nationwide over 4,000 protected employees will take advantage of the job placement services offered by this program.

UNEMPLOYMENT ASSUMPTIONS

Question: How accurate have you been in each of the last five fiscal years in predicting the level of unemployment upon which your request for Unemployment Insurance Service staff is based?

Answer: The Employment and Training Administration does not make projections of the Level of Unemployment. The task of this agency is to take the single set of unemployment assumptions developed by OMB, Treasury and the Council of Economic advisors and to determine the impact on UI program parameters of these assumptions.

The models used by UIS forecast quite well if the forecasted levels of unemployment do in fact occur. The process of making estimates for program parameters includes a constant benchmarking of the model to the latest actual data.

The UIS national model projected the level of outlays for regular UI and Extended Benefits of 2.195 billion dollars for the first quarter of FY 1980. The actual level of outlays was 2.126 billion, a difference of 69 million or 3.2 percent.

Question: Provide a table for the record, comparing budget request assumptions with actual unemployment data for each of the last five years.

Answer: The table below displays the forecasted and actual levels of unemployment for each of the last five calendar years.

CY	Forecasted TUR	Actual TUR
75	8.1	8.5
76	7.9	7.7
77	6.9	7.0
78	6.6	6.0
79	5.9	5.8

UNEMPLOYMENT COMPENSATION

Question: When an unemployed worker has quit his job without good cause, been discharged for misconduct, or refused a suitable job offer, he is disqualified from receiving unemployment compensation. Many States disqualify these workers for the duration of their unemployment and require additional employment and earnings before he is eligible for benefits again. Some states, however, disqualify for only a fixed period and then permit payment of benefits.

Could unemployment and Unemployment Compensation outlays be reduced if states were required to impose disqualification for the duration of unemployment in States that currently do not have such provisions for these types of workers?

Answer: This would not significantly reduce unemployment since almost all States already impose duration disqualifications for one or more of the three major causes. Such disqualifications have been adopted by the States for primarily two reasons: (a) financial, in that States believe duration disqualifications reduce outlays; and (b) philosophical, in that many States believe that claimants who are subject to disqualification for some reason ought not to be able to collect unemployment benefits until they have resumed work and earned additional wages to purge the disqualification.

Question: Does the Department favor such a provision in Federal law?

Answer: The Department has not traditionally favored the adoption of a Federal standard as to the appropriate length of a dis-

qualification. The Department intends to review the recommendation of the National Commission on Unemployment Compensation, due this June, and possibly reassess its position in light of the recommendation.

Under the Federal-State unemployment insurance system, each State has traditionally been free to enact the kind of unemployment compensation law most appropriate for that State, with a minimum of Federal standards. This approach seems a logical one given the fact that benefits are financed from a State tax, levied on State employers, and collected by the State.

SUITABILITY OF WORK

Question: Some States, such as Iowa, have provisions in State law that reduce the lowest acceptable wage in suitable work as a worker remains on Unemployment Compensation for a certain number of weeks. Would requiring unemployment compensation recipients to accept suitable work at less than their previous wage after a specified number of weeks reduce the cost of the Programs? How would it affect labor markets?

Answer: This question assumes that States do not require a claimant to accept work at less than their previous wage if a claimant remains unemployed more than a few weeks. That assumption is not correct. While few States have enacted legislation similar to Iowa's that spell out, by law, what constitutes suitable work as the length of a claimant's unemployment grows, all States have interpreted their laws to require a claimant to broaden his or her work search the longer he or she is unemployed. Claimants can be and are referred to jobs which pay less than their previous wage. The only Federal law provision applicable to the suitability of work is found in section 3304(a)(5) of the Federal Unemployment Tax Act. This provision specifies, in pertinent part, that a State may not deny benefits to an individual for refusing to accept new work if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

GRANTS TO STATES TRUST FUNDS

Question: You've asked for new Grants to States bill language to expend $77.4 million in trust funds over and above the " 95 percent limitation." What are the quarterly estimates of insured unemployment upon which this language is justified, due to the requirement for a fifteen percent increase in the rate of insured unemployment?

Answer: The estimates by quarter of insured unemployment for Fiscal Years' 1980 and 1981 follow. The first two quarters of Fiscal Year 1981 exceed the fifteen percent requirement.

Quarter	FY 1980	Increase	FY 1981
1	2.8%	+35%	3.8%
2	4.1%	+24%	5.1%
3	3.4%	+ 8%	3.7%
4	3.5%	--	3.5%

Question: What amount of Trust Funds will be available in each of Fiscal Years 1980 and 1981 to finance potential increases in the Grants to States appropriation, over and above your budget request?

Answer: There is an estimated surplus of $34.2 million in 1980 and a $72.6 million surplus in 1981.

Question: What would happen if Congress increased the Grants to States trust fund appropriation in excess of the trust fund availability limitation imposed by the authorizing legislation?

Answer: Congress would have to amend the authorizing legislation to legally appropriate trust funds in excess of the limitation imposed by Section 901 of the Social Security Act.

Question: What options are available for increasing Employment Service resources, if it is known in advance that additional trust funds would not be available due to provisions of authorizing legislation?

Answer: In lieu of amending the authorizing legislation, general revenues could be appropriated for the Employment Service to make up for the lack of available trust funds.

UNEMPLOYMENT TRUST FUND AVAILABILITY

Question: Please provide for the record a table of trust fund requirements for the employment security system in fiscal 1981 compared to estimated availability, indicating the amount of deficit or surplus.

Answer: The requested table follows.

FY 1981 Unemployment Trust Fund Availability

Federal Tax Collections	$3,792,000,000
Refunds (deduct)	-63,000,000
Net Tax Collections	3,729,000,000
Reduced Tax Credits (to FUA)	-370,000,000
Balance Subject to EUCA %	3,359,000,000
Transfer to EUCA (deduct 5/14's)	-1,200,000,000
Available for Administration	2,159,000,000
Grants Normal Availability (95%)	2,051,000,000
Additional Availability	150,000,000 1/
Total FY 1981 Grants Availability	2,201,000,000
FY 1981 Grants UTF Request	2,128,400,000
Surplus	72,600,000

1/ Section 901(f) of the Social Security Act authorizes an additional $150,000,000 to be used from the Employment Security Administration Account to meet the additional costs of administration due to an increase in the insured unemployment rate for a calendar quarter of at least 15 percent over the rate of insured unemployment for the corresponding calendar quarter in the immediately preceding year.

UNEMPLOYMENT INSURANCE SERVICE

Question: What was your request to OMB compared to the OMB allowance for the Unemployment Insurance Service?

Answer: Our request to OMB for the administration of unemployment insurance is not really comparable to our final request reflected in the President's budget, since they are based on different economic assumptions. The original request to OMB for UI totaled $1.2 billion based on an insured unemployment rate of 3.4 percent. Our current request includes $1.3 billion for UI based on an insured unemployment rate of 4.1 percent.

Question: Have you ever submitted a budget based on State estimates of unemployment workload?

Answer: No, our budgets are based on aggregate estimates of unemployment insurance workload in the United States.

1980 UNEMPLOYMENT WORKLOAD

Question: You're asking for a $148 million supplemental, basically to process an anticipated higher volume of unemployment claims. Why, then, don't you anticipate a rise in the level of Federal Unemployment Benefits and Allowances?

Answer: We do anticipate a rise of $162 million in Federal Unemployment Benefits and Allowances to be financed by general revenue advances from funds already available for this purpose in the Advances to the Unemployment Trust Fund and Other Funds appropriation.

Question: Provide for the record a month by month estimate, through Fiscal Year 1980, of the higher workloads you anticipate, with actuals for the latest month available.

Answer: Estimates of workload for the Unemployment Insurance program are made on a quarterly basis only. The table below presents actual data for the first quarter of fiscal year 1980, along with projections for the remaining three quarters.

Actual Workload and Projections
Fiscal Year 1980
(Data Not Seasonally Adjusted Unless Indicated)

FY 1980/Quarter	1 Actual	2 Projected	3 Projected	4 Projected
Total Unemployment Rate	5.9	6.5	6.9	7.3
Insured Unemployment Rate	2.9	4.3	3.6	3.8
Initial Claims	6.722	6.845	4.924	5.344
Weeks Claimed	30.397	49.848	40.087	40.907

Question: Have the number of initial claims and weeks claimed been going up as fast as you estimated at the time the supplemental justification was prepared?

Answer: No. At the time the budget was prepared it appeared the second quarter of FY 1980 would have a total unemployment rate of 6.5 percent. It now seems likely that a rate closer to 6.2 percent will be realized.

EMPLOYMENT SECURITY AUTOMATION PROJECT

Question: In December 1978 GAO issued a report (HRD-78-169, December 12, 1978) that was highly critical of the Employment Security Automation Project. Last Year Department representatives told this Subcommittee that you were reevaluating the entire system based on problems outlined by GAO as well as by studies of your own. What is the present status of the Employment Security Automation Project in terms of having arrived at solutions to these problems and what are your plans for the future of this project?

Answer: The present status of the Employment Security Automation Project is outlined in the following report, which was sent to the House Appropriations Committee on January 17, 1980.

REPORT TO THE CONGRESS ON ACTIONS TO IMPROVE THE OPERATION OF THE EMPLOYMENT SECURITY AUTOMATION PROJECT

A. Introduction.

This report is being transmitted in accordance with the request contained in the Committee on Appropriation report of June 5, 1979, to the Committee of the Whole House, on the Department of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Bill, 1980. The report explains the Department of Labor's actions and plans to improve the operations of the Employment Security Automation Project (ESAP).

The ESAP program was the target of severe criticism by the Comptroller General in his report to the Congress, "The Labor Department Should Reconsider Its Approach to Employment Security Automation", (HRD-78-169) dated December 28, 1978. The basic conclusions of that report were that (1) the ESAP project was poorly planned and badly managed, and (2) the principal methods of automation advocated by the Department were not properly planned, tested, or evaluated for State use prior to project implementation.

The Comptroller General recommended that the Department suspend expansion of the project pending the completion of a comprehensive study that would:

—establish meaningful objectives and assess the success of the project in meeting those objectives,

—estimate computer resources required and total project costs,

—reevaluate the benefits of computerized job matching and the Unemployment Insurance Service goal of installing computer terminals in all local offices,

—review the concept of cost absorption (Employment Service) to determine its feasibility, and cost recovery (Unemployment Insurance) to determine whether staffing can be reduced while maintaining service standards.

—provide States with technical assistance in the design and implementation of Unemployment Insurance automated systems.

Additionally, the report recommended that total project responsibility be assigned to one office within the Department.

In its response to the General Accounting Office's report, (Attachment A) the Department disputed a number of the report's findings. Specifically, the Department noted that:

--the GAO had failed to acknowledge that the Department had already identified a number of operational problems and had initiated corrective action,

—the Department re-affirmed the need for automation of Employment Security operations to handle ever-increasing workloads, to cope with the complexity of programs administered through the Federal/State Employment Security system, and the need to upgrade the process of exposing claimants and other job seekers (particularly those subject to Federal work test provisions) to a more efficient service delivery system,

—the Department had cited numerous ETA studies and evaluations of ESAP and prior automation efforts; many of these efforts are continuing and new ones are being conducted or planned,

—the Department had established an effective technical assistance program to assist States in the design and implementation of Unemployment Insurance automated systems.

Nevertheless, despite many problems with the GAO's findings, the Department agreed that the report provided adequate justification to take stock of the status of the project. Accordingly, the Department, as recommended by the report has suspended expansion of the project until the necessary review process has been completed.

B. Department of Labor actions.

During Fiscal Year 1979 and continuing into FY 1980, the Department took a number of critical actions to resolve problems identified either by the Department's own efforts or the GAO's investigation. These critical actions were:

1. Establishing interim priorities. Further expansion of the project was suspended for the balance of FY 1979. This suspension continues in effect during FY 1980. Therefore, FY 1980 ESAP funds were retargeted to support a set of interim priorities until such time as a decision could be made (based upon further evaluation) to continue expansion of the project. These priorities are:

—honoring existing ESAP commitments so that such projects can be completed on schedule,

—upgrading obsolescent and inadequate computer hardware to handle anticipated contingency workload (and other employment security workload) increases,

—undertaking several research and pilot projects in selected States to test the usefulness of new applications and technologies, and new approaches to implementation of automated procedures (e.g., distributed data processing),

—authorizing minimal expansion for the installation of enhancements of demonstrated ability to achieve staff efficiencies (e.g., automated locator).

No new automated job matching sites were authorized.

2. Continuing evaluation and research. Additional evaluations of individual State projects were conducted during FY 1979. This process will continue in FY 1980. In addition, a major ESAP evaluation contract is currently out for bid. (Attachment B.) A major pilot and a major research project were begun in FY 1979 and continue during the current fiscal year. The Oklahoma agency is conducting a feasibility study on the applicability of distributed data processing techniques to State Employment Security operations. Since the primary objective of this research project is a decision as to the utility of this new technology to State operations, the Department has gone to particular pains to ensure that the project evaluation design addresses the most critical issues. The California agency is currently conducting a pilot project to study the effects of a phased approach to automation of services in very large State operations. The outcome of this pilot project will be of major interest to the Department since many of the problems encount-

ered and project findings will be applicable to the automation process in the other very large States.

3. Implementing improved management techniques. The Department is committed to the implementation of effective management techniques to ensure that Federal funds are efficiently used to achieve the most beneficial results. For example, the Department is requiring the use of an incremental funding approach on all approved pilot and research efforts. Key to this process is the early identification of decision points based on measurable milestones. Sufficient funds are provided to enable the agency to proceed to the first major decision point. At that time, the agency and the Department review the results achieved and decide whether those results justify continuation, redirection, or cancellation of the project. If the project is approved for further funding, additional funds are provided to allow the State to reach the next major decision point. This funding approach provides for continuous Departmental evaluation and coordination to ensure that limited resources are wisely targeted and controlled so that funded projects stay on course.

The Department has also assumed a more responsible role in the project approval process. New research and pilot project proposals are carefully reviewed to ensure that project objectives are compatible with Departmental priorities and to ensure that such projects are feasible. Such proposals are subjected to a rigorous negotiation process between the agency and the Department prior to approval. These procedures will be incorporated into the Department's formal project approval procedures at such time as a decision is reached to expand the ESAP project.

Additionally, the Department is also committed to enhancing the staff management skills of staff involved in implementing and operating this project at both Federal and State levels.

4. Long-range planning. The reevaluation process has proven to be a worthwhile endeavor. It has revealed a need for further, more intensive, automation planning that transcends State Employment Security operations. The Department has begun to explore new procedures for identifying, funding, managing, and implementing automation of employment and training operations.

C. The need for planning for automation.

The current proces of reevaluation has revealed several problems in the Department's automation strategy which it is now in process of correcting. Those areas that are currently being addressed include:

1. Planning for automation. The review of the ESAP planning process has brought into focus the need to develop a comprehensive strategy for dealing with the broader issue of automation on a comprehensive agency-wide basis. This need extends beyond the current scope of ESAP to include prime sponsors under the Comprehensive Employment and Training Act and the Department's own internal automation needs.

To develop a more comprehensive approach to automation the Department is establishing within the Employment and Training Administration an Automated Project Evaluation and Approval Board. (Attachment C.) This Board will be assigned responsibility and authority for developing, funding, implementing, and evaluating automation projects for the agency as a whole. The Board will replace and simplify the current ESAP control structure. The Board will be chaired by the Director of the Office of Management Information Systems and will have technical support staff assigned to it to assist the Board in formulating and executing automation policies. Thus, the Board will directly respond to the GAO recommendation to assign such responsibility and authority to a lead office; however, since other agency components will be represented on the Board, the structure will adequately recognize the diverse agency interests, while providing for unified project direction.

The Board will put a very heavy emphasis on conducting research and feasibility studies, and pilot projects. This approach is proving to be extremely valuable during the current reevaluation period and will be retained. Evaluation criteria will be incorporated early on in project design, and evaluation will be performed on a continuing basis through the enforcement mechanism of the incremental funding approach. Projects will be required to provide demonstrable results prior to expansion.

2. Identifying automation resources. The ESAP reevaluation has also brought into focus the problem of identifying Departmental automation resources. Currently, such resources are frequently dispersed among a large number of budget line items. The Department is currently conducting a study to better identify Grants automation resources so that such funds may be more effectively used and tracked. (Attachment D.)

Additionally, the Department has established a Grants ADP investment fund. This fund would be used to finance relatively small automation projects with a high, fast payoff in staff efficiency. The staff efficiencies generated by the projects would be used to repay the fund for the money "loaned".

3. Fostering coordination and data standardization. The Department has undertaken several efforts where greater inter-component cooperation will ensure that automation efforts proceed effectively and with a minimum of technical problems. These efforts include:

—The Employment Service/Unemployment Insurance Service Interface project. (Attachment E.) This effort is being undertaken to identify areas of common concern to both services. This project will enable the Department to identify areas where automation will be of mutual profit to both services.

—The Employment and Training Administration Glossary. (Attachment F.) This document was the product of a major effort to standardize program definitions throughout the Employment and Training Administration. The Glossary taskforce resolved more than 90 percent of the intra-agency differences in definitions. The remaining conflicting definitions are generally the result of legislative or regulatory mandates. Many of the remaining differences are the subject of the Department`s legislative requests (e.g., resolution of conflicting veteran definitions between the Employment Service and CETA programs).

The publication of this document was a critical and necessary step to permit the development of common intake documents. The Glossary also paves the way for additional efforts to standardize automated data elements. The latter effort is necessary to facilitate the exchange of data between agencies.

4. Developing automated systems standards. The Department currently is undertaking a major long-range effort to take advantage of new automated technology to eliminate the export of Federally developed and maintained automated systems. Major emphasis is being given to the use of available software generating systems to permit States to satisfy their own information needs rather than to compel them to use management packages developed by Federal staff. These efforts are best illustrated by three examples.

--Issuance of functional specifications in lieu of nationally developed computer software. An example of this effort is a current experiment to implement an ES requirement to contact veterans every 30 days to determine whether they still desire ES services. Under a previous approach, the Department would have developed the computer software necessary to produce a listing to enable local staff to contact veterans. The revised approach emphasizes the regulatory requirements and issues standards that must be met. Small States may wish to meet the standard by implementing manual procedures; however, large States will probably automate the procedure. The Department will issue guidelines for automating the

procedure together with acceptable suggested approaches. The State can then choose the approach most responsive to its needs.

—Use of report generating systems for local and State level management information needs. (Attachment G.) States have recently been provided with a variety of commercially available report generating statistical packages. The use of such tools will permit States to identify their own management information needs and to develop reports to suit local and State program managers.

Beginning in FY 1982, the Department plans to cease the programming of local office level management information reports and to permit States to rely on their own efforts. This development has been well received by the States.

--Designation of model automated systems and implementation of certification standards. (Attachment H.) This area of prime sponsor automation is an area of growing concern to the Department. To meet the demand of prime sponsors for guidance in automating the Department has funded an effort to develop model automated information systems which will meet Department established automation certification requirements. Prime sponsors adopting one of the recommended systems will meet the certification standards. Prime sponsors choosing to develop and implement other systems will be required to meet such certification requirements to ensure that Federal legislative and regulatory requirements are being followed.

5. Coordination of technical assistance to Grantees. The direction which the Department is following with respect to Grantee automation will require the provision of a great deal of technical assistance and training to Grantees. To effectively accomplish this necessary task, the Department is planning to consolidate all such technical assistance, training, and maintenance efforts at one site. Such activities are currently dispersed at several locations.

A similar need for technical assistance is foreseen to support CETA automation requirements. A study will be undertaken to determine how best to fulfill this need.

6. Revising interim automation priorities. The Department is now in the process of establishing automation funding priorities for Fiscal Years 1980 and 1981. While these have not yet been finalized it appears that the major emphases of the current interim priorities will be retained. However, in view of the anticipated increase in contingency workload it is probable that an increased emphasis will be given to upgrading the largest State agencies.

7. Maintaining Federal/State communications. The Department has initiated and will continue to conduct a series of conferences and seminars to ensure that appropriate Federal and State staff (e.g., ESAP Coordinators, Regional Computer Specialists) are kept fully informed of the Department's revised policies and procedures.

D. Intermediate-range plans.

A major responsibility of the Automation Planning and Evaluation Approval Board will be the development of intermediate-range plans for various Employment and Training Administration components such as the five year ESAP plan requested by the Committee. However, in view of the major efforts being made at this time to reevaluate and re-orient the Department's approach to automation, it would be pre-mature to present a comprehensive five year plan. Such plans will be developed as early as practicable. At that time, these plans will be transmitted to the Committee.

EMPLOYMENT SECURITY AUTOMATION

Question: What is your estimate of the Employment Security Automation Projects' total cost?

Answer: For unemployment insurance, from FY 1976 through FY 1979, $40,168,470 were expended for the implementation of UI on-line automated benefits systems and/or automated tax systems in twenty-one States. In Fiscal Years 1980 and 1981 it is expected that about $6,000,000 will be expended to complete the installation of systems in four more States. The UIS estimates that it will cost about $58-60 million during Fiscal Years 1982 to 1985 to complete the installation of UI on-line automated benefits and tax systems in the remaining State agencies.

The UIS currently is developing and testing the use of data communications to transmit UI information among State agencies. In the event that approach is determined to be cost effective we estimate that $18-20 million during Fiscal Years 1982-1985 will be needed to link all of the State agencies together.

The total estimated costs to move ahead with the automation of UI operations in States and with the interstate data communications network for Fiscal Year 1982 is $28-30 million.

For the employment service, the project costs from FY 1976 through FY 1979 were $38,365,246. It is difficult to estimate what the total cost will be until decisions are made on what JSMS systems will be exported, and how technical assistance will be provided. We estimate that the eventual automated system for Job Service will require an additional up front investment of approximately 50 million dollars. All continuing costs as well as part or all of the initial investment should be recovered within three years of implementation.

EMPLOYMENT SECURITY AUTOMATION

Question: Under your cost absorption concept States are to absorb the continuing costs of automation after two years of operation. Several States were scheduled to enter the cost absorption period in late 1978. To date, how many States have been able to absorb costs?

Answer: Seven States have completed the implementation of Job Service Matching Systems (JSMS) and achieved cost-absorption. Of these, only one State (Vermont) has not been able to absorb continuing costs due to lack of UI participation in the ESAP plan by the State. Actual continuing costs for these seven States systems are $2,099,796. Savings being generated annually are $2,440,614.

Question: Is it still your intent to install computer terminals for on-line processing in all unemployment insurance local offices in every State?

Answer: Yes, it is.

Question: On what basis did you determine that this is necessary and cost effective?

Answer: A study of terminal usage and costs now is being conducted for the UI Service by an outside consulting firm. That study with the report is not yet complete, but the on-site review and analyses has been done in three States. Preliminary analyses showed that the terminal and line costs represent less than seven percent of the total UI local office costs. The UIS believes that such costs are quite low compared to improved delivery of services to the unemployed workers, particularly in the more rural and remotely removed areas. Studies

and comparisons made by the UIS show that the use of a terminal for responding to a claimant inquiry reduces the response time from two to three days to a few seconds over a manual process. That comparison further shows that the time required to process a claimant inquiry on a manual basis requires about 14 minutes whereas the time required using a terminal is about one minute. A major consideration is the need to provide comparable service to all claimants regardless of group or location.

A "landmark" decision with respect to timely payments rendered by the U.S. Supreme Court in April 1971 (Java vs the California Employment Agency) states in part:

"The objective of Congress was to provide a substitute for wages lost during a period of unemployment not the fault of the employee. Probably no program could be devised to make insurance payments available precisely on the nearest payday following the termination, but to the extent that this was administratively feasible this must be regarded as what Congress was trying to accomplish. The circumstances surrounding the enactment of the statute confirms this."

That judicial mandate, complete with the need to maintain the integrity of the unemployment insurance system, dictated that the UIS reconsider its service delivery systems, particularly in light of the continuing high workloads. Given the successes other industries had realized by automating manual operations, coupled with State experiences with limited terminal inquiry capabilities, the UIS considers the use of telecommunications as a major means of improving the UI Service delivery system.

As the recession began to recede the number of improper payments focussed the attention of the public, Congress, and the UIS on the weaknesses of the system. The UIS further strongly believes that automated on-line systems can and do provide a higher quality of operations regardless of workloads. A comparison of States UI performance data indicates that the use of terminals in local offices generally enables a State to achieve and maintain higher performance levels in the timeliness of making payments to UI claimants.

COMPUTERIZED JOB MATCHING

Question: The GAO report stated that your past and then planned evaluations of the effectiveness of computerized job matching did not differentiate between improvements due to computerized job matching, and those due to other factors, such as changes in the economy, or organizational and procedural changes. Have you revised planned evaluations of computerized job matching to assure that these other factors that affect performance are identified and taken into account?

Answer: On-going evaluations of the Job Service Matching System are concerned primarily with endogenous variables. Exogenous variables are being examined in a major Employment Security Automation Project (ESAP) impact evaluation by an outside contractor. A contractor is expected to be selected in about 45 days. The portion of the evaluation which will examine the Job Service Matching System (JSMS) will consider factors other than JSMS that may influence performance, such as unemployment rate, economic conditions, ETA or SESA policies on organization and staffing and SESA functional, procedural, organizational and staffing changes.

EMPLOYMENT SERVICE STAFF

Question: How many years has the Employment Service (ES) been frozen at 30,000 staff?

Answer: The ES has been at this staffing level for the past four years.

Question: What new responsibilities has the ES absorbed within its 30,000 staff ceiling?

Answer: Since FY 1966, the ES has assumed many additional program responsibilities within its ceiling of 30,000 positions including:

o monitoring of services to migrants and seasonal farmworkers, and to veterans;

o certification of foreign workers for temporary agricultural and nonagricultural employment;

o certification for rural loan guarantees;

o monitoring of agricultural housing and working conditions;

o determination of prevailing wage rates for use in defining agricultural wage standards in the Interstate clearance process;

o determination of a contractor's eligibility for certification under the Defense Manpower Policy Four program and the Buy American Act;

o certification of individuals eligible under the Targeted Jobs Tax Credit program;

o provision of worker adjustment assistance under the Trade Act, Redwood National Park Expansion Act and the Airline Deregulation Act;

o monitoring compliance with Federal contractor mandatory listing requirements;

o determination of compliance with regulations governing wages, hours, working conditions, equal opportunity, employee selection standards and accessibility of the handicapped to programs and activities.

Question: How can the ES be expected to handle an additional half million work applications, and place 360,000 more people in jobs, as claimed in your budget, with no increase in staff?

Answer: The ES is able to project these levels of performance while maintaining a held-constant staffing level through the use of certain innovations, improvements and efficiencies in operations. These include the expanded use of automation, improvements in management and staff actions, and increasing involvement with private sector employers.

In terms of automation, computers are being used not only for more routine tasks such as the posting and retrieval of data but also in more sophisticated applications like computer-assisted matching of applicants and jobs and analyzing which employers would be likely to have suitable job openings. Other automated enhancements of the ES referral and placement process also are being implemented. These include using the computer to send cards to applicants about referral possibilities, to control the number of referrals made to employers, and to maintain a current listing of applicants on file.

The management and staff improvement actions being taken include providing specialized training to ES managers, developing better management tools including a system of performance indicators for targeted client groups (e.g., veterans and migrants and seasonal farmworkers), and implementing additional staff training in employer relations.

Finally, increased involvement with the private sector is being accomplished through the further implementation and expansion of the Job Service Improvement Program and the Targeted Jobs Tax Credit Program.

Thus far, these actions have enabled the ES to maintain adequate levels of service throughout the period of constant staffing levels. In terms of productivity, the ES has accomplished the following:

- o twenty-four percent increase in number of individuals placed per staffyear since FY 1976

- o 4,180,000 individuals placed in jobs in FY 1979 at a cost of about $166 per individual

- o twenty-eight percent of these placements were economically disadvantaged

- o forty-five percent were youth

- o sixteen percent were veterans

- o thirty-one percent were minority

Question: During a period of rising unemployment, what's to keep ES staff from being diverted to process Unemployment Insurance Service benefit claims?

Answer: Several years ago the Department instituted a policy of contingency staffing to keep such diversion of ES staff to meet UI workload demands to a minimum. Under this policy, States are encouraged to maintain current rosters of persons able to work full or part-time for a specified period of time in order to meet fluctuations in unemployment and marked increases in demands for UI services.

Also, in those States which operate ES and UI as separate and distinct agencies, ES staff are not diverted for UI purposes.

It must be recognized that any such diversion of ES staff to meet UI workloads is especially critical since it would occur when ES capabilities also would be overloaded. That is, ES staff would also be busy serving the needs of the unemployed, in registering to meet work test requirements as well as in finding other jobs. In addition, in periods of economic downturn, there is more demand on ES staff to provide jobseekers with labor market information and job search instruction and also with job development assistance.

TECHNICAL ASSISTANCE FOR ON-LINE UI SYSTEMS

Question: How extensively have you provided States with the assistance that many of them require in the complex tasks of designing and implementing on-line Unemployment Benefit Systems?

Answer: The National Office of the Unemployment Insurance Service has within its organization a Division of Technical Services. This division is comprised of staff with EDP systems, UI programs, and management analysis expertise. Although the staff is quite limited technical assistance is provided to States to the extent possible.

Trips are made to SESAs to provide on-site help in areas of UI systems redesign and to exchange information on concepts, procedures and techniques. National Office also monitors the progress of agencies in the automation of their UI functions. Periodically data is gathered, analyzed, and disseminated back to States on the status of UI automation and individual statistics on the effects on the UI program due to computerization.

The Technical Services Division has periodically convened conferences consisting of National, Regional and State staff during which presentations, panel discussions and attendee participation are used to convey information on UI automation.

Special EDP developmental projects are explained and discussed. States who have designed new or innotative processes are asked to share their EDP design and performance results with the other States staff.

Technical assistance visits are also made to SESAs by Regional Office staff although staff limitations keep these visits to a minimum.

The most extensive technical assistance capability available is through the Unemployment Insurance Systems Design Center (UISDC) located in Baton Rouge, Louisiana. The staff at UISDC fills the void caused by limited staff at the Federal level.

UISDC personnel are frequently asked to assist in systems reviews and to provide technical reports on UI automation efforts.

Several exportable UI systems have been developed by UISDC to assist agencies in keeping UI functions as efficient as possible. The procedures for implementing systems are explained below.

Implementation is a cooperative effort between the Design Center and the requesting State Employment Security Agency (SESA). The role of the Design Center is to serve as a consultant during installation of the system and to later provide assistance in making modifications to the system if changes are required or if new laws are enacted.

At the beginning of an implementation, a meeting is held consisting of representative from UISDC, the State, and the National and Regional Offices. Key people through whom all coordinating efforts will be cleared from both the State and UISDC are identified, and target dates are established for each phase of the implementation.

This meeting is also used to review any State laws which might affect the system. The agency must then document any changes which must be made due to legal requirements.

Various data processing requirements must be considered. Does the State have all the necessary hardware for implementation of the system? The data base is also discussed along with the State's responsibility for gathering the necessary information.

After reviewing all phases of the implementation effort, letters of agreement are drawn up by UISDC, the agency, and the State's Regional Office to confirm everyone's commitment to the installation of the system. The responsibilities assumed by the three agencies are listed below.

o UISDC

Determines what changes must be made to conform programs to the State's laws and makes the necessary modifications.

Sets priorities for conversion of programs. Assists in defining the data base size and format.

Tests programs.

Consults with user showing test output of the new system.

Secures written and signed documentation for all necessary changes.

Assists in State's communications system. Produces status reports for all target dates and trip reports for each visit.

o Agency

Creates data base and forwards to UISDC for validation.

Provides UISDC with documentation on State laws which might affect the system.

Provides the interface for UISDC's data entry programs and the State's communications software.

Orders all forms to be used with the system.

Provides adequate manpower.

Provides the Regional Office with a budget outlining the need for purchasing any equipment necessary to support the new system.

o State's Regional Office

Coordinates purchase of equipment.

Designates a member of the Regional Office to monitor the implementation of the system.

Some of the major exportable UI systems created at UISDC on which they provide technical assistance are:

ETA/UIS Tax System

Perhaps the most comprehensive and sophisticated system UISDC has ever developed, the ETA/UIS Tax System was created to automate the tax

accounting operation, reducing or eliminating time-consuming clerical work. The system was developed in close association with ETA/UIS and based on UISDC's first major exportable system, the UISDC Tax Accounting System.

The original system used computer technology to improve one phase of the tax accounting procedure; the actual processing of employer contributions. The ETA/UIS Tax System embraces the entire tax operation. Along with processing contributions and maintaining accounting information, the expanded system also establishes and maintains employer status information for yearly rating computation and fund management, controls report and monetary delinquencies, maintains information for audit purposes, and accumulates information for management reports. The tax system is now installed or planned for installation in 17 States.

Fraud Crossmatch

It's an all too familiar problem; limited staffs coping with seemingly unlimited cases of fraud and overpayment. The Crossmatch System was created to impartially and accurately choose which cases need to be investigated, freeing investigators to do what they're being paid for; investigate not drown in paperwork.

The system has a built-in, self-evaluation feature so that the agency can track its success. Various management reports and vital statistical information are two other important features. Thirty-two SESAs have installed or have requested information on this system.

Model Recovery System (MRS)

MRS is a comprehensive overpayment recovery program consisting of two complimentary components. The first is an automated system which maintains all current overpayment data, periodically issues routine collection notices, and identifies any delinquent accounts requiring agency action.

The second component is a manual system. This system employs effective collection techniques to augment the automated part of the system.

Seven State agencies have asked for the specifications and/or the programs for MRS.

UCPE

The Unemployment Compensation for Postal Employees (UCPE) 191A System became available in July 1978. Already 17 States have requested the system which provides a uniform quarterly report and listing of active Postal Service claimants needed for completion of the revised ETA 191A Report.

There are several other UI systems or projects currently being tested or developed by UISDC. These include: an automated system for Claimant Eligibility Review, computerized Field Audit Selection System, automated system to monitor dislocated workers due to increased imports, preparation of the annual report on SESA quality appraisals.

In addition, UISDC assists States by maintaining information necessary on a national basis to process claims for ex-servicemen (UCX).

UI COST RECOVERY

Question: The costs of installing and maintaining these systems are expected to be recovered through reduced funding to the States in future years. What have you done to determine the States' abilities to reduce personnel costs sufficiently to cover the costs of automation while maintaining satisfactory levels of program quality control and service to claimants?

Answer: It is difficult to identify the specific amounts of savings which occurred as a result of automation of UI operations. Several other factors are to be considered such as OMB productivity increases, effects of budget range setting, changes in workloads, emphases on certain activities, special funding, etc. We, however, believe that the following represents a conservative statement of savings occurring from the implementation of on-line UI benefits and tax systems under ESAP:

Fiscal Year	1977 -	$ 1,500,000
	1978 -	3,800,000
	1979 -	4,500,000
	1980 -	8,300,000
	Total -	$18,100,000

The UI budget allocations to the SESAs, likewise, have undergone continual reductions in staff requirements for processing major activities primarily due to automation. This does not mean that the dollar amount of funds or actual staff allocated to the States has been reduced as the total dollar requirements by the States are impacted by two major factors - (1) additional programs and workloads have been imposed and (2) the staff salary and nonpersonal services costs have increased.

Some comparisons in staffing requirements, however, can be made to support productivity improvements with resultant staff savings over the years. First, in the wage record function a staff of 897 in the States processed about 179,212,000 wage items in Fiscal Year 1972 with an MPU on 0.52. In Fiscal Year 1978, a staff of 835 processed about 241,159,000 wage items with an MPU of 0.36. This is a highly automated activity and the increased productivity can be attributed almost entirely to automation.

Second, some reductions in the overall benefits functions occurred during that same six year period, although this is more difficult to compare because of additional programs, different workloads, and special allocations for specific program emphases. In Fiscal Year 1972, a staff of 21,625 processed a benefits workload based on about 15,586,000 initial claims. This amounts to a staff of 1.39 positions per 1,000 initial claims. In Fiscal Year 1978, a staff of 28,995 processed benefits workload of about 21,173,000 initial claims. That staff included 419 for EB, and 331 for SUA which were new programs from 1972, and a special allocation of 1,004 positions in 1978 to implement the Eligibility Review Program (ERP). If those positions are subtracted from the 28,995 in 1978 for the purpose of comparing with 1972, it leaves a staff of 27,241 to process the initial claims workload shown above or a staff of 1.29 positions per 1,000 initial claims. The 1978 staff usage also includes staff required for other programs, such as Federal Supplemental Benefits and benefit payment control, which cannot be specifically identified.

Third, a staff of 6,582 was required in Fiscal Year 1972 to process about 2,793,000 subject employers, which amounts to 2.36 positions per 1,000 subject employers. In 1978, a staff of 7,618 processed the records for 4,363,000 subject employers, which amounts to a staff usage of 1.75 positions per 1,000 subject employers.

While the above information cannot definitely be identified as specifically related to the automation of UI operations, we believe that automation is the primary factor.

H-2 PROGRAM

Question: The Employment and Training Administration is considering new guidelines which would require the employer of foreign sheepherders under the H-2 Program to offer the herder return transportation after eleven months of employment despite the three-year service contract. The current three-year requirement has been in effect since the 1950s. The proposed change raises certain questions.

Has the Labor Department conducted any studies or investigations to determine the economic impact of their new proposal on the sheepherder industry? If not, why not?

Why does the certification period change from twelve months to eleven months warrant the change in contract period from three years to eleven months?

Why were the twenty-two years of administrative practice allowing a three-year contract not considered when proposing new guidelines?

Answer: Plans regarding field instructions on processing certification requests for foreign sheepherders are currently under Departmental review. Responses to the above questions will be provided as soon as this process is completed.

TARGETED JOBS TAX CREDIT

Question: How many people have been hired to date under the Targeted Jobs Tax Credit Program (TJTC)?

Answer: As of January 31, 141,063 individuals have been certified thus enabling their employers to receive a tax credit under this program.

Question: How many eligible workers have been given vouchers informing potential employers they qualify the company that hires them for tax credits?

Answer: A total of 249,000 persons have been vouchered as of January, 1980, under the Targeted Jobs Tax Credit program.

Question: What is being done to advertise this program in the business community?

Answer: Extensive publicity activities are underway or planned for this program, including:

o TJTC advertisements have been distributed to 42,000 magazines.

o Radio spot announcements have been distributed to 6,000 stations. Additionally, 2,000 spot announcements have been produced in Spanish and distributed to Spanish-language radio stations. A million copies of the New Initiatives brochure were reprinted and distributed to all State Employment Security Agencies.

o The January issue of "Personnel Administrator" magazine included an article on TJTC.

o Several fact sheets have been prepared including a Program Fact Sheet on TJTC and WIN (February 1979), USDOL Program Highlights on Employment Tax Credits (January 1979), and another USDOL Program Highlights article on Employment Tax Credits: An Advantage for Eligible Jobseekers, which is at the printers.

o A comprehensive marketing package has been developed for use by State Job Service and CETA job developers and will be distributed in March 1980.

o A ten-second TV spot annoucement and a thirty-second spot announcement are to be issued shortly. (The ten-second spot won the New York Film Critics Award for best in its category.)

o Arrangements have been made for DOL personnel to discuss TJTC on talk shows and to make personal appearances to publicize the program.

o Direct mail package for community based organizations and personnel directors of 83,000 businesses--target date mid-June; will consist of a cover letter from Labor Secretary Marshall, Fact Sheet, testimonials by employers and a TJTC Pamphlet.

o Media Information Kit to be mailed to all daily newspapers--target date mid-June. Contents: feature article with Secretary Marshall's by-line, general news release, one page commentary, Fact Sheet on TJTC and WIN, TJTC-WIN Pamphlet, cover letter from Secretary Marshall, editorial cartoon and case histories (testimonials) of employers.

o Two posters to inform target groups of program (one directed at youth; the other to the other target groups)--target date mid-June.

RECRUITMENT OF APPLE HARVEST WORKERS

Question: Does the Department plan to recruit and transport Puerto Rican Workers to mainland east coast growers for the 1980 apple harvest?

Answer: At the present time discussions are being held between Departmental and Commonwealth officials, as well as selected growers and their representatives, to examine options for utilizing Puerto Ricans in the 1980 East Coast appple harvest. However, no firm plans for recruitment or transportation have yet been established.

Question: What prevented the recruitment of Puerto Rican workers for the 1979 apple harvest?

Answer: In 1979 Puerto Rican workers were not recruited for the apple harvest because negotiations between Department and Commonwealth officials did not result in agreement on several major points of consideration, including transportation advances, distribution of workers and acceptable documentation of legal entitlement to work under the Farm Labor Contractor Registration Act (FLCRA).

SUBCOMMITTEE RECESS

Senator EAGLETON. We will be in recess until 3 p.m. tomorrow, and we will convene in room S–128 to continue the Department of Labor appropriations hearings.

[Whereupon, at 11:10 a.m., Wednesday, March 5, the subcommittee was recessed, to reconvene at 3 p.m., Thursday, March 6.]

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

THURSDAY, MARCH 6, 1980

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

The subcommittee met at 3 p.m. at room S–128 of the Capitol, Hon. Quentin N. Burdick presiding.

Present: Senators Burdick and Schmitt.

DEPARTMENT OF LABOR

LABOR-MANAGEMENT SERVICES ADMINISTRATION

STATEMENT OF WILLIAM P. HOBGOOD, ASSISTANT SECRETARY

ACCOMPANIED BY:
ROCCO DE MARCO, DEPUTY ASSISTANT SECRETARY OF LABOR
ERNEST GERMAN, DIRECTOR, OFFICE OF MANAGEMENT
RICHARD G. HUNSUCKER, ACTING DIRECTOR, OFFICE OF LABOR-MANAGEMENT STANDARDS ENFORCEMENT
IAN LANOFF, ADMINISTRATOR, PENSION AND WELFARE BENEFITS

PENSION BENEFIT GUARANTY CORPORATION

STATEMENT OF ROBERT NAGLE, EXECUTIVE DIRECTOR

ACCOMPANIED BY:
HENRY ROSE, GENERAL COUNSEL
WILLIAM DE HARDE, DIRECTOR, PROGRAM OPERATIONS
LAWRENCE MASLAN, DIRECTOR, FINANCIAL OPERATIONS

BUDGET REQUEST

Senator BURDICK. We will begin with the testimony on the fiscal 1981 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 questioning, since both have the responsibility for administering a portion of pension reform legislation. We will then ask for questions pertaining to other responsibilities of the Labor-Management Services Administration.

Here to present the 1981 budget request is William P. Hobgood, the

Assistant Secretary for Labor Management Relations. He will be followed by Robert E. Nagle, the Executive Director for the Pension Benefit Guaranty Corporation.

Mr. Hobgood, will you please introduce your associates, and also Mr. Nagle.

Mr. HOBGOOD. To my left is Rocco De Marco, the Deputy Assistant Secretary of Labor. To his left is Ernest German, Director, Office of Management; and then Mr. Hunsucker, the Acting Director, Labor-Management Standards Enforcement; and to his left is Ian Lanoff, Administrator of the Pension and Welfare Benefits Program.

Mr. NAGLE. Mr. Chairman, to my right is Henry Rose, our General Counsel; and to his right is Mr. William De Harde, who is Director of the Program Operations; and to his right is Lawrence Maslan, Director of Financial Operations.

Senator BURDICK. Mr. Hobgood, proceed. Start right in.

Mr. HOBGOOD. Senator, this is our 1981 budget request. Our total budget estimate is $60,699,000 and 1,337 positions, an increase of $1,972,000 from the fiscal year 1980 budget. There is no change in positions requested. The dollar increases are for built-in changes.

The increases for 1981 are to provide funds to finance 25 additional temporary positions, for the special investigation staff for the pension welfare benefits program.

Let me highlight some of the plans. We expect to process cases related to the Urban Mass Transit Act and the Surface Transportation Systems Act in an average of 90 days. We are proposing to initiate a new grants program to aid Ph. D. candidates in industrial relations. This will involve $150,000 from our research involvement program.

The new audits program in Labor-Management standards enforcement will be fully operational in 1981, with 200 units planned. This program will identify organizations most likely to have financial problems. It is intended to ascertain the level of complaints with the Labor-Management Reporting and Disclosure Act.

In 1979, the number of veterans assisted through our veterans reemployment rights program increased significantly over 1978. We plan to assist the same number in 1980 and increase it in 1981.

The major program emphasis in the pension and welfare benefit programs area, is to continue to improve the quality and efficiency of the compliance program. A total of 15 positions will be reallocated to the field investigative staff from the national office reports processing staff to increase the number of investigations of fiduciary violations that can be completed during the year.

Senator, in addition to the above, we have a 1980 supplemental request. The request is for $2,163,000 and 12 positions. The additional 12 positions and $208,000 provide the staff necessary to reduce backlogs relating to the Urban Mass Transit Act and the Surface Transportation Act.

Senator, $1.5 million is for the costs incurred in processing, editing and microfiching annual financial reports required by the Employee Retirement Income Security Act.

Also $455,000 is needed to finance 44 temporary positions for the special investigations staff within the pension and welfare benefit programs.

Senator, that concludes the summary of our budget request.

[The statements follow:]

Statement of William P. Hobgood

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today to present the fiscal year 1980 Supplemental and fiscal year 1981 budget requests for the Labor-Management Services Administration. I would like to discuss the FY 1980 supplemental first and then our 1981 budget request.

We are requesting 12 positions and $2,163,000 in the FY 1980 Supplemental. Twelve positions and $208,000 are for the employee protections program; $1.5 million is for reimbursement to the Internal Revenue Service (IRS); and $455,000 is needed to finance 44 temporary positions for the Special Investigations Staff within the Pension and Welfare Benefit Programs.

The Labor-Management Services Administration is responsible for insuring that fair and equitable arrangements have been developed for the protection of certain employee rights under the Urban Mass Transportation Act, as amended by the Surface Transportation Assistance Act of 1978. Specifically, the requested supplemental staff would be applied to cases where the Department of Transportation is providing financial assistance to communities under this Act. The 12 positions would augment our existing staff of 12 people who are assigned to the employee protections program.

The Urban Mass Transportation program has been in place since 1964. Since that time there has been a consistent growth in casework. Requests to this agency for certification of employee protections in petitions for grants are expected to grow to unmanageable levels in FY 1980 without the additional staff. The recent passage of the Surface Transportation Assistance Act, which covers grant assistance for public transportation in areas with 5 - 50 thousand people, will at least double the number of projects requiring certification in FY 1980. With the supplemental

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positions, the UMTA backlog could be reduced to a level where we could meet our goal of processing certification requests in a 90 day period. In addition, we would be able to implement and process the new certifications relating to the Surface Transportation Program.

We are also requesting $1.5 million for microfiching. Our agency reimburses IRS for part of the costs incurred in processing, editing, and microfiching annual financial reports required by the Employee Retirement Income Security Act. Currently, we have $2.1 million in our budget for microfiching; however, rising costs of salaries, overhead and other expenses necessitate additional funds to support the function.

The remaining item in the supplemental request is $455,000 to finance 44 temporary positions. These positions would provide support to the litigative activities in the Central States Teamsters Pension Fund case. During 1980, this staff will examine over 640,000 pages of subpoenaed documents and extract selected data for entry in an automated file data base.

The temporary employees would continue during fiscal year 1981 and by the end of the year will have identified, matched and correlated over 1,500,000 pages of documents. This information will form an automated catalog for the Solicitor's Office litigation. The project is expected to be completed by the end of fiscal year 1981, and the positions should not be needed after that time.

I'd like now to discuss our request for FY 1981. Our total budget estimate is $60,699,000 and 1,337 positions. This is a increase of $1,972,000 from the 1980 budget. No change in positions is requested.

Our goal in fiscal year 1981 will be to provide quality and timely programs in all our program areas, hold costs to a minimum, and increase productivity.

During 1979 several actions were taken which improved the compliance aspects of our Pension and Welfare Benefit Programs. For example, the compliance strategy document which sets policy for the field staff was revised to strengthen the program's emphasis on fiduciary investigations and audits. As a result, the amount of time investigators spent on fiduciary investigations and audits increased significantly over 1978. Training was provided to field staff on investigative planning and auditing. A compliance coordination agreement was implemented between the Department and the Internal Revenue Service (IRS) which is designed to avoid duplicative investigations and to better utilize both agencies' field resources.

Another major accomplishment in our pension program in 1979 was the implementation of the President's Reorganization Plan #4. This reduced dual jurisdiction with the IRS and improved our responsiveness in processing requests for exemption. In calendar year 1979, when the reorganization was in effect for the full year, 683 requests were processed. This compares to 609 applications processed during the previous four years combined. The President recently transmitted an OMB report to Congress which concluded that under the Reorganization Plan the Department 1.) dramatically improved its exemption ruling program; 2.) exceeded the number of regulations presented at the time the Plan was recommended; and 3.) substantially reduce paperwork for ERISA plans.

In 1980 and 1981 the major area of program emphasis in our Pension and Welfare Benefit Programs in addition to further improvements under the Reorganization Plan will be the continued improvement of the quality and efficiency of the compliance program. Fiduciary investigations will be emphasized. Eighteen positions were reallocated to the field investigative staff from the

National Office in fiscal year 1980 to strengthen the compliance effort. In 1981, another fifteen positions will be assigned to the field to increase the number of investigations of fiduciary violations that can be completed during the year.

The compliance aspects of our Labor-Management Standards Enforcement program will continue to be emphasized in 1980 as they were in 1979. One of the primary goals of this program is to provide maximum available resources for the investigation and resolution of complaints received from union members and the public. In 1980, thirteen positions were transferred from the National Office to the field to bolster our on-site investigative and audit capability. A new program, the compliance audit program, will be operationally tested in 1980. This program will enable us to apply our investigative resources more efficiently and effectively. The compliance audit program is intended to determine the level of compliance with the Labor-Management Reporting and Disclosure Act and identify financial wrongdoing in those organizations selected. Early indications are that this program will be successful. In the short time that it has been in operation, it has targeted two significant cases.

In 1979, the number of veterans assisted through our Veterans' Reemployment Rights program increased significantly over 1978. We plan to assist the same number in 1980 and increase it in 1981. Several actions were begun in 1979 and will continue in 1980 and 1981 to revitalize this program. Comprehensive training of field investigators is being conducted. The program is being more widely publicized through new publications, radio and television announcements, and a more vigorous dissemination of reemployment rights information at military separation centers. In addition, a

toll free telephone is being installed to assist clients in obtaining their rights.

During 1979 and thusfar in 1980, we have attempted to keep pace with the expanding workload in the Federal Assistance programs of the Urban Mass Transportation Act (UMTA) and the new rural transportation program. Requests for certification of employee protection provisions under UMTA are expected to continue to increase in 1981.

The remainder of our programs in 1981 will generally be conducted at 1980 levels.

The budget request provides for about a 3% increase in dollars over the 1980 budget. Most of the increase is related to mandatory salary increases.

In addition to mandatory cost increases, our budget has dollar increases in two program areas. The first, for $438,000, is to provide funds for 25 temporary positions for litigation support in our prosecution of the Central States Teamsters case. These would be in addition to the 44 temporary positions requested in the 1980 supplemental request. The positions should not be required after 1981.

The second program increase, for $150,000, is to initiate a grants program for Ph.D. candidates in industrial relations. This increase is offset by a decrease in contract research funds. The grants program should help ease a growing shortage of industrial relations specialists.

In conclusion, I'd like to mention that the compliance aspects of our programs will be emphasized as they have been in the recent past. We will continue to evaluate our program performance and will redirect our resources as required to achieve maximum benefit from

them. We will also continue to use innovative approaches to provide a wider range of services without increasing our staff.

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 you may have.

STATEMENT OF ROBERT E. NAGLE

Mr. Chairman and members of the Committee, it is a pleasure to appear before you to present the Fiscal Year 1981 budget plan of the Pension Benefit Guaranty Corporation ("PBGC").

The PBGC was established under the Employee Retirement Income Security Act of 1974 as a self-financed, 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 PBGC receives no appropriations from the Congress.

Our Fiscal Year 1981 budget plan consists of two activities: Activity 1 requires $40,215,000 for benefit payments and $4,900,000 for multiemployer financial assistance. Activity 2 requires $22,022,000 for administration of the program. I would like to emphasize a few specific aspects of this budget plan.

The budget plan requires $40,215,000 to provide for benefit payments for participants in pension plans which have already terminated or are expected to terminate during this fiscal year. This reflects our projection that PBGC will be responsible for the guaranteed benefits of some 60,000 participants. PBGC has decided against purchasing annuities from private insurance carriers

in FY 1981 as a method of payment of these guaranteed benefits. A study completed in FY 1979 concluded that the purchase of annuities may not be financially attractive at this time. However, should market conditions warrant a decision to pursue the purchase of annuities, we would do so. In that event PBGC spending would increase, due to the necessity of making full payment for such annuities, rather than paying benefits on a monthly basis as is our current practice.

The administrative costs of $22,022,000 represent a slight increase above the FY 1980 budget plan. This is the result of an increase in personnel costs and computer equipment costs. Although we have not increased our number of budgeted positions, we are planning to increase our productivity in processing insufficient terminated plans during FY 1981 through improved operating techniques and improved computer systems applications.

PBGC is not required to guarantee benefits of multiemployer pension plans which terminate prior to May 1, 1980, but may cover such plans at its discretion. Currently, mandatory coverage is scheduled to begin on May 1, 1980. PBGC submitted legislative proposals on multiemployer pension plan coverage to Congress on May 1, 1979.

Presuming timely passage of the legislation, PBGC would implement the revised multiemployer program in FY 1980. If this occurs, we estimate that $4,900,000 will be required in FY 1981 for financial assistance to insolvent multiemployer pension plans. We have included the $4,900,000 in the FY 1981 budget plan, but we have not yet budgeted for the additional adminis-

trative resources which would be needed to implement the new program. Accordingly, we expect to amend the budget programs for FY 1980 and FY 1981 after May 1, 1980.

That concludes my opening statement, Mr. Chairman. I will be happy to respond to any questions you may have.

PENSION INSURANCE PROTECTION

Senator BURDICK. How many participants' pension plans are receiving benefits which are greater than the amount they would have received without your insurance protection?

Mr. HOBGOOD. Senator, we last year protected about $41 million in pension fund assets, and are involved in protecting the assets of 300,000 citizens.

Mr. NAGLE. Mr. Chairman, to the extent that the question is related to the insurance program. I would say that we have approximately 50,000 participants in the plans that are currently under PBGC trusteeship and plans that are in the process of being trusteed that would be entitled to receive benefits from us that they would not otherwise receive.

PENSION BENEFIT CORPORATION

Senator BURDICK. What is the Pension Benefit Corporation doing in cooperation with other related agencies to keep paperwork and reporting by plan administrators to a minimum? Either one of you.

Mr. NAGLE. Well, I guess we both have a share of that. The PBGC, the IRS and the Labor Department have developed a common annual report. We used to have a separate annual report, one of our own. We now have included our questions in form 5500 so the three agencies now have a common reporting form, and that is filed with the IRS.

We are also working on an arrangement with the Internal Revenue Service to have a single form of notification for those plans that are terminated. Any plan that is terminated is required to file a notice with us.

Many of those plans also seek an IRS determination as to qualification with respect to the termination, and had to file a separate application with Internal Revenue Service.

We have gotten together with IRS to develop a single form. That has been very well received, and we are currently working out the details of that proposal.

Mr. HOBGOOD. Senator, we have instituted a number of programs to reduce the paperwork, the administrative burden, particularly, for small plans. Mr. Lanoff will expand on the specific areas.

Mr. LANOFF. Senator, as part of the organization enforcement effort, we have developed a new annual reporting form for all pension and welfare plans with less than 100 participants covered.

Basically it will be a triennial reporting system, which means that 2 out of every 3 years, the smaller plans will only file a registration statement with the IRS, and then the third year the plans will file a more complete compliance-oriented return with the IRS.

The IRS then is responsible for processing forms and sending them to the other two agencies.

Senator BURDICK. Can you estimate the savings on manpower and other areas from these new directions?

Mr. LANOFF. Yes, we should be able to provide that to you for the record.

Senator BURDICK. Very fine.

[The information follows:]

MANPOWER SAVINGS

We are still in the process of determining whether and to what degree savings will result from our triennial filing. We have estimated however, that the elimination of one form, the plan description form EBS-1, has resulted in a savings of roughly $68 million for a 5-year filing period. (The EBS-1 form was required to be filed every 5 years and as plans were amended or created.)

MULTIEMPLOYER PENSION PLANS

Senator BURDICK. The fiscal 1981 budget plan for the Pension Benefit Guarantee Corporation assumes enactment of revised authorizing legislation pertaining to coverage of the multiemployer pension plans.

What exactly is your legislative proposal, and what is its current status in Congress?

Mr. NAGLE. Well, we submitted proposed legislation last spring. It presently has been reported out favorably with the amendments by the House Education and Labor Committee, the Senate Labor and Human Resources Committee and the House Ways and Means Committee have each scheduled markup this week.

The legislation basically provides that when employers withdraw from a multiemployer plan, they will have to pay to the plan a share of the plan's unfunded liability; the idea being that otherwise when an employer withdraws from a multiemployer plan, it will diminish the contribution base of the plan while leaving unfunded liabilities behind.

This payment of withdrawal of liability will offset that effect on the multiemployer plan. Our hope is that with this type of measure, we will encourage employers to stay with the multiemployer plan, not to abandon it.

Senator BURDICK. What do you gain by withdrawing it?

Mr. NAGLE. Well, we wouldn't gain very much. One of the problems that's been identified under the law as it now stands, is that there might well be a substantial advantage to employers who withdraw from a plan, if they do it early enough, before the plan runs into eventual financial difficulties or terminates. That employer may be home free, but nevertheless have left behind for others to pick up the unfunded liabilities for his employees, who have benefits in that plan, and we believe that's one of the causes that has led to difficulties for some plans in the past, and we see it potentially as a very severe problem in the future.

EMPLOYER BANKRUPTCY

Senator BURDICK. I hate to use this example, but I think I shall: What happens when the employer goes into bankruptcy?

Mr. NAGLE. What happens when the employer goes into bankruptcy? Well, if the employer is bankrupt, he would not be able to pay his share.

Senator BURDICK. Do other employers have to assume part of the share, or what happens?

Mr. NAGLE. They may have to; yes.

MULTIEMPLOYER PROGRAM

Senator BURDICK. What would be the budgetary impact if the present statutory provisions for multiemployer pension plan termination insurance remained in effect for fiscal 1981?

Mr. NAGLE. I don't think that there would be any budgetary impact because our program is financed out of premiums paid by the plans that are covered by the program. But our studies indicate that if the present legislation were to go into effect—I'm talking about the law that's in effect now, rather than the proposed legislation—there would be an incentive in many cases for employers to withdraw. This might result in termination of many plans. The studies that we have done and the estimates that we have made suggest that in the foreseeable future, there might be as many as 10 percent of the multiemployer plans that would find it more advantageous to terminate than to go on under the present arrangement, and the potential cost to the insurance system might be as much as $4 billion.

This is one of the conclusions that led us to believe that the amendments now being considered are necessary.

MULTIEMPLOYER PROGRAM ADMINISTRATION

Senator BURDICK. Since your budget plan assumes enactment of the revised legislation, why didn't you include an estimate for additional administrative resources to implement the program?

Mr. NAGLE. The extent of our additional requirements, such as personnel and other resources that would be necessary, are considerably dependent upon the final form that the legislation might take. We are pretty sure the legislation will undergo some revisions of what we have proposed, and indeed it already has, and mainly in the direction of more work for us. We felt that we could make a much more precise estimate of our additional needs once the legislation is in final form.

Senator BURDICK. That means you'll be back in here.

Mr. NAGLE. Yes, sir.

PENSION AND WELFARE BENEFITS

Senator BURDICK. We understand you plan to conduct 8,312 investigations of the employee benefit plans covered under ERISA in fiscal 1981.

How many employee benefit plans are covered under ERISA, and are you investigating an increased percent?

Mr. HOBGOOD. Yes; we plan to increase that, primarily through reallocating resources from the national office to the field staff to supplement our investigative capacity.

As far as the specific plans go, Mr. Lanoff will respond.

Mr. LANOFF. There are approximately 1.6 million private employee benefit plans covered by ERISA, Senator Burdick. What we do in selecting plans for investigation is use a targeting approach. For investigations we take the annual report forms that are required to be filed by all plans. We run them through a computer and certain line items which might tend to indicate potential violations are pulled off the forms by the computer and then we use those items to identify plans which have potentially committed abuses.

So, basically what we do is we target. We feel that the number of investigations and audits we conduct will be a representative number in terms of the violations.

[The information follows:]

In 1981 we will investigate 2,812 plans and do 5,500 desk audits—not including desk audits in the field offices.

Senator BURDICK. How do you decide which plans to investigate?

Mr. LANOFF. We target potential abuses basically through the use of the annual financial reports.

SUPPLEMENTAL REQUEST

Senator BURDICK. The next question deals with the Central States Teamster Fund. You are requesting 44 temporary positions in a supplemental for the special investigations staff in the pension and welfare benefits program.

Specifically, how will these positions be used, and how long will they be needed?

Mr. HOBGOOD. Senator, we will use these positions to process, review and select certain key items from approximately a million and a half documents that have been subpenaed. The exact time to do this is uncertain because there will be other documents generated through subpena action. We anticipate these temporary positions to be needed only until the end of fiscal year 1981.

Senator BURDICK. To what degree will these additional staff positions speed up the litigation activities related to the Teamsters Central States pension and welfare funds?

Mr. HOBGOOD. They will enable us to deal with the massive volume of documents that has been generated. The project is designed, as you say, to speed up litigation on these actions.

Senator BURDICK. Well, the purpose of the staff, then, is to gather evidence, too?

Mr. HOBGOOD. No, sir. It is to process that material that has already been generated.

Senator BURDICK. Well, in this particular phase of the hearing this afternoon, I think that because we have two or three other sections here, I think the balance of the questions will be submitted in writing. If you gentlemen will give us some timely answers, it will be appreciated.

Mr. HOBGOOD. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

Central States Teamsters Fund

Question: You are requesting 44 temporary positions in a supplemental for the Special Investigations Staff in the Pension and Welfare Benefit Programs. Specifically, how will these positions be used, and how long will they be needed?

Answer: We will use these positions to process, review and select certain key items from approximately a million and a half pages of documents which we will be receiving in the course of our litigation. The exact timing of when we will begin to receive the documents requested in our discovery proceedings is uncertain. It is also uncertain how long the analysis of these documents will take. We are, however, only requesting temporary positions because we hope that the automation of these documents will be completed by the end of fiscal year 1981.

Question: To what degree will these additional staff speed up litigation activities related to the Teamsters Central States Pension and Welfare Fund?

Answer: They will enable us to deal with the massive volume of documents that is being generated. The project is designed to speed up litigation on these actions. Without this project, we would be unable to effectively utilize the documents we are collecting.

ERISA Investigations

We understand you plan to conduct 8,312 investigations of the employee benefit plans covered under ERISA in fiscal year 1981.

Question: How many employee benefit plans are covered under ERISA, and are you investigating an increased percent?

Answer: There are approximately 1.6 million private employee benefit plans covered by ERISA. In 1980 we plan to investigate 2,607 plans, or 0.16 percent of the total. In 1981, we plan to increase this to 2,812 plans, or 0.17 percent of the total. Because of the large number of plans we regulate, we can never investigate a large percentage of them in one year. In order to effectively utilize our limited resources, we use a targeting approach in selecting plans for investigation. We feel that the number of investigations we conduct will be a representative number in terms of the violations. The number, 8,312, which you have just quoted is achieved by including 5,500 desk audits of reports with the number of investigations we plan to conduct in 1981. The desk audit is the review we conduct of a plan's financial report, after the computer has identified the plan, to determine whether an investigation should be initiated. Not included in the 5,500 estimate are the desk audits performed by our field staff as part of our targeting effort.

Question: How do you decide which plans to investigate?

Answer: We process the annual report forms through a computer and certain line items which might indicate potential violations are pulled off the forms. We then use those items to identify plans which potentially have committed abuses.

PBGC LEGISLATIVE PROPOSAL

Question: What exactly is your legislative proposal, and what is its current status in Congress?

Answer: We submitted proposed legislation last spring. It presently has been reported out favorably with the amendments by the House Education and Labor Committee. The Senate Labor and Human Resources Committee and the House Ways & Means Committees have each scheduled mark-ups this week.

The legislation basically provides that when employers withdraw from a multiemployer plan, they will have to pay to the plan a share of the plan's unfunded liability; the idea being that otherwise when an employer withdraws from a multiemployer plan, it will diminish the contribution base of the plan while leaving unfunded liabilities behind.

This payment of withdrawal liability will offset that effect on the multiemployer plan. Our hope is that with this type of measure, we will encourage employers to stay with the multiemployer plan, not to abandon it.

Question: What would be the budgetary impact if the present statutory provisions for multiemployer pension plan termination insurance remained in effect for fiscal 1981?

Answer: I don't think that there would be any budgetary impact because our program is financed out of premiums paid by the plans that are covered by the program. But our studies indicate that if the present legislation were to go into effect--I'm talking about the law that's in effect now, rather than the proposed legislation--there would be an incentive in many cases for employers to withdraw. This might result in many plans terminating. The studies that we have done and the estimates that we have made suggest that in the foreseeable future, there might be as many as 10 percent of the multiemployer plans that would find it more advantageous to terminate than to go on under the present arrangement, and the potential cost to the insurance system might be as much as $4 billion.

This is one of the conclusions that led us to believe that the amendments now being considered are necessary.

Question: Since your budget plan assumes enactment of revised legislation, why didn't you include an estimate for additional administrative resources to implement the new program?

Answer: The extent of our additional requirements, such as personnel and other resources that would be necessary, are considerably dependent upon the final form that the legislation might take. We are pretty sure the legislation will undergo some revisions of what we have proposed, and indeed it already has, and mainly in the direction of more work for us. And we felt that we could make a much more precise estimate of our additional needs once the legislation was in final form.

PENSION PAPERWORK

Question: What is the Pension Benefit Corporation doing in cooperation with other related agencies to keep paper work and reporting by plan administrators to a minimum?

Answer: The PBGC, the IRS and the Labor Department have developed a common annual report. We used to have a separate annual report, one of our own. We now have included our questions

in Form 5500, so the three agencies now have a common reporting form, and that is filed with the IRS.

We are also working on an arrangement with the Internal Revenue Service to have a single form of notification for those plans that are terminated. Any plan that is terminated is required to file a notice with us.

Many of those plans also seek an IRS determination as to qualification with respect to the termination, and had to file a separate application with Internal Revenue Service.

We have gotten together with IRS to develop a single form. That has been very well received, and we are currently working out the details of that proposal.

PENSION BENEFITS

Question: How many participants of pension plans are receiving benefits which are greater than the amount they would have received without your insurance protection?

Answer: To the extent that the question is related to the insurance program, I would say that we have approximately 50,000 participants in the plans that we have now taken responsibility for who would be entitled to receive benefits from us that they would not otherwise receive.

Question: What is the value of these additional benefits?

Answer: The value of the additional benefits is approximately $5,000 to $6,000 per participant.

CONTINGENT EMPLOYEE LIABILITY INSURANCE PROGRAM

Question: In July 1978, the Pension Corporation submitted a report to Congress pointing out that it may be desirable to restructure employer liability within the basis guarantee program. Has any action been taken to carry out your suggestion for restructuring employer liability?

Answer: Since that report was issued, PBGC staff devoted considerable time attempting to shape the general principles endorsed in the report into a workable program. This included various discussions of our proposals, as well as the problems we encountered in developing our ideas more fully, with members of the pension community.

However, PBGC has not prepared a single employer legislative proposal because our more recent staff efforts have concentrated on the pending multiemployer legislation. Nonetheless, we have continued to study the possible impact of proposals on plans, participants and employers. We are also continuing to explore the feasibility of a restructured single employer program with various members of the pension community who have indicated that they might prepare legislation in this area. If so, we have agreed to review and comment on any package they might submit.

SUPPLEMENTAL REQUEST

Question: Explain the need for a $2.2 million Supplemental?

Answer: Since the last budget submission, implementation of the new Small Urban and Rural Transportation Assistance Program under the Surface Transportation Assistance Act has become necessary. At the same time, this major new grant program was materializing, there has

been a growing volume of backlogged certification requests under the previously existing UMTA grant program.

The Department is attempting to proceed on the cases against the Teamsters as quickly as possible. In order to do this documents have to be analyzed and catalogued. This is a time consuming process. By asking for the the ceiling and funds in the FY 1980 supplemental rather than the FY 1981 appropriation, the Department can save valuable time. Also, since the Department is expecting to receive within the month, the first of the over 1.5 million pages of documents it has subpoenaed from the teamsters plans, we would like to be in a position to immediately begin to analyze and automate the information contained on these documents. This will prevent a backlog from developing. A delay in hiring these part-time students, who all must be trained, will result in an equivalent delay in automating the documents, thereby delaying the legal analysis of the documents which must be undertaken before the cases are actually prosecuted. Currently, LMSA does not have the ceiling or the dollars to finance these temporary positions.

The $1.5 million requested for microfiching is necessary to complete the microfiching of reports filed with the government. A delay will mean a further delay in making the ERISA mandated reports available to the public.

Question: Why couldn't the need for staff to administer labor protection provisions under the Urban Mass Transportation Act have been forseen for inclusion in the regular fiscal 1980 bill?

Answer: Passage of the Surface Transportation Assistance Act occurred after the OMB markup of the FY 1980 budget. Moreover, actual procedures for implementation of this new program were not finalized until May 1979, after FY 1979 supplementals were presented to the Congress. Thus, the FY 1980 supplemental is the first opportunity to staff this important new program.

Question: Why shouldn't we just wait to consider this matter in the fiscal 1981 request?

Answer: Staffing is vitally needed to ensure that much needed technical assistance in acquiring funding approval can be given to small urban and rural areas where these grant funds are sorely needed. The Secretary of Labor has pledged expedited processing of all requests and "hands on" technical assistance. Some 25 states have already submitted applications for assistance. In many cases, the grant funds are needed to keep existing transit service operating.

LMSA SUPPLEMENTAL
IRS REIMBURSEMENT

A supplemental of $1.5 million is requested to pay the Internal Revenue Service for processing forms related to pension and welfare plans.

Question: What accounts for the large increase over the $2.1 million originally estimated as the total cost for fiscal 1980?

Answer: The $2.1 million estimate for registering, editing, and microfiching the Annual Financial reports required by ERISA was based on an earlier estimate prepared by the IRS. After the 1980 budget had been approved, we received a revised estimate from the IRS which significantly increased its estimated cost. The IRS considers its first estimate to be very rough and not accurately reflecting their actual costs. IRS advises us that it spent the full $2.1 million by February, 1980.

Half of the 1977 and all of the 1978 financial reports remain to be processed. IRS has discontinued their microfiching operation in Detroit, pending a reassessment of the feasibility of the facility. As a result, the Department has agreed to contract with a private firm to microfiche the remaining 1977 and 1978 reports for both agencies.

The Department intends to use $1.5 of the $2.1 million in the 1980 budget for the contract with a private vendor. The money is currently available because we have not reimbursed IRS for any services in 1980. IRS believes that we still owe them the full $2.1 million; we could not reimburse them in the full amount without the supplemental.

Question: If Congress does not provide this supplemental, would Labor have to find other funds to reimburse IRS--or would IRS just have to get by on the $2.1 million appropriated?

Answer: In addition to microfiching half of the 1977 reports, IRS has performed several services for the Department including providing us with edited data tapes. They feel they are due $2.1 million for these services. In order to complete the microfiching for 1977 and 1978 we have estimated that we will need an additional $1.5 million. The Department does not have the funds necessary to finish the microfiching. We cannot speak for the IRS, although the IRS advises us that it has already provided $2.1 million worth of microfiching and other services.

DOCTORAL DISSERTATIONS

Question: Why do you need $150,000 to support dissertation research for eight or nine Ph.D. candidates in industrial relations?

Answer: The diminishing ranks of qualified industrial relations researchers has been a matter of continuing concern in recent years. Many distinguished professionals are reaching retirement age and there are relatively few young professionals available to replace them. This problem results in part from the Government's priorities in the past two decades in which sizable funds were available for employment and training research, but very little for research in industrial relations. Because financial support was obtainable, Ph.D. candidates shifted to employment and training interests. Consequently, the reserve of researchers with a specialty in industrial relations declined.

While there are many individuals who have made a career in labor relations without benefit of a Ph.D. degree, those who have had the opportunity to continue their education under the leading scholars of the field have acquired additional knowledge and capa-

bilities which further enable them to make their own contributions to resolving current problems. The support offered by the proposed Ph.D. grants program is very modest and will provide funds for only eight or nine new doctorates in the field. We believe that this is a minimum figure that would have a measurable effect on the ranks of qualified researchers.

Question: Why would it cost an average of more than $16,000 to support a doctoral dissertation?

Answer: Computation of $16,000 as an average is based upon the $150,000 proposed budget for the Ph.D. grants program which is the maximum we would expend. Through careful administration we would hope to reduce these costs and reallocate the savings to additional grants.

The maximum $150,000 is based upon the experience of the Employment and Training Administration (ETA), which has administered a similar (although much larger) program since the 1960s for graduate students specializing in employment and training subjects.

We plan to allocate at least $100,000 for Ph.D. grants. According to ETA in recent years an average of $11,200 was allocated to each candidate. Thus we hope to assist eight or nine graduate students in labor relations.

Again from ETA estimates, a minimum of $30,000 will be allocated for administrative costs, including printing and other informational expenses, processing and review of applications, and payments to a panel of distinguished industrial relations specialists in academic life who will review applications and select grantees.

We will constantly review operations, and initiate improvements in the program as needed. As already noted, if less money is needed for administration than is available, then the funds not used for administration would be used for additional Ph.D. grants.

Because we recognize that this is a tight budget year, LMSA is not asking for additional funding for the Ph.D. grants program; rather, we are proposing to finance the cost of this program out of the current level of contract research funds and our request for such funds has been reduced by $150,000. We have discussed this reallocation of research funds with the directors of university industrial relations centers who individually would be among those likely to receive contract research funds. Their chairman, Prof. Anthony V. Sinicropi of the University of Iowa, subsequently wrote a letter to Secretary Ray Marshall expressing unanimous support for the shift.

LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

In response to a question on what has been done to determine the additional resources needed to effectively enforce the Labor-Management Reporting and Disclosure Act's Criminal and Civil Provisions, Labor in May 1979 responded to this subcommittee that Regional Administrators, in a preliminary review made in May 1978, needed 61 additional compliance officers plus some clerical assistance to adequately enforce the law. It was stated that there was a backlog of union member complaints, but once this backlog is reduced a portion of its

staff resources would be directed to enforcement of other areas of the Labor Management Reporting and Disclosure Act.

Question: What progress has the Labor-Management Services Administration made to reduce the backlog of union complaints? At the end of 1978, the backlog of union member complaint cases was 543. What was the number at the end of 1979?

Answer: The union member complaint case inventory at the end of fiscal year 1979 totalled 575 cases. The increased inventory resulted from an additional 116 case openings in excess of the 550 planned for FY 1979, which in turn were caused by the public's renewed interest in employer-consultant report investigations and a special financial investigation project undertaken on a test basis by LMSE.

Question: If the backlog has been reduced to an acceptable level, how many staff have been diverted into enforcement of other Labor Management Reporting and Disclosure Act areas?

Answer: The case inventory has not as yet been reduced to an acceptable level, but current plans call for that point to be reached by the end of FY 1980 when it is anticipated the inventory will be reduced to the equivalent of nine months work, or less than 417 cases. In anticipation of this occurrence, the FY 1981 proposed budget has reduced the resources presently available for union member complaints by approximately 13 staff years and assigned them in FY 1981 to the on-site audit programs, union fiduciary audits and compliance audits.

Question: What criteria was used to identify the other areas to assign additional staff? Did the criteria consider the findings and recommendations from the September 1978 GAO report? If not, why not?

Answer: The LMSA strategy in assigning available resources to on-site audits has been in effect for several years as evidenced by the fact that in FY 79 a total of 64 union fiduciary audits were completed, while in FY 80 129 audits are planned, and 233 audits planned for FY 81, versus 37 audits completed in FY 78.

The LMSA strategy of increasing the LMRDA on-site audit capability coincides with, and was influenced by the 1978 GAO report. Similar actions taken in response to that report include the following:

A. The creation and anticipated implementation by FY 81 of the on-site Compliance Audit program and its accompanying targeting system to identify financial wrong-doing.

B. The creation and implementation during FY 80 of an on-the-job Field Audit Training Course whereby National Office auditors are training selected field investigators in each LMSA region in conducting on-site union fiduciary audits.

C. In an effort to improve the quality of on-site audits LMSA has purchased a formal training system which will be distributed to each area office in the near future. The program consists of seven slide-modules, with printed instructions, each of which have a duration of 45 to 60 minutes. They were selected by a committee of experienced LMSA auditors from Prentice-Hall Publishing Company's ALEX accounting

program as the most useful for LMSA field investigators in acquiring skills needed to perform LMRDA on-site audits.

D. The participation of field investigators in the White Collar Crime Seminar conducted by the Federal Law Enforcement Training Center, Glynco, Georgia. In FY 79 a total of 23 LMSA investigators attended the two week course and beginning in FY 80 LMSE plans to have 40 investigators attend each year.

Question: If the Labor-Management Services Administration has been unable to reduce the union complaint backlog, and in view of its admitted staff shortages, what other steps has the Labor-Management Services Administration taken or plan to take to ensure it adequately enforces the Labor-Management Reporting and Disclosure Act? Does the Labor-Management Services Administration plan to make its need for additional personnel resources known to Congress? If not, why not?

Answer: Although the union member complaint case inventory is not presently at an acceptable level, 691 cases are planned for completion during the current fiscal year, which will bring the inventory into line. In addition, during FY 80 the National Office will complete the reprogramming of 13 positions to the field for use as investigator positions. These positions should handle the anticipated increases in statutorily required election cases in FY 81, however if the election cases do not materialize, the positions will be utilized to further bolster union member complaint and on-site audit programs in the field. In view of this, barring unforseen circumstances present staffing in FY 81 should be adequate to process election cases, keep the union member complaint case inventory at an acceptable level, and still make it possible to complete 433 units of on-site audits, or more than eleven times the number of on-site audit units completed in FY 78. Consequently, LMSA does not intend to request additional staffing for FY 1981.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

STATEMENT OF EULA BINGHAM, ASSISTANT SECRETARY

ACCOMPANIED BY:

BAILUS WALKER, DIRECTORATE OF HEALTH STANDARDS PROGRAMS
BASIL J. WHITING, JR., DEPUTY ASSISTANT SECRETARY
DAVID C. ZEIGLER, DIRECTORATE OF ADMINISTRATIVE PROGRAMS
STEPHEN E. FINAN, DIRECTORATE OF POLICY, LEGISLATION, AND INTERAGENCY PROGRAMS
CLINTON WRIGHT, DIRECTORATE OF TRAINING, EDUCATION, CONSULTATION AND FEDERAL AGENCY PROGRAMS
R. HAYS BELL, DIRECTORATE OF TECHNICAL SUPPORT
ROGER CLARK, DIRECTORATE OF FIELD COORDINATION
BENJAMIN W. MINTZ, ASSOCIATE SOLICITOR, OFFICE OF SOLICITOR
JERRY PURSWELL, DIRECTORATE OF SAFETY STANDARDS PROGRAMS

INTRODUCTION OF ASSOCIATES

Senator BURDICK. We will now discuss the budget request for Occupational Safety and Health Administration. The fiscal year 1981 request is for $211.9 million. This amount is $28.7 million over the 1980 request. In addition, there is a supplemental request for $3.84 million.

Eula Bingham, the Assistant Secretary for Occupational Safety and Health, has joined us at the table for discussion of this budget request. Ms. Bingham, please introduce your associates here with you this morning and proceed with any opening comments that you might care to make.

Ms. BINGHAM. Thank you.

To my far right is Bailus Walker, who has recently been appointed to the Directorate of Health Standards Programs. Next is the deputy in our agency, Basil J. Whiting, Jr. And Mr. Zeigler, who is in charge of the Administrative Programs. Steve Finan, who is out of our policy shop. Next to him is Clinton Wright, who is in charge of our Federal Agency Program, our Training Program and Consultation Program.

To her left is Hays Bell, who is in charge of a newly implemented Directorate of Technical Support. To his left is Roger Clark who came to us from the field, and he is in charge of Field Coordination.

Next to him is Ben Mintz, who is our solicitor, an associate solicitor of Labor for Occupational Safety and Health.

And at the end is Jerry Purswell, who is in charge of Safety Standards.

SUMMARY OF BUDGET REQUEST

I'd like to summarize for you, if you would allow me, our requests and why we think we need them.

First of all, we have not asked for new positions. We have asked for an increase of $24.9 million. A little over $2 million of this increase is

for the the development of occupational safety and health standards. We are asking for this contract money for the assessment of technical data that comes in to us from research organizations, industries, and labor unions. We, of course, get documents from NIOSH, but there is also much more information that comes to us during the rulemaking process.

In addition to that, we sometimes have a need in a variety of technical fields for what I would call the one-time expert. We need money for that. We intend to use the money to help us in our revisions and simplification of safety standards, and in implementation of our cancer policy.

No new funds are being requested for enforcement.

We have asked for a $2.7 million increase in the technical support area for regulatory analyses. This includes analyzing information concerning the technical feasibility of standards and the economic feasibility.

We must also make environmental impact studies for these proposed standards. This is very important. Some of these studies have been made necessary by the Executive order for regulatory analysis, and some of these feasibility studies, of course, are important when we are challenged legally on our standards.

We have also asked for $100,000 for technical support to establish a quick retrieval and hard-copy reproduction capability for the enormous, really voluminous hearing records that we develop. We cannot really be responsive to legitimate requests for access to these data without this capability.

We have asked for a $4 million increase to reimburse States and jurisdictions for providing on-site consultative services to employers. This is envisioned as a way to bring into the program with 90–10 funding those States now providing consultative services under 50–50 matching grants as a part of their full State OSHA programs, and thereby to upgrade their consultative services.

We have asked for a $2.9 million increase for new directions grants. These funds actually will only provide sustained funding of our current training grants and developmental grants, and also we provide funds to change some proposal type grants over into developmental grants.

We have asked for $500,000 to assist in implementing the new Executive order for protecting the health and safety of Federal workers.

There is no increased request for money to develop statistics.

We have asked for $1.25 million under the category of executive direction, but don't be fooled by that title, because this money is really to help us design and test systems for better targeting, for establishing pilot and demonstration projects to evaluate the effectiveness of labor-management committees, and projects of these types to help us develop what I would call innovative ways to bring about compliance.

I will ask for questions.

Senator BURDICK. Thank you.

[The statement follows:]

STATEMENT OF DR. EULA BINGHAM

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 1981.

We are requesting $211.9 million, which is a net increase of $24.9 million over the agency's budget authority for 1980. This request provides for program increases totaling $13.5 million, plus "built-in" changes totaling $11.4 million. No new positions are requested for 1981. Full-year funding is requested in 1981 for all of the new positions authorized by Congress in 1980. Matching grant funds are requested to continue assisting State occupational safety and health programs in 24 States and jurisdictions, and injury/illness statistical programs in 50 States and jurisdictions. Federal safety and health inspectors are expected to complete 65,900 inspections in fiscal year 1981, compared to an estimated 62,900 inspections during the current fiscal year and 57,937 inspections in 1979.

Fiscal year 1981 will mark the tenth anniversary of the Occupational Safety and Health Act, which was signed into law in December 1970, and took effect in April 1971. After coming into office, this Administration announced and began implementing a new "common sense" approach to the problems of workplace safety and health, to assure -- in President Carter's words -- "a maximum amount of support from labor and industry." We dedicated ourselves to three principles in dealing with workplace safety and health:

First, we said we would get serious about serious workplace hazards.

Second, we said we would streamline and simplify regulations and get rid of those that are unnecessary.

Third, we pledged to work with the business community, especially small businesses, to help them comply.

Following is a brief synopsis of some of the things we have done and are doing to achieve those objectives:

We have undertaken a major new effort to combat occupational diseases. On January 22, 1980, OSHA published in the Federal Register the nation's first comprehensive policy for the identification and regulation of cancer-causing chemicals in the workplace. We are completing final rules granting workers access to information about their medical examinations and to employers' records concerning their

exposure to toxic substances. We are also preparing a proposal requiring employers to provide identification of chemical substances in the workplace which present a potential hazard to workers. We continue to emphasize industrial hygiene skills in recruiting and training, and in providing technical support for our professional staff in the field. Inspections for occupational health hazards are expected to increase from less than 9,000 in fiscal year 1977, to over 14,000 by fiscal 1981.

We are getting rid of unnecessary rules and simplifying regulations. In 1979, 928 irrelevant and unnecessary safety and health standards were revoked. General Industry standards were reprinted in simplified form. We have proposed major revisions of the fire and electrical standards, which will eliminate 400 pages of referenced fire standards relating to property protection, and reduce by about 93% the length of the applicable electrical code standards. These efforts will continue during 1980 and 1981.

We are refocusing our inspection efforts on the most serious hazards. Inspections are being made in the most hazardous workplaces, where workers face irreversible injury and disease. In 1979, as a result of policy and programming changes, the number of citations issued for serious, willful, and repeat violations increased 12 percent, while citations and associated penalties for less serious violations declined.

We are expanding our educational efforts, to help workers and employers improve safety and health conditions. OSHA's "New Directions" grant program awards funds to labor unions, trade associations, educational institutions, and other organizations to develop ongoing institutional capabilities for providing occupational safety and health training and related services for workers and employers. In 1979, thirty-three organizations were awarded initial planning grants, and fifty-three organizations received funding for the first year of a multi-year developmental plan. In 1980, eighty-two organizations have been awarded developmental grants, and approximately eight new planning grants are anticipated.

We are stepping up our consultation program to make sure that consultative services are available to small businesses in all parts of the country. On-site consultation services are now available to employers in all fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands. In 1979, approximately 21,000 on-site visits were made by State consultants (or by contractors) in the thirty-eight States and jurisdictions subject to Federal program regulations.

Fifteen States and jurisdictions provide on-site consultation under approved State program plans.

The budget request for 1981 is consistent with -- and carries forward -- these objectives:

- The largest program increase is $4.0 million for State consultation projects. New budget authority in this amount, plus a transfer of $2.0 million in State program grants currently earmarked for consultation projects in the fifteen plan States, is needed to convert consultation projects in these States from 50/50 to 90/10 funding under section 7(c)(1) agreements. By conforming all State consultation projects to the Federal program design, employers in all parts of the nation will be ensured uniform standards of advisory services. With this new budget authority, Federal funds totaling $23.0 million will be designated for State consultation programs.

- We are requesting an increase of $2.9 million for the "New Directions" training grant program, to provide sustained funding of current developmental training projects, plus the costs of converting successful planning projects to ongoing developmental training projects. This does not provide for the award of any additional project grants in 1981. The development of institutional capabilities for providing occupational safety and health training and related services on a self-sustaining basis will require in most cases a period of at least three to five years. The proposed funding level will enable participating organizations to pursue the growth objectives of their programs in accordance with approved program plans. The objective of these developmental efforts is to demonstrate that such programs merit future institutional and financial support by the employee and employer groups served, once the programs become fully effective. With the new funds requested, a total of $13.9 million will be designated for "New Directions" training grants.

- In order to accelerate the promulgation of effective occupational safety and health standards, $2.0 million in contract funds is requested to provide for supplemental studies and assessments of scientific data. Specialized outside expertise is needed in a variety of scientific and technical fields to supplement the efforts of OSHA's staff in assessing basic research, reviewing voluminous hearings records, evaluating data, and drafting technical portions of the preamble to final regulations. In particular, contract funds will be needed to develop standards implementing OSHA's Cancer Policy, which will be a massive undertaking.

• An additional $2.7 million is requested for regulatory analyses of the technological feasibility, and economic and environmental impact, of proposed new standards. Regulatory impact issues have become increasingly complex as a result of new procedural requirements, regulatory reviews, legal challenges, and court actions. As new safety and health standards are proposed, a corresponding increase in the number of regulatory studies will be required. With the requested increase, $6.0 million will be designated for regulatory analyses of the technical feasibility and impact of proposed OSHA rulemakings.

• An additional $1.25 million is requested to design and test alternative targeting strategies, and to evaluate the use of labor-management safety and health committees. Specifically, the agency will test establishment targeting systems in two or three States and study existing labor-management committees to determine their success. The additional funds will be used to establish pilot projects in several States and to evaluate the results of these projects.

• New Presidential requirements for protecting the safety and health of Federal workers will require significant changes in the occupational safety and health programs of Federal agencies. Contract assistance will be needed by OSHA's staff to meet its increased responsibilities under the Executive order to be issued this year. We are requesting $0.5 million in contract funds to assist Federal agencies in implementing the order, which will require safeguards for Federal employees which are consistent with the standards applicable to private sector employees.

In recent years, the Congress has attached to the appropriations language a series of restrictions intended to exempt certain categories of employers from provisions of the Occupational Safety and Health Act. We are requesting, with one exception, that these restrictions be eliminated in 1981. The exception is the amendment providing an incentive to small business employers to seek consultation. OSHA recognizes the importance of consultation in fostering compliance with the Act, and therefore will not oppose this restriction. In regard to the other restrictions:

First, we are opposed to restrictions that cause certain employers to be treated differently, or that reduce the protection afforded certain employees, whether the exemption is based on the number of employees, or the industry in which they work, or the location at which they are employed.

Second, any changes proposed in the Occupational Safety and Health Act should be aired thoroughly in appropriate legislative hearings, not through the appropriations process. We understand that such hearings may be scheduled by the authorizing committees in this Congressional session.

With the advice and guidance of this Committee, and the House Committee, we are moving ahead in achieving the objectives that were envisioned when Congress established this agency. We are improving the professionalism of the staff and increasing their technical proficiency. We are focusing our inspection resources on high-hazard industries. We are making it easier for employers to comply voluntarily by providing on-site consultations, and by encouraging employers and employees to work together more effectively by means of "New Directions" training grants. We are grateful for your advice and assistance in all of these areas.

Mr. Chairman, this concludes my statement. I thank you for this opportunity to present our budget request to the Subcommittee. My staff and I will be pleased to respond to any questions.

CAUSES OF ACCIDENTS

Senator BURDICK. Where do we stand now in determining the causes of accidents and correlating them with enforcement activity?

Dr. BINGHAM. We have several sources on which we base our information on accidents. The Bureau of Labor Statistics has a system which we fund called the supplementary data system. This is information provided by 36 States about worker compensation claims. These reports do not identify the employer, but they do tell us about the nature of the accident, the occupation, and the type of process that's involved. Since 1978, we have been obtaining from BLS descriptions of worker fatalities in terms of the factors that were involved. In addition to that, the agency itself conducts investigations of workplace accidents where there are five or more hospitalizations—we call it a "catastrophe"—or where there is a death. We do not investigate every one, but with the resources we have, we investigate some, and try to come up with more information about the nature of fatal and catastrophic accidents and the causes.

Now what we have to do is to use these data to help us determine whether or not we have adequate standards, whether the standards that we currently have need to be improved, need to be changed in some way. For example, it was because of accident investigations that we proposed and promulgated a standard this past year, actually this past January, to protect workers who service potentially explosive tube-type truck and bus tires using multipiece rim wheels.

I think that as we develop these data, we want to make certain that they are made available to employers and to employees, so that they can voluntarily comply and take certain precautions without waiting for

a standard to be promulgated, so that workers can understand the causes of accidents, and they can take appropriate steps in their own workplaces.

STUDIES ON REDUCING INDUSTRIAL INJURIES

Senator BURDICK. What new approaches could you recommend to reduce the rate of industrial injuries and stop the continuing heavy criticism of OSHA for not having a greater impact on reducing injury and fatalities?

Dr. BINGHAM. Well, we are doing what I call special studies of particular hazards. For example, we have studies underway, some of them completed, of worksites where there are a particularly high number of accidents, for example scaffoldings and ladders, also where there are power presses, and where welding occurs. We are doing special studies, and we are using this information to target our inspection resources on those particular work sites.

CANCER POLICY

Senator BURDICK. OSHA has just issued a new cancer standard as a final regulation. Please explain the work that remains to be done in regulating suspected cancer-causing substances in the workplace.

Dr. BINGHAM. This cancer policy regulation sets up a framework for the world to see how we will identify carcinogens in the workplace, and what criteria are to be used to identify these carcinogens. We hope that when industry sees these criteria, that they will take some actions themselves; and that when workers see the criteria and recognize carcinogens in the workplace, they will take appropriate actions on their own, and ask questions of the employer.

Over the next few months we will be working with NIOSH and the National Cancer Institute to come up with a list of tentative potential carcinogens, materials on which there is some data to suggest that they cause cancers. We will publish that list in the Federal Register. Then from that list, we will select the group of chemicals that will be of highest priority, and which we will proceed to regulate.

Now the terms of regulation as to what we actually expect to happen have already been laid out, so we will be proceeding on that.

Senator BURDICK. Where do you find the substances that are cancer-producing? What can you do?

Dr. BINGHAM. Well, you can issue a regulation.

Senator BURDICK. If you're stopping work on that particular product.

Dr. BINGHAM. Where you can find a suitable substitute, then I think it probably makes sense technologically and economically to substitute it.

For example, there are some chemical dyes around where we have done that sort of thing. However, it is possible through ventilating systems and through the use of detector equipment to reduce the exposure of workers to very low levels. This is what the regulation lays out.

In addition, there are certain kinds of monitoring that should be done to determine whether or not safeguard systems are actually working. That is part of the cancer policy requirement.

CANCER STANDARD

Senator SCHMITT. Senator, would you yield?

How much do you plan to spend in the fiscal year 1981 to implement this cancer standard?

Dr. BINGHAM. Well, we have asked for approximately $2 million in total for contract funds to be used for studies and assessments of standards in general.

For example, we will use part of that money for new safety standards, and a project to simplify and reduce the volume of safety standards. As to what amount is projected, certainly a substantial part of that $2 million will be used to implement the cancer policy.

Senator SCHMITT. Will you provide that for the record?

Dr. BINGHAM. Yes, I will.

[The information follows:]

IMPLEMENTATION OF CANCER POLICY

The following activities, to be undertaken in fiscal year 1981 to implement OSHA's cancer policy, will require the following estimated expenditures:

Activity	Estimated cost
On-going acquisition and review of all available and relevant scientific data required for annual publication of list of Candidate Substances which may be potential occupational carcinogens	$25,000
In-depth scientific evaluation of all available animal bioassays, epidemiologic studies, and short-term test results needed for classification of Candidate Substances into Category I ("confirmed") and Category II ("suggestive") carcinogens before priortizing	200,000
Additional data gathering on Category I and Category II substances for purposes of prioritizing data needed to determine number of workers exposed, extent of worker exposure, industries using or producing potential carcinogens, availability of substitute substances, and availability of control technology	375,000
Development of total data base on prioritized Category I and Category II substances selected for regulation, including analysis of all scientific data, such as evidence of carcinogenicity and mutagenicity in animals and humans, which has been accumulated during public hearings, and will be used in preparation of final standards selected substances	400,000

Senator SCHMITT. Thank you.

ASBESTOS STANDARD

Senator BURDICK. This is a very interesting subject, because I am dealing with it in Public Works right now, and I'm giving as an example the illness of asbestosis. Do you deal with that subject matter?

Dr. BINGHAM. Yes, sir; every day.

Senator BURDICK. Well, what have you done about it?

Dr. BINGHAM. Well, the agency issued a standard back in 1972 to reduce the level of asbestos. First they went from 12 fibers down to 5 fibers. Now it's down to 2 fibers.

We're not certain that a limit of 2 fibers in the air is adequate to protect workers, so what we have done is gone to NIOSH and they have worked with us to develop a report, and I understand this report is be-

ing transmitted to me and Dr. Robbins this week. This report will tell us whether or not the data suggests that we should reduce the permissible exposure limit in asbestos below 2 fibers.

I can tell you that some of the data that has come out of universities, from NIOSH, and Dr. Selikoff, suggests that at 2 fibers, there may still be a risk of developing disease. But that is just an opinion. We really need to wait for that report. And if the report says that the 2-fiber limit is not adequate, we will move to further reduce the asbestos exposure. We will encourage substitution in places where asbestos can be substituted by other products. This has actually occurred. I think it is very interesting that many places where we have used asbestos over the past 50 years, we now know that we don't need it. For example, I know of a situation where workers in the paint industry found out that asbestos was being used in paint and caulking compounds, and it was clear that it was not necessary there. So it has been removed. It's amazing.

INCREASED RISK TO SMOKERS

Senator SCHMITT. That's why my caulking won't stay in any more.

Mr. Chairman, if you'd yield. Would this study distinguish between those problems associated with asbestos per se, and those associated with asbestos among smokers? We have found in a study in Bernalillo County Medical Center, a cancer group which I think is world-renowned, on the uranium miners' cancer problem, that the incidence of cancer induced by dust having some radioactivity associated with it prior to 1970, is very closely corroborative with smoking. Although there is some higher incidence among miners who don't smoke, the incidence among miners who do smoke or who did smoke was very, very high, and probably because the lung-clearing function is inhibited by smoking you don't clear out the dust.

Well, obviously that would be the same with respect to asbestos fibers. Will the study look at that problem, and is there any way in the workplace you can take into account the fact that smoking is part of the problem?

Dr. BINGHAM. Certainly smoking exacerbates the problem. One of my major fields of interest before I came to OSHA concerned multiple factors in the causes of cancer, and I have done a fair amount of research in that area. There is no question but that smoking exacerbates the problem when you have asbestos, but nevertheless, there is still an increased risk.

Senator SCHMITT. I'm not arguing against that. I'm saying I think in the cause of cancer it's like a factor of 10. It's an unbelievable difference, and it seems we should take this into account when we come up with a rule—but I don't know how you do it. That's what I'm asking.

Dr. BINGHAM. We're looking at it and how to do it, too. You see, you could prohibit smoking in the workplace. I think that in many mines smoking has been prohibited.

Senator SCHMITT. It's the continuous use that inhibits lung function, not the actual cigarette at the workplace.

Dr. BINGHAM. I understand, but it has also been demonstrated that when those miners come out of the mine, they smoke more heavily.

Senator SCHMITT. That's right. That's what I'm saying.

Dr. BINGHAM. So I think that certainly HEW has programs to deal with that, and we will have to work with HEW. This report is coming from HEW, and I'm sure it will be addressed.

Senator SCHMITT. Well, what I am suggesting is that if a standard finally is adopted, a final standard, that it take into account that the risk a nonsmoker would face is much lower than that a smoker would face, and that this be a mitigating circumstance, if you will, in the terms of the use of asbestos particularly in necessary functions.

I think you are right, there are probably many unnecessary functions.

Dr. BINGHAM. I think there is no question but that we will continue to study asbestos. I expect we are going to continue to use asbestos for some time to come. However, there are some other places where it could be replaced.

SMOKING IN THE WORKPLACE

Senator BURDICK. I'm in the unique position of wearing two hats. We have the similar subject matter before us in Public Works.

Have we reached the point where you're willing to say that smoking—tobacco is a hazardous substance? [Laughter.]

Dr. BINGHAM. Well, I thought the Surgeon-General said that.

Senator SCHMITT. But we haven't banned it from public workplaces yet.

Dr. BINGHAM. Well, there is some suggestion—well, it is banned in certain situations from workplaces.

Senator SCHMITT. Yes; but not because of smoking itself.

Dr. BINGHAM. That's right. And this was brought up in the Supreme Court as to whether our law actually makes it possible to ban this, and we don't have a legal opinion on it yet.

Senator SCHMITT. Well, I don't have a personal opinion on it, but I think you have to realize there is a little bit of inconsistency in some of the things we do to protect people from themselves, and some of the things we don't do to protect people from themselves. It's very logical politically, but it may not be very logical from other points of view.

Good luck, Mr. Chairman. [Laughter.]

Senator BURDICK. You haven't gone so far as to outlaw tobacco yet, have you, at the workplace?

Dr. BINGHAM. No; except in certain situations.

Senator SCHMITT. Not because it's a carcinogen; because it interacts with some other substance that causes difficulty, like an explosive or something.

Dr. BINGHAM. Well, it is banned, for example, because in workplace environments where toxic substances are present, any material that you put in your mouth, food or cigarettes, could be contaminated.

Senator SCHMITT. But in getting back to the asbestos case, if that is the same problem, it has nothing to do with cigarettes in the workplace. It has something to do with the use of cigarettes.

Dr. BINGHAM. That's right. The fundamental thing in terms of smoking is not what happens in the workplace. It is whether or not people smoke at some time or other, on or off the job.

Senator SCHMITT. Mr. Chairman, shall I ask a set of independent questions? I don't want to interrupt you.

Senator BURDICK. Get your independent questions.

STATE PROGRAM MONITORS

Senator SCHMITT. I hope you are personally familiar with the situation that has developed in New Mexico. It may have developed elsewhere, and although I would reference these questions somewhat to an actual case, any time you want to generalize, go ahead.

I'm told in Wyoming and Virginia, we have similar problems. A problem regarding the Federal presence of OSHA monitors in the State of New Mexico. In December of 1978, the new Regional Director of OSHA disapproved a previously signed memorandum of understanding between the State of New Mexico and the previous regional director which would have allowed the State to run its own program of inspection.

The State of New Mexico took you to court. Federal Judge Meecham entered an order against the State, saying it had no basis for a case. The State appealed last month, and OSHA has until the 23d of this month to file a reply brief.

I'm not trying to interfere in any way with that process, but I think it is important for us to know, and for States to know just what the rules of the game are going to be. As I understand it, there are four OSHA compliance monitors and one supervisor.

However, I have been told in California, there are 200 or more State inspectors, and only 5 monitors. Now how many monitors for comparison purposes does OSHA have in California?

Dr. BINGHAM. I will refer to another individual who is more familiar with these specific numbers. I will give them to you directly. I can't come up with them off the top of my head. But let me make a couple of points.

Senator SCHMITT. If you could supply that for the record.

[The information follows:]

STATE PROGRAM MONITORS

OSHA staff	California	New Mexico	Virginia	Wyoming
Safety	13	2	2	1
Health	3	2	1	1
Total	16	4	3	2

Dr. BINGHAM. Let me indicate this. The problem that we refer to in the case of Virginia is the result of several petitions to withdraw approval of the Virginia State plan, that we are reviewing right now. So when that occurs, we have an obligation to perhaps do some studies so we can determine what the true situation is.

In the State of Wyoming, I think there was a defect in the State plan in terms of legalities that the court was requiring. I think I am correct in saying that that defect has been remedied. We have been promised that it will be remedied. So the monitor situation will be alleviated.

Now I'd like to ask Mr. Wrenn, who is in charge of monitoring State programs, to comment very briefly.

Mr. WRENN. Senator, we can provide you for the record the precise

number of monitors engaged in monitoring the State plan activities in the States you inquired about.

In my recollection, OSHA has about 16, not 5, people engaged in monitoring the activities of the State of California.

Very briefly, the Occupational Safety and Health Act was a preemption of previously existing State programs in safety and health, but provided for the returning to States that requested it, and that submitted plans for administering the requirements of the OSHA act in an effective manner, the ability to resume administering their own State programs. But the act requires this to be under the oversight of the U.S. Department of Labor during the period of developing a fully effective program for administering OSHA in those States. New Mexico is one of 23 States which has sought and received a degree of approval for administering the OSHA program in its State.

As you point out, there have been some serious relationship problems between officials of New Mexico and those of the U.S. Department of Labor concerning the development of the New Mexico program. Those relationship problems concern us. They came to a head in the litigation of the issue of the relative roles of the two parties. The court ruled that there continues to be concurrent Federal and State jurisdiction because the time has not yet arrived in New Mexico, or any of the other 23 States, where the State has acquired a sufficient number of qualified personnel and demonstrates in all other ways that it is prepared to proceed on its own, with no further involvement of Federal OSHA.

We are working very hard to remedy the problems of the relationship between our staff and the officials in New Mexico, because the goals of the act can never be achieved fully if Federal and State officials are at odds with one another, and that is our goal at this time, and we are working toward that.

QUALIFICATIONS OF MONITORING PERSONNEL

Senator SCHMITT. We have had some suggestion that the methods for determining the qualifications of Federal monitors might be subject to some questions, such as they probably would not be qualified to be hired by the State as inspectors. Do you have any information on that?

Mr. WRENN. The individuals who are stationed in New Mexico in our area office under the direction of the regional office in Dallas, are in our view qualified. The OSHA safety and health compliance officers have a dual role. The individuals on the staff there that you referred to as monitors are not solely engaged in looking over the shoulder of the state personnel. They are there to monitor as the act requires. They are also there to provide support and technical assistance upon request of the State. Although the relationship problems we have referred to have mended, this has not always been a creative exchange.

However, they are also there to exercise the enforcement responsibilities of the Federal Government to the degree that we continue to conduct inspection and enforcement activity, such as in response to certain employee complaints, or where the State has not yet fully developed a standard for an issue covered by Federal standards.

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Dr. BINGHAM. The qualifications of these monitors are the same as for compliance officers in general. I am going to supply those to you for the record.

Senator SCHMITT. Well, I think our State requires a bachelor of science degree in specific areas. I don't know if your requirements are the same, but if you would supply that information, we will summarize some questions.

[The information follows:]

QUALIFICATIONS OF STATE PROGRAM MONITORS

The qualification requirements for OSHA's State program monitors are identical to those for compliance officers in general. Compliance officers both monitor and make inspections. The primary duties of compliance officers in plan States are determined by the level of State effectiveness in enforcing State occupational safety and health standards. Minimum qualification requirements for compliance officer positions, including State program monitors, are as follows:

Journeyman level positions:

Industrial hygienist, GS-0690 series.—Requires the successful completion of a full 4-year course in an accredited college leading to a bachelor's degree in engineering, physical, or natural science. This study must have included at least 8 semester hours in chemistry. Four years of progressive technical experience which has demonstrated the possession of a working knowledge of scientific theories and principles and their application to science and/or engineering may be substituted for the above. In addition, 3 years of professional industrial hygiene experience is required, of which 1 year must have been at a level of difficulty comparable to the next lower grade level.

Safety engineer, GS-0803 series.—Requires a bachelor's degree in engineering or 4 years of education and/or experience which has provided an equivalent body of professional knowledge. The adequacy of such experience must be demonstrated by one of the following: (*a*) Current registration as a professional engineer by any State, Guam, Puerto Rico, the District of Columbia, or the Canal Zone; and (*b*) evidence of having successfully passed the engineer-in-training examination, or the written test required for professional registration, or evidence of having achieved a score of 500 or better in the engineering test of the graduate record examinations. In addition, 3 years of professional experience in one or more phases of an organized safety program, such as safety inspection, safety promotion, or safety program management, of which 1 year must have been at a level of difficulty comparable to the next lower grade level.

Safety specialist, GS-0018 series.—Requires a total of 6 years of experience, of which 3 years may be general and 3 years must be specialized experience. The specialized experience must be progressively responsible experience in one or more phases of an organized safety program, i.e., safety inspection, safety promotion, or safety program management (see CSC Handbook X-118, Series GS-018). One year of this specialized experience must have been at a level of difficulty comparable to the next lower grade level.

Career ladder positions:

At the GS-9 level of the positions described above, 2 years of specialized experience is required.

At the GS-7 level of the positions described above, 1 year of specialized experience is required.

At the GS-5 level, industrial hygienists must meet the educational requirements in sentences Nos. 1 and 2 leading to a bachelor's degree, or the experience substitution provided in sentence No. 3.

At the GS-5 level, safety engineers must meet the educational requirements in sentence No. 1 leading to a bachelor's degree, or demonstrate adequate experience substitution as described by (a) and (b) above.

At the GS-5 level for safety specialist positions, a bachelor's degree or 3 years of general experience is required.

STATE PROGRAM MATCHING FUNDS

Senator SCHMITT. Do you intend to continue a 50–50 funding for State-run programs? And how do you determine the amount of money necessary to run a State program? Is that based on their estimates?

Dr. BINGHAM. They make the estimates, based on a 5-year projection.

Mr. ZEIGLER. We have a review process with the States. The States submit their requests for funds to us with a justification describing how they intend to use the funds.

STATES' ROLE IN RULEMAKING

Senator SCHMITT. And those programs or those activities of OSHA that will impact these State programs, as you say, new regulations or changes in regulations, are States actively involved in the decision-making process?

Dr. BINGHAM. Some States are and some are not.

Senator SCHMITT. Do you seek involvement?

Dr. BINGHAM. We have had how many meetings this year?

Mr. WHITING. We've had half a dozen meetings on various subjects during the year in areas that relate to various State policies. It's not always possible to involve the States fully in the process of the standards, except that they participate as any other citizen or group and make comments.

Dr. BINGHAM. We promulgate our Federal standards, and under the Occupational Safety and Health Act, the States can come up with their own standards if they are at least as effective as the Federal standards.

Actually, some States have come up with standards that are more restrictive.

Senator SCHMITT. When you establish a standard, a new standard of some kind, do you consult in a systematic, regular way with States, so that they are better informed of what the new standard is?

It's my understanding that there is a regular process for consulting with organized labor groups.

Dr. BINGHAM. Well, we certainly consult with businesses.

Senator SCHMITT. What about States?

Dr. BINGHAM. We do not go down a list, if you mean that. They can come to hearings.

Senator SCHMITT. But if you've got 23 States that you're trying to develop into taking over the program, presumably at some savings of dollars to the Federal Government—hopefully that's one object of it—shouldn't you have a regular consultation?

Dr. BINGHAM. We do bring that up in these meetings, discussing the various standards that we hope to promulgate over the year, but we do not contact each State systematically and say, "What do you think?"

For example, California and Michigan frequently appear and provide statements for the record, such as for the labeling standard that we are planning to propose this spring.

California sent us their own record, and we have discussed with them what their experience has been.

Senator SCHMITT. But you haven't gone to the States and said, "Hey,

we're thinking about this new rule. Do you have anything to offer," or suggestions or experiences?

Dr. BINGHAM. Well, in a way; yes.

Mr. WRENN. We have regularly provided the States with advance notice of our intention to develop a standard for a particular hazard. We have likewise advised them in just a normal businesslike fashion of the status of ongoing standard-setting projects.

One of the practical problems facing the States is that conceding the intense interest as a public policy matter, they may not have the resources to devote to an individual administrative rulemaking, which unfortunately may continue for 3 to 5 years, and which will represent a major commitment of resources by key labor groups or key industries.

Few of the States have seen fit to devote resources to active participation in rulemaking. They have been advised of proposed rulemakings, and in some instances, as Dr. Bingham mentioned, where the State had a particular interest in a standard or had experience with it. As an example, when we promulgated the standard dealing with cotton dust, the staff of the labor departments of North Carolina and South Carolina actively engaged with us in developing that standard, because of their experience and familiarity with the textile industry.

Dr. BINGHAM. But we didn't go to Michigan.

Mr. WRENN. That's right. California came in on our standard dealing with a pesticide that caused sterility in some of their workers, because that's where the problem had emerged. They had firsthand experience, and they came in and played a role.

Senator SCHMITT. Well, we are getting some indication that maybe the communication is not getting quite to the level it ought to be. Could you provide for the record a list of those things that would happen as a matter of course? You can generalize as you have just done as to a specific interest, but also what are the regular notification procedures used for the States trying to develop their own programs. We will have some other questions on the subject for the record, Mr. Chairman.

[The information follows:]

NOTIFICATION PROCEDURES

States with approved plans for administering and enforcing State occupational safety and health programs are notified in advance of OSHA's intention to develop standards for particular hazards. OSHA welcomes recommendations from these States concerning proposed standards. State agencies designated to carry out State safety and health programs are encouraged to review OSHA's semiannual agendas for the development of new and revised standards, which are published in the Federal Register; and designee agencies are provided an opportunity to comment on proposed standards during the normal hearings associated with the rulemaking process.

Reports on the status of new health and safety standards are sent to State designees quarterly. Additional steps are taken to involve State plan agencies as appropriate; for example, a conference telephone call with interested States to discuss the cotton dust standard in advance of public announcements. States play an active role in the hearings on standards proposals, bringing to the record specialized knowledge derived from their own experiences with State-operated programs.

DANGEROUS CHEMICALS

Senator BURDICK. I've just got one or two questions left and the

balance will be submitted for the record, and you will hopefully give us timely replies.

One is in reference to the conversation that just ensued about materials that might be hazardous or injurious; is this also done in the area of the chemical companies?

Dr. BINGHAM. Do we notify the chemical companies?

Senator BURDICK. Yes; regarding the hazardous materials that the workers might be working with.

Dr. BINGHAM. Yes; we do.

Senator BURDICK. What kind of chemicals have you been dealing with?

Dr. BINGHAM. Well, we have a system we follow. First of all, we give advance notice to rulemaking. We ask for information on the chemical, for example, if they have any studies on the chemical.

The National Institute for Occupational Safety and Health puts out certain criteria studies. We frequently go to NIOSH in issuing a hazard alert, and that goes to chemical companies, to trade associations and to their constituents, to labor unions, and to other organizations. One, for instance, was on benzidine dyes; we just finished it up a few weeks ago.

Senator BURDICK. I wonder if you could supply me and the committee with a list of the chemicals that you have been worried about.

Dr. BINGHAM. Yes.

[The information follows:]

HAZARDOUS SUBSTANCES

The Registry of Toxic Effects of Chemical Substances compiled by the National Institute for Occupational Safety and Health contains over 124,000 listings, including the names of 34,000 different chemicals with qualifying toxic dose information. OSHA's field operations manual lists over 500 substances for which health hazard classifications have been assigned.

On the basis of scientific research or other evidence of occupational risk, OSHA and NIOSH have jointly issued hazard alerts or current intelligence bulletins concerning the following hazardous substances:

—*Benzidine, o-tolidine, and o-dianisidine (blue) dyes
—NIAX catalyst ESN
—Vinyl halides
—Radio-frequency (RF) sealers and heaters

OSHA has published and distributed a series of job health hazards pamphlets to alert workers and the general public to the dangers of the following elements, including general information concerning the OSHA standards that apply to workplaces where these elements are present:

—Carbon monoxide
—Mercury
—*Vinyl chloride (VC)
—*Toluene Diisocyanate (TDI)

OSHA has published exposure limits (ceiling values or time-weighted averages), and is in the process of developing complete standards, regulating worker exposure to over 400 air contaminants, dusts, and vapors. In addition, OSHA has promulgated complete health standards or issued emergency temporary standards for the following generic substances:

—*Arsenic
—*Asbestos
—*Benzidine
—*Benzene
—*Coke oven emissions

Cotton dust
Lead
—*Vinyl chloride (VC monomer and PVC polymer)
—*2-Acetylaminofluorene (AAF)
—*Acrylonitrile (AN) monomer
—*4-aminodiphenyl (biphenylamine)
—*Dibromochloropropane (DBCP)
—*3,3'-Dichlorobenzidine (and salts)
—*bis-Chloromethyl ether (BCME)
—*Ethyleneimine
—*4-Dimethylaminoazobenzene ("oil yellow")
—*Methyl chloromethyl ether (CMME)
—*alpha-Naphthylamine
—*beta-Naphthylamine
—*4-Nitrobyphenyl (PNB)
—*N-Nitrosodimethylamine (DMN)
—*beta-Propiolactone (BPL)

Other subjects are being studied to determine if hazard alerts should be issued, or other actions taken. Substances being studied include the following:

—*Asphalt, coal tar pitch
—*Dioxins (TCDD)
—*Ethylene oxide
—*Formaldehyde
—*2-Nitropropane
—*Nitrosamines
—*Recombinant DNA
—*4,4'-methylene bis 2-chloroaniline (MOCA)

*Cancer hazard or cancer-suspect agent.

FEDERAL AGENCY PROGRAMS

Senator BURDICK. A recent GAO report stated that OSHA inspectors, who were assisting GAO, found numerous safety and health deficiencies at the eight Defense Department installations. While OSHA has no enforcement authority over Federal agencies, it is supposed to evaluate their programs to know what's been done about the health and safety and so forth at the federal installations.

Dr. BINGHAM. I can't specifically tell you what the actions are that have been taken. But we have a new Executive order that will be effective July 1, that I think makes up for a lot of the deficiencies that we have had in the past.

First of all, this new Executive order allows OSHA to go in and make unannounced inspections. Now, as an alternative to this, the Federal agency can set up a health and safety committee made up of equal numbers of workers' representatives as well as management, and this group will monitor activities.

This group shall have access to information on hazards in the workplace, and will monitor the work that goes on in the agency. It is possible for half of that committee to request that OSHA come in and make an inspection.

For the first time now under this new Executive order, that stems out of the Occupational Safety and Health Act, Federal workers will be protected against discrimination if they report an unsafe condition. In the past, that was not true.

Clinton, can you think of some other things that are in the Executive order?

Ms. WRIGHT. One of the things is that an abatement notice and schedule must be prepared. The agency must agree to a certain time frame for completing corrections to a hazardous working environment.

Senator BURDICK. Well, as I say, we have some other questions, but you are free for the rest of the afternoon.

INFORMATION SERVICES

Senator SCHMITT. Senator, could I ask just a few more? I don't want to keep you here any longer than necessary. Are you aware that there's a new directions grant application currently pending before OSHA which proposes to set up an information coordinating service on occupational disease?

Dr. BINGHAM. No; I'm not aware of that, but I keep myself out of that process. We have a group set up that evaluates those grant applications.

Senator SCHMITT. Well, I just wanted to know if you were aware of that, because I want to get into the issue that's addressed by the application.

Are there any existing services in the State where an employee or employer can call and ask for information, for example, on how long an employee can work under certain difficult conditions, not only as far as your regulations are concerned, but as far as what would be medically or physically advisable?

Dr. BINGHAM. You mean in the State of New Mexico?

Senator SCHMITT. No; anywhere. Let me give you an example. Let's say that a miner is going to be exposed to some potentially hot water in the mine environment for some period of time. How could the employer and the employees themselves find out what is an acceptable level of exposure for water at given temperatures?

Is there data, first of all, and do you collect it?

Dr. BINGHAM. Well, first of all, I would not collect it on mines. You will have to save that question for people from the Mine Safety and Health Administration. [Laughter.]

Senator SCHMITT. The torch has been passed.

Dr. BINGHAM. However, if it is something that we cover, yes, there are ways for people to get information. First of all, there is in each State either a State consultation service, or in a few States that have refused to provide consultation, we have private organizations that provide the service. So consultative services are available where you can call up and get information about whether a material produces cancer, and if so, ask what the safeguards are for protecting workers. Second, if anybody calls our local office and asks such a question, the question is referred to our technical support group, and we frequently get questions just like that.

Third, there is available in NIOSH such a service, which provides information such as that. If you call the NIOSH facility here you can get such information. However, there is at least one new directions grantee that comes to mind where such information is provided to employers.

There is a grantee organization in New York that is headed up by Dr. Jeanne Stellman. It's called the Women's Occupational Health Resource Center, and they pay particular attention to the occupational safety and health needs of women workers. They provide the data.

Mr. WHITING. It might be worth mentioning, too, that our new directions program is designed in part to enable trade associations to which a firm might belong to provide technical services and benefits and set up programs. So an employer might call his trade association and obtain those services in his own language from someone he is associated with and does business with.

Dr. BINGHAM. For example, the Ohio Manufacturing Association is one. The Central Illinois Industrial Association has a grant. They do provide that specific type of service.

CENTRALIZED DATA SERVICE

Senator SCHMITT. But it's been my impression, and I've been told by people involved in this, one reason for the proposal, I suspect, was it's not generally known how to get—who should you get on a specific topic? I think the proposal has to deal with some centralized information, if it's only to say, "Go call NIOSH, or go call the National Institute of Tinmakers," or something like that.

Dr. BINGHAM. Well, it sounds like a good idea, but I am not familiar with it.

Senator SCHMITT. Well, I'll call your attention to it, because I believe that is the direction, and it sounds like the kind of service that's needed. Of course, I'm not in that kind of business. The hazards in my business are somewhat different. [Laughter.]

But I have not heard in my wanderings around the State of New Mexico anybody say they knew where to call in order to get information of this kind on a specific type of working condition.

NEW DIRECTIONS GRANTS

Now on the new directions grants, does OSHA provide money for projects which deal with specific minorities? That is, do you have a minority affirmative action program associated with the new directions grants?

Dr. BINGHAM. I'd like Clinton to comment on that. One of the programs funded deals with American Indians.

Do you want to comment on that?

Ms. WRIGHT. We do have some programs that address special groups, and one of the criteria that we have used in the program has to do with the greatest possibility of reaching those workers that are not served in some other ways. Using that as a criteria, as Dr. Bingham mentioned, we have one group in New York that's serving a special interest to women in the working environment.

We do have one that is serving Hispanic workers.

NEW DIRECTION PROJECTS

Senator SCHMITT. Could you provide us a list of those programs, new directions programs, and any others that relate similarly to that? And the minorities to which they are directed.

Ms. WRIGHT. Be happy to.

[The information follows:]

NEW DIRECTIONS GRANTS

Listed below are organizations receiving new directions grants from OSHA to develop programs providing occupational safety and health training, and related technical services, for minorities and/or other special groups.

Grantees providing major emphasis on training and education of minorities and/or other special groups:

Hawaii State Federation of Labor, AFL–CIO, Honolulu, Hawaii; National American Indian Safety Council, Albuquerque, N. Mex.; National Association of Farmworker Organizations, Washington, D.C.; Project on Health and Safety in Electronics, Mountain View, Calif.; SER/Jobs for Progress, Seattle, Wash.; Urban Environment Conference, Washington, D.C.; and Women's Occupational Health Resource Center, Columbia University School of Public Health, New York, N.Y.

Grantees providing some special programs for the training and education of minorities and/or other special groups:

University of Alabama, Birmingham, Ala.; University of California, Berkeley, Calif.; University of California, Los Angeles, Calif.; Chicago Area Committee on Occupational Safety and Health, Chicago, Ill.; University of Connecticut, Farmington, Conn.; University of Illinois, Champaign, Ill.; Michigan State University, Lansing, Mich.; Middlesex Community College, Edison, N.J.; University of Oregon, Eugene, Oreg.; Public Media Center, San Francisco, Calif.; University of Tennessee, Memphis, Tenn.; and Central Washington University, Ellenville, Wash.

AMERICAN INDIAN PROJECT

Senator SCHMITT. Now the Indian program, I believe, that you mentioned was directed specifically at safety, was it not? Not necessarily occupation. Am I correct?

Mr. WHITING. Well, the National American Indian Safety Council is similar to other safety organizations that deal with various subgroups. Our program would be for Indian workers, just as the National Safety Council addresses automobile safety, and other safety issues.

Senator SCHMITT. What about occupational needs that might be associated with a particular problem that Indian tribes are experiencing now in the uranium mine problem, or the uranium-cancer problem? It turned out to be an occupational disease primarily of Navahoes.

Dr. BINGHAM. Well, if the disease—I guess——

Senator SCHMITT. Well, I realize that, and I'm sorry to keep bringing up mining. I'm an old geologist, and that's all I can think about.

Dr. BINGHAM. I'm sure that's important to your State.

Senator SCHMITT. But there are other related hazards.

Dr. BINGHAM. We are encouraging particularly the occupational health aspects. That's one of the projects.

Mr. WHITING. NIOSH is also working on this.

Senator SCHMITT. How do you maintain coordination? You mentioned NIOSH and several other groups. But do you have a specific coordinating council?

Dr. BINGHAM. Yes; we do.

Senator SCHMITT. Do you invite NIOSH over?

Dr. BINGHAM. I'm sure Dr. Robbins will appear before this committee, and you can ask him to verify that the relationship that we have with NIOSH currently is excellent. We have had a retreat together——

Senator SCHMITT. Good heavens, when are we going to start advancing? [Laughter.]

Dr. BINGHAM. We are advancing. We have projects——

OSHA BILL

Senator SCHMITT. This is like the retreat, the advance to the sea in Korea.

Have you evaluated the budgetary impact of Senator Schweiker's OSHA legislation?

Dr. BINGHAM. No.

Senator SCHMITT. Is that something you intend to do, or should the Senator specifically request it?

Dr. BINGHAM. I guess he could request it. We have not made any attempts to do that. We are still trying to analyze the bill to see what it actually needs in terms of the definition of a worksite. Are you talking about the rider or the bill?

Senator SCHMITT. No; I'm thinking about the actual bill in the Human Resources Committee.

Mr. Chairman, I have four or five more general questions about the cost and the analysis of cost benefits of the OSHA program. I think they would be better asked for the record.

Senator BURDICK. Very good. Thank you all again.

Senator SCHMITT. 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:]

COLLECTIVE BARGAINING

Question: Recently, I have received some complaints from New Mexicans that labor may be using OSHA and MSHA as avenues to pressure management when it cannot gain desired results from collective bargaining. Are you aware of any such complaints against your respective organizations? Would you comment on the possibility of your organizations being used by labor for this purpose? What do your organizations do to assure that they are not used by labor to harass management?

Answer: We have found no evidence of such complaints. The specter of labor using OSHA to pressure management has been with us since the early days of this program, but incidences where this could be construed to be true simply have not materialized. In order to guard against such a possibility, however, OSHA Area Directors have the full authority to forgo any inspection that they feel might involve harassment by any individual against an employer. In cases where this has been suspected, no evidence has been discovered.

COMPLAINT INSPECTIONS

Question: Last year you told us that you were trying to come up with a more efficient way to target complaint inspections. We understand you have implemented a system for evaluating complaints to decide whether an inspection should be taken. To what extent has your complaint workload been reduced.

Answer: The new system to which you refer was implemented on September 1, 1979. It has been sucessful in terms of permitting us to direct a greater proportion of our compliance inspection capability to known high-hazard workplaces. In the first quarter of FY 1979, for example, we conducted 4,739 complaint inspections. In the first quarter of FY 1980, with the revised system in place, we conducted 3,615 such inspections, a reduction of 24 percent.

Question: Have you encountered any problems regarding complaints where you did not make an inspection?

Answer: Our experience in the first quarter of FY 1980 indicates that individuals submitting complaints alleging unsafe or unhealthful working conditions are generally satisfied with our new complaint response procedures. At this point, however, we have not had sufficient experience with the complaint policy change to draw any firm conclusions. We are closely monitoring the new policy and will evaluate it carefully after the first full year of operation

Question: How many complaints have been resolved without an inspection?

Answer: OSHA's management information system does not currently provide data on complaints resolved by letter without an inspection. This information is now being incorporated into the system, however, and will be available in the future.

OSHA BENZENE STANDARD

Question: If the Supreme Court rules in the Benzene standard case that OSHA will have to prepare more detailed cost-benefit studies (weighing the costs and benefits against each other), what effect would such a decision have on further slowing down OSHA's promulgation program?

Answer: Should the Court rule in this way, it would impose an additional complex issue on the list of collateral analyses which must now accompany the development of a standard.

Cost-benefit analysis hinges critically on the ability to develop reliable numerical estimates of risk. Unfortunately, risk assessment techniques, particularly for carcinogens, are crude and unreliable. They do not currently permit the depth of analysis necessary to estimate the extent of health impairment associated with different levels of exposure.

Question: What recommendations can OSHA make about ways and means of speeding up the promulgation process?

Answer: One of the significant steps that we have recently taken in this regard is the publication of the Cancer Policy. A primary reason that OSHA spends so much time promulgating its regulations is that the public records have grown very large due to the great number of issues which have been raised in every rulemaking. The Cancer Policy sets forth a list of policy decisions (such as whether safe or no-effect levels can be set for carcinogens; the value of experimental long-term bioassay results in mammalian laboratory animals, etc.) that the Agency has determined to be appropriate for each regulatory action involving carcinogenic substances, thus foreclosing those issues from further debate and forcing the rulemaking proceeding to focus only on the most substantial issues in each rulemaking.

Also, this new approach calls for the development of a priority system which will enable OSHA to identify those substances which should be regulated first on the basis of certain criteria, such as the number of workers potentially exposed. Development of this priority system is currently underway and should be completed during fiscal year 1980.

OSHA'S ROLE IN SBA LOAN PROGRAM

Question: In June 1979, GAO reported that very few businesses were getting Small Business Administration loans to correct occupational hazards. What do you consider OSHA's role to be in this loan program?

Answer: Section 28(a) of the OSH Act authorizes the Small Business Administration to make loans to small businesses that need financial assistance in order to comply with OSHA standards. Under an agreement signed by OSHA and the SBA in 1975, OSHA cooperates with the SBA by making employers aware of the loan program, and by advising SBA lending officers whether technical changes to be financed by an SBA loan are likely to reduce or eliminate hazards that violate OSHA standards.

Question: Why are there so few loans?

Answer: As of January 1, 1980, 236 loans totalling $58.6 million had been made since the program began in 1971. In June of 1979, the Comptroller General issued a report on this loan program and concluded that:

> "The occupational safety and health loan program is seldom used by small business. Neither SBA nor OSHA knows why. It has been suggested that more businesses do not request loans because of fear of an OSHA or State inspection or reluctance to prepare and submit engineering plans."

GAO also mentioned in its report the 1978 report of the Interagency Task Force on Occupational Safety and Health, which cited as reasons for underuse of this loan program, "the perception by small businesses that requests for loans will result in an OSHA inspection," and "SBA's lack of publicity and the cumbersome, time-consuming process of obtaining a loan."

Certainly, both agencies share a common interest in improving this loan program so that qualified small businesses may receive the financial assistance Congress has provided for improving workplace safety and health. The two agencies are working to streamline the 1975 agreement. One goal will be to speed up the application process for small businesses.

Question: What do you do to assure that the changes made with loan funds have eliminated workplace hazards?

Answer: We are attempting to clarify the assurances that are necessary in this type of cooperative arrangement. OSHA can and does return to the worksite to assure that serious violations have been corrected. OSHA has no legal authority, however, to ensure that the proceeds of an SBA loan will actually be used for correction.

An approach which we are now working on would be for the two agencies to work out a procedure whereby OSHA could notify SBA if a loan recipient has not corrected violations. SBA would be responsible for further oversight. This plan would help to circumvent any sort of adversarial posture that might make small businesses reluctant to apply for these loans. We hope to have a new agreement between OSHA and SBA in effect within the next several months.

GRAIN ELEVATOR INSPECTIONS

Question: Last year you told us that the National Academy of Sciences was studying grain elevator explosions including evaluating the adequacy of your standards and your explosion investigations.

What are the results of this study and what have you done about them?

Answer: The National Academy of Sciences has prepared a draft report covering the following topics:

1. Analysis and critique of grain elevator explosion investigations performed by OSHA.

2. Analysis of selected grain elevator explosions which occurred during the last year that were investigated by the National Academy of Sciences.

3. Comments regarding current OSHA standards.

It is expected that review of the report will be completed soon and copies will be available to OSHA and the public.

We have reviewed our investigation procedures as interim results have been provided by the Academy, and will revise our procedures to incorporate the final recommendations of the Academy.

The analysis of existing OSHA standards indicated areas where revisions are needed. A second year study by the Academy is now in progress to provide technical data and recommendations for standards revisions. The technical data will cover such areas as ignition sources for grain dust, explosion venting and the design of dust collection system for dust control. This data will be made available to the grain elevator industry and will be used as support for proposed revisions to OSHA standards.

The final report from the second year study will be completed in late 1980. OSHA has already taken the first step in the standards revision process by requesting information from industry and labor groups in the form of written comments and oral testimony at hearings scheduled in Superior, Wisconsin; New Orleans, Louisiana and Kansas City, Missouri during the month of April 1980. These comments and the Academy study will form the basis for a proposal to revise the existing standards during 1981.

OSHA DISCRIMINATION COMPLAINTS

Question: How many Section 11(c) complaints have been filed in FY 79?

Answer: A total of 2,953 complaints were filed in FY 1979.

Question: How have these cases been resolved?

Answer: After a complaint of discrimination is received, OSHA reviews and screens the complaint to determine jurisdiction, OSHA's coverage, safety and health ramifications, et cetera. If this review indicates that the complaint should be referred to another agency, or some other remedy is available, the complainant is advised accordingly. If the complaint meets the conditions of section 11(c) of the Occupational Safety and Health Act, it is assigned for investigation. In the course of the investigation the complainant and complainant's witnesses are interviewed, statements are taken, and documentation and background information is obtained. Subsequently, the employer and employer's witnesses are interviewed, and supporting information is obtained. If possible, neutral witnesses are contacted. Based on the investigative findings, a determination is made as to whether an act of discrimination has taken place in violation of section 11(c).

In the event that the investigative findings show that no violation has occurred, the complaint is dismissed with an explanation of the complainant's appeal rights. Alternatively, the complainant may elect to withdraw the complaint. In the event that the investigation indicates that a violation may have occurred, settlement negotiations

are undertaken with the employer on behalf of the complainant. Normally settlement includes: backpay for the period of termination to the date of settlement; reinstatement if requested by the employee; purging of derogatory information; and the posting of a notice at the worksite explaining the terms of the settlement. If the agency is unable to negotiate a settlement, the matter is submitted to the Office of the Solicitor for litigation. If the case meets legal requirements, suit is filed in U.S. District court and the issues are resolved through the judicial process.

Question: What is the average length of time necessary to resolve a case for different outcomes (i.e. withdrawn, litigated, informal settlement)?

Answer: The average time to complete a Section 11(c) case is 120 days. The "average" case would be one that is investigated, reviewed by the Operations Review Officer, and then either withdrawn, dismissed, or voluntarily settled. Cases which are found to have merit, by the Operations Review Officer, but which cannot be settled on a voluntary basis, are forwarded to the Office of the Solicitor. In cases where litigation is required, final resolution through the courts can take several years.

Question: How many cases take over 90 days to resolve?

Answer: At the present time, we do not have a breakdown on the proportion of section 11(c) complaints completed in under 30 days, 30 to 90 days, over 90 days, and so on. However, the 11(c) data were recently integrated into OSHA's Management Information System, and we we will be able to obtain such breakdowns by late spring, 1980.

Question: How many investigators are assigned to 11(c) cases and what is their average caseload?

Answer: The Operation Review Office (ORO) has 59 investigators. In fiscal year 1979, the ORO staff completed action on 2,767 section 11(c) cases, either settled, dismissed, withdrawn, or referred for litigation. On the average, each investigator completes 53 cases per year. The average caseload per investigator at any one time is 20.

Question: What resources are necessary and what administrative actions are planned to reduce the backlog of pending cases and the length of time to resolve them?

Answer: An experimental accelerated settlement program (AC-SET) has been instituted in two OSHA regions. AC-SET utilizes OSHA's area directors to initially contact employers and attempt to resolve 11(c) complaints, avoiding if possible time consuming investigations. Upon receipt of an 11(c) complaint, the area director obtains any additional information needed from the complainant, and determines whether to attempt an informal resolution of the complaint by meeting with both parties. If appropriate, the area director then seeks to directly implement a settlement which will be agreeable to both parties.

STATE PLANS

Question: Please give us a progress report on the preparation to the new guidelines and requirements that States must meet to gain independence in administering their State plans.

Answer: As required by the December 5, 1978 Court order in AFL-CIO v. Marshall, OSHA developed compliance staffing levels (benchmarks) for safety inspectors and industrial hygienists in States with approved OSHA state programs. These benchmarks were designed to provide for "fully effective" worker protection by calculating necessary resources for the principal types of OSHA inspections (complaint, general schedule, follow-up, etc.), relying in large part on data from the Federal program. Recommendations on the number, or frequency, of general schedule inspections were made by expert workgroups composed of state and Federal compliance supervisors. A draft response to the Court was prepared and cleared by both the Department and OMB in September 1979. The draft described in detail the process used in the development of the benchmarks and discussed the limitations inherent in establishment of required benchmarks. Since that time, we have discussed the benchmark issue with the National Advisory Committee on Occupational Safety and Health (NACOSH), state designees, and the AFL-CIO; possible changes proposed by those groups are being considered. A request for an extension through April 1, 1980, has been filed by the Solicitor with the Court.

Question: What is the correlation between the average dollar penalty assessed per firm at the state level and the Illness/Injury incidence rates of the respective states with state plans?

Answer: A comparison of state plan penalty levels with injury and illness rates for 1977 reveals a moderate correlation. That is, there is some indication that higher State penalties correlate with lower injury/illness incidence rates. As indicated by the following table, however, the pattern of correlation is uneven and includes notable exceptions. Further, the data for 1977 (the last year for which state-by-state incidence rate data are available) do not necessarily represent the current situation, since there have been a number of changes in both the Federal and the state penalty systems and inspection scheduling systems. The impact of these changes is still being experienced throughout the OSHA program and the states programs. OSHA is currently studying the effectiveness of state plan penalty systems in comparison with the Federal system, to identify areas where improvement may be needed.

PENALTY LEVELS AND INCIDENCE RATES IN PLAN STATES

	Average Serious Proposed Penalty - FY 1977 1/ (in descending order	Injury/Illness Incidence Rates per 100 Full-Time Workers 2/ CY 1977
Wyoming	$922	9.1
North Carolina	692	7.6
Virginia	690	9.1
Kentucky	669	9.5
South Carolina	656	7.1
California	655	10.3
Alaska	517	10.4
Arizona	512	11.5
New Mexico	494	8.8
Connecticut	460	9.2
Maryland	407	8.0
Vermont	399	9.0
Minnesota	396	9.1
Utah	358	10.9
Virgin Islands	355	4.9
Michigan	325	8.8
Nevada	259	12.4
Tennessee	240	10.1
Iowa	234	10.0
Washington	185	12.0
Indiana	145	9.9
Oregon	122	14.0
Hawaii	115	10.7

1/ Fiscal year: 10/1/76 - 9/30/77
2/ Calendar year: 1/1/77 - 12/31/77

FEDERAL WORKER SAFETY

Question: How many Federal agencies is OSHA required to evaluate each year, and how many have you evaluated?

Answer: The current executive order requires annual evaluations of all agencies employing over 1,000 persons. There are approximately 40 such agencies. OSHA has evaluated each of these agencies, either by a review of agencies' annual reports or by an on-site, in-depth review of operational procedures. Over the past five years, a total of 57 in-depth evaluations have been completed. Ten evaluations are currently underway.

The new executive order, which becomes effective July 1, 1980, requires annual evaluations of "larger or more hazardous" agencies and operations. It is estimated that there are 21 such agencies.

Question: How effectively are Federal agencies protecting their workers?

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Answer: Compliance with the requirements of the current Executive Order has been mixed. Some agencies have begun to develop comprehensive safety and health programs for their employees, while others have done little more than develop paper programs. It is anticipated, however, that the new Executive Order will result in much more effective protection for Federal workers. The new Order strengthens program requirements, provides for more effective employee participation and provides OSHA with more effective oversight authority.

Question: Do you believe that OSHA's inability to enforce workplace standards in Federal agencies results in diminished worker protection?

Answer: Under the Act, both the Federal employer and the private employer are held responsible for the safety and health of their employees. However, in the private sector, OSHA is given a very important enforcement role as an incentive to the employer to provide that safety and health protection. There has not been a comparable incentive on the Federal side. However, the new Executive Order does provide OSHA authority to enter Federal workplaces to conduct unannounced inspections under certain limited circumstances. As we have already indicated, other necessary elements for a strong safety and health program have also been strengthened in the new Order.

PLAN STATE STAFFING LEVELS

Question: Do you expect that the states will increase their staffs to the levels called for by the proposed benchmarks?

Answer: A final response to the U.S. District Court's order in the case of AFL-CIO v. Marshall has not yet been filed with the Court. A draft document has been prepared and is still under review by both the Department and the AFL-CIO. Decisions on the final contents of the document, and a determination as to whether a jointly filed document will be possible, are still pending. The benchmark numbers, as proposed, will require significant staffing increases in most plan states for both safety officers and industrial hygienists. However, these figures are not final and may be modified. Furthermore, individual states may petition for additional adjustments to their benchmarks. Therefore, the final benchmark numbers will not be known for perhaps a year.

Under the terms of the Court's order, unless modified, benchmark staffing levels would be achieved over a period of five years. The Court's order, however, also provides for proportionate reductions in the staffing requirements for state programs to reflect any shortfall in the funds appropriated for matching grants.

Question: What additional Federal funds would be required if the OSHA plan states increased their staffs to the levels proposed?

Answer: Until final benchmarks are established for staffing levels in plan states, any estimates concerning the Federal share of state matching grants would be premature.

Question: If some plan states were to withdraw from the program, how would the staff level that OSHA would provide compare with the proposed state staff levels?

Answer: It is not now anticipated that any states will withdraw from the program. However, in the event one or more states should withdraw in the future, OSHA staffing levels would be reviewed to insure equivalent Federal inspection and compliance capabilities in all non-plan states. As a part of this review, consideration would be given to the need for reprogramming grant funds for the affected states.

Question: Have you established staff benchmarks in the states where you enforce the Act? If so, how does your staffing compare with them.

Answer: The AFL-CIO suit challenged the effectiveness of state occupational safety and health programs, and the Court's order relates only to staffing requirements for achieving "fully effective" enforcement programs in plan States. Using the same workload and staffing criteria, it is possible to make similar projections for non-plan states. However, such estimates would not necessarily correspond to the final state benchmarks, and do not reflect additional differences between state and Federal OSHA programs.

OSHA CANCER POLICY

Question: OSHA has just issued a new cancer standard as a final regulation. Please explain the work that remains to be done in regulating suspected cancer-causing substances in the workplace.

Answer: With the publication in the Federal Register on January 22, 1980 of OSHA's Cancer Policy, certain procedures for its implementation have been set into motion. First, and foremost, is the development of a list of substances which are present in the American workplace and which, after a brief scientific review, are considered candidates for further scientific review and possible regulation. This List of Candidate Substances has no regulatory effect, nor does it represent a determination that a substance is a carcinogen. Furthermore, this list is not intended to be a preclassification warning. The list will be published annually in the Federal Register, thereby providing useful information to the public and also stimulating the public to furnish OSHA with new or relevant information regarding the listed substances.

After the publication of the Candidate List, OSHA will then apply a series of priority factors to the substances on the list. These factors have been included in the cancer policy and will be used to screen the candidate list in order to establish those substances which should be more seriously reviewed for possible regulation. Subsequently, two priority lists will be published, one listing those substances for which there is strong baseline data (Category I Priority List) and one for which the data base is only "suggestive" of carcinogenicity (Category II Priority List). These lists have no regulatory effect but simply are useful in directing the public's and OSHA's attention to those substances which should receive an in-depth scientific review of all available data. From these two priority lists may be drawn those substances which will be regulated. This stepwise procedure--from candidate list to priority lists--as established by the cancer policy, is intended to assist OSHA in the regulation of "the worst first." In addition, this procedure should eliminate another problem that all regulatory agencies have faced in

trying to control potential carcinogenic substances, namely, "paralysis by analysis."

Question: How will this procedure avoid the continuing problem of outside challenges against each new toxic substance regulated by OSHA.

Answer: OSHA's Cancer Policy clearly states the criteria to be used for the classification of carcinogenic substances, as well as the principles OSHA will follow in the regulation of a potential occupational carcinogen. It will, therefore, enable industry to better anticipate what OSHA's future actions will be in controlling workers' exposure to potential occupational carcinogens. In fact, the Cancer Policy may actually encourage some industries to voluntarily reduce exposure levels, thereby protecting workers while eliminating the costs imposed by an OSHA regulation or a court challenge.

Question: How will this procedure cut down on the time now required to issue standards for individual toxic substances?

Answer: One of the time and resource consuming problems in the regulation of workplace carcinogens has been the need to continually define OSHA's criteria for identifying and classifying substances as potential occupational carcinogens. OSHA has found it necessary to constantly debate the accuracy and adequacy of the data used in the regulation of carcinogens. To prevent such useless activity in future regulations, OSHA has set forth its criteria of acceptance for animal and epidemiologic studies.

A second time-wasting exercise is the inclusion of so-called "boiler-plate" portions in every standard regardless of applicability or practicality. In an attempt to reduce the inclusion of specific, detailed, costly, and probably meaningless industrial hygiene requirements, OSHA has included model quidelines in the Cancer Policy. These Guidelines are to be used in the development of standards whose provisions will be tailor-made to the effective control of each individual substance, which is determined to be a potential occupational carcinogen.

COST OF COMPLIANCE

Question: Have you estimated the compliance cost imposed upon the public by your regulations? What are they?

Answer: We provide estimated compliance costs for each proposed OSHA regulation as a regular part of the rulemaking process. We have not attempted to aggregate these costs, and therefore we do not have a total cost for compliance.

There are a number of reasons why a simple summing up of the compliance costs of OSHA regulations is inappropriate. First, the estimates themselves may not accurately reflect either the actual time pattern or the level of costs incurred. It is extremely difficult to forecast technological change and the degree of a learning curve phenomenon so that cost estimates are typically much higher than expenses actually prove to be.

A second reason why cost aggregation may be inappropriate is that where standards cover several substances in the same industries, or set increasingly stringent controls for the same substance, serious double counting may occur. A separate economic/regulatory analysis

is required for each rulemaking. Therefore, OSHA may separately study the costs of controlling several substances in the same industry. For example, each study may conclude that a ventilation fan is necessary. The same fan might insure compliance for all substances, but its costs might be counted in each separate control estimate. Another form of double counting could occur when increasingly stringent standards are developed. An initial estimate will count the costs of going from current practice to compliance with the standard. If, at a later date, the standard is made more stringent, but not all firms are in compliance with the previous standard, the costs of going from current practice to the new standard will double count some previously estimated costs. For these reasons, we feel that aggregation would not accurately portray total compliance costs.

Question: Are you familiar with the estimates by the Center for the Study of American Business that in 1976 the compliance costs were $3.23 billion? Would you please comment on that estimate?

Answer: It is our firmly held opinion that the Center for the Study of American Business estimates are not valid. Of the $3.23 billion of costs, $3.2 billion are taken from a McGraw-Hill Survey. First of all, these are capital costs that were incurred in 1976, they are not annual costs. Second, the figures were obtained by simply asking corporate financial officers how much they spend on health and safety. Thus, the figures are allegedly all health and safety costs, not just OSHA-mandated expenses. Reputable scholars, such as Edward Denison in his "Accounting for Slower Economic Growth" (Brookings: Washington, D.C., 1979), have recognized the shortfalls of this approach. Finally, the McGraw-Hill data do not explain how corporate managers were able to separate health and safety from other forms of investment where the two may be embodied in the same item of capital equipment. Thus, we do not believe that the Center's estimate is a reliable measure of OSHA's cost.

Question: What have you done to estimate compliance costs and what efforts are you making to develop cost/benefit analyses for each regulation promulgated by OSHA? How much do these cost/benefit analyses figure into your decision to promulgate a regulation?

Answer: We estimate the costs for compliance with all proposed OSHA regulations, and perform comprehensive regulatory analyses for those predicted to cost more than $100 million or which otherwise qualify as major actions according to Executive Order 12044. Our analyses attempt to estimate costs for the alternatives which can be identified to achieve the regulatory objective of producing a safe and healthful work environment. The decision of whether to pursue a regulatory option is based upon a careful review of the illness and injury data related to the regulation. The regulatory assessment then becomes a tool for decisionmakers to use in selecting from one or more options, each of which achieves the regulatory objective. Among the benefits considered are mortality/morbidity reductions, reduced associated pain and suffering, and concomitant productivity improvements, technology forcing, and reductions in medical expenses. Because of its legislative mandate, the overriding concern of the Agency must be the maximum concern for worker health and safety.

FEDERAL AGENCY PROGRAMS

Question: What would be your reaction to an amendment requiring the Federal OSHA Agency to inspect on a random basis and fine other Federal agencies, the same way that OSHA carries out enforcement in private industries?

Answer: Under the Act, both the Federal employer and the private employer are held responsible for the safety and health of their employees. However, in the private sector OSHA is given an important enforcement role involving unannounced inspections, citations, and penalties that function as incentives to employers to provide safety and health protection for their workers. There are not comparable incentives for managers of Federal agencies. However, significant steps have been taken to strengthen Federal workplace safety and health programs.

Just last month, President Carter signed a new executive order which broadens the responsibility of Federal agencies for protecting their workers, expands employee participation in occupational safety and health programs and spells out circumstances under which OSHA can enter and inspect Federal workplaces. Although individual agencies are still solely responsible for protecting their workers from job hazards, the new order encourages the establishment of joint labor-management committees to monitor and assist Federal agencies with their safety and health duties. These committees will be composed of equal numbers of management and employee representatives. The order also requires agencies to comply with the same standards applicable to the private sector; to conduct periodic inspections; to respond to employee complaints within prescribed times; to develop and share abatement plans with workers when hazards cannot be immediately abated; to protect employees from discrimination or reprisal for safety and health activities; and to allow workers official time to participate in the occupational safety and health programs of Federal agencies. To assure full implementation of this new executive order, OSHA will issue rules for program operations, continue to evaluate agency programs on a regular basis, and conduct workplace inspections in agencies that do not establish committees.

The new executive order allows OSHA to conduct unannounced inspections on either a general schedule basis, or in response to Federal worker complaints of unsafe conditions, in those Federal workplaces where a joint labor-management occupational safety and health committee has not been established. The order requires OSHA to provide the agency head with a written report of its findings regarding unsafe or unhealthful conditions, and obliges the agency head to abate such hazards. The order does not provide for monetary penalties to be assessed against agencies, nor does OSHA support an amendment to this effect. The incentive effects of monetary penalties by one Federal agency against another are not clear: such penalties would require a transfer of funds from agency accounts to the Treasury or some special account, and would therefore reduce funds appropriated by Congress for stated statutory purposes. It is more the public interest than the agency that would be penalized. Additional experience with the new executive order will be needed before considering what additional sanctions may be helpful in fostering compliance by Federal managers with occupational safety and health standards.

INSPECTION OF MIGRANT LABOR CAMPS

Question: How does enforcement activity in migrant labor camps compare with enforcement activity in other agricultural operations and in each of the six major industry groupings?

To answer this question, we would like information on the following:

(1) Number of establishments;
(2) Number of workers;
(3) Illness/injury rate;
(4) Number of violations (serious and non-serious, respectively); and
(5) Dollar amount of penalties assessed (for both serious and non-serious violations, respectively)

For each of the following industry groups:

(1) Migrant labor camps;
(2) All agricultrue covered by OSHA (including migrant labor camps);
(3) Construction;
(4) Manufacturing;
(5) Transportation;
(6) Wholesale and retail trade;
(7) Finance, insurance, and real estate; and
(8) Services.

Answer: A table with the requested information follows. For each category of data, we have provided the latest information available to us at this time. 1979 data is available for OSHA inspections; however, only 1977 and 1978 data is currently available for the other data categories.

ENFORCEMENT ACTIVITY IN AGRICULTURAL MIGRANT LABOR CAMPS AND MAJOR INDUSTRY GROUPS

Industry Classification:	1977 Number of Establishments 1/	1978 Number of Workers 2/	1978 Illness/Injury Incidence Rate 3/	OSHA Inspection Data: 4/ Violations Cited Serious	Other	Penalties Proposed
MIGRANT HOUSING.....	N.A.	N.A.	N.A.	187	1,142	$ 25,800
MAJOR S.I.C. GROUPS:						
Agriculture, forestry and fishing..... 5/	41,600	890,800	11.6	194	1,459	134,500
Construction.....	439,400	4,271,000	16.0	9,661	17,639	6,757,000
Manufacturing.....	327,900	20,476,000	13.2	26,682	50,899	17,363,200
Transportation and public utilities.....	166,500	4,927,000	10.1	N.A.	N.A.	N.A.
Wholesale and retail trade.....	1,638,500	19,499,000	7.9	2,028	5,554	1,189,200
Finance, insurance and real estate.....	413,100	4,727,000	2.1	69	177	84,700
Services.....	1,233,700	15,891,000	5.5	1,249	3,753	833,700

1/. Source: U.S. Department of Commerce; County Business Patterns (1977).
2/. Source: Bureau of Labor Statistics; Average Annual Employment (1978).
3/. Source: Bureau of Labor Statistics; Occupational Injuries and Illnesses for 1978. The incidence rates represent the number of injuries and illnesses or lost workdays per 100 full-time workers.
4/. Source: Occupational Safety and Health Administration; MIS Data (October 1978 - September 1979).
5/. Excludes farms with fewer than 11 employees. Includes data for migrant housing inspections.

MINE SAFETY AND HEALTH ADMINISTRATION

STATEMENT OF ROBERT B. LAGATHER, ASSISTANT SECRETARY

ACCOMPANIED BY:
JOSEPH O. COOK, ADMINISTRATOR, COAL MINE SAFETY AND HEALTH
ECKEHARD MUESSIG, DEPUTY ASSISTANT SECRETARY FOR MINE SAFETY AND HEALTH
THOMAS J. SHEPICH, ADMINISTRATOR, METAL AND NONMETAL, MINE SAFETY AND HEALTH
RICHARD BAKER, BUDGET OFFICER

BUDGET REQUEST

Senator BURDICK. Now we will move on to the fiscal year 1981 budget for the Mine Safety and Health Administration. This year's budget request is for $156.7 million. This amount is $16 million over last year's request. In addition, you are asking for a supplemental of $3.4 million.

Robert B. Lagather, the Assistant Secretary for Mine Safety and Health, is here with us this afternoon to discuss the fiscal year 1981 budget request. Mr. Lagather, would you please introduce your associates and proceed with any opening comments you might care to make before we begin the committee questioning.

Mr. LAGATHER. Thank you.

INTRODUCTION OF ASSOCIATES

Appearing with me is Mr. Eckehard Muessig, Deputy Assistant Secretary for Mine Safety and Health; Mr. Richard Baker, Budget Officer. On my left is Mr. Joseph O. Cook, Administrator for Coal Mine Safety and Health, and on his left is Thomas J. Shepich, Administrator for Metal and Nonmetal Mine Safety and Health.

Mr. Chairman, I appreciate this opportunity to appear before your committee to present the Department's mine safety and health program for fiscal year 1981.

Our request for fiscal year 1981 totals $156.7 million and covers 3,810 positions to conduct mine health and safety activities of enforcement, assessments, education and training, and technical support.

A total of $95.8 million and 2,796 positions is requested for enforcement activities; $6.8 million and 182 positions are requested for our assessments program; $5.2 million and 95 positions are requested to operate the National Mine Health and Safety Academy, which was transferred from the Department of the Interior last year; and $11.8 million and 149 positions are requested for our education and training program.

A total of $6 million is included for our State grants program.

A total of $25.2 million and 411 positions is requested for MSHA's technical support program.

A total of $12 million and 177 positions is requested for program administration which provides for effective executive direction and administrative management support for our safety and health programs.

This concludes my prepared statement. I welcome this opportunity to answer any questions you have regarding our budget request.

[The statement follows:]

Statement of Robert B. Lagather

I appreciate this opportunity to appear before your Committee to present the Department's mine safety and health program for FY 1981.

Our request for FY 1981 totals $156.7 million and 3,810 positions to conduct mine health and safety activities of enforcement, assessments, education and training and technical support.

Enforcement

A total of $95.8 million and 2,796 positions is requested for enforcement activities in both coal and metal/nonmetal mines. These resources will provide for an estimated 21,140 complete health and safety inspections of coal mines and 23,200 complete health and safety inspections of metal/nonmetal mines. In addition to these complete inspections, other followup inspections and investigations will be conducted to assure that violations against health and safety standards cited during the regular inspections are corrected and that mines are operated in a safe and healthful manner.

Assessments

A total of $6.8 million and 182 positions is requested for our assessments program in FY 1981.

The objectives of our assessments 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. The FY 1981 request will permit us to continue to assess all violations in an efficient and effective timeframe and to conduct a conference program to give the operators and miners an opportunity to discuss the violation assessment. This approach has resulted in the settlement of 80% of the violations without going through the formal adjudication process.

National Mine Health and Safety Academy

On July 25, 1979, the National Mine Health and Safety Academy was transferred to the Department of Labor. In FY 1981, a total of $5.2 million and 95 positions is requested to operate the Academy. These resources will permit the Academy to continue to provide intensive training for MSHA inspectors and personnel, as well as other mining industry personnel.

Education and Training

A total of $11.8 million and 149 positions is requested for our education and training program. These resources will be used to review, approve, and monitor the training plans and programs of all mining operations. Programs to qualify industry personnel to conduct training or to conduct tests of work areas and equipment for hazardous conditions will continue.

A total of $6.0 million is included for our State Grants programs. During FY 1980, we received proposals from 33 States and anticipate the same high level of State interest and participation in health and safety programs in FY 1981.

Technical Support

A total of $25.2 million and 411 positions is requested for MSHA's 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. This amount includes a $7.3 million increase which is requested to provide a new structure for the consolidation of the Approval and Certification Center and the Mining Equipment and Safety Laboratory and to purchase the eastern Mine Emergency Operations Facility. Technical assistance to mine operators in a variety of safety and health matters is also provided. Providing mine rescue equipment and assistance for rescuing miners trapped in emergency situations is also included in this program.

Program Administration

A total of $12.0 million 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.

Language Change

I would like to explain why we are requesting deletion from MSHA's FY 1981 appropriation of the language attached to the FY 1980 appropriation prohibiting us from expending or obligating funds to carry out Section 115 of the Mine Safety and Health Act or that portion of Section 104(g)(1) relating to the enforcement of any Section 115 training requirements with respect to shell dredging, or any sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mine.

I am deeply concerned about the health and safety of present and future miners if this language is retained. The training provisions were specifically incorporated into the Federal Mine Safety and Health Act of 1977 after evidence had been presented which established that, all too frequently, miners received inadequate training or no training at all to prepare them for this extremely hazardous occupation.

Mr. Chairman, in fiscal year 1979, there were 114 fatalities in the metal/nonmetal mining industry. Sixty-four fatalities occurred in those segments of the mining industry in which we are prevented from enforcing the training requirements. A review of the actual work experience of the fatalities which occurred in those industries indicates that approximately half had less than 1 year of actual experience on the particular job they were performing at the time of their death. It is precisely these deaths, the deaths and injuries of the workers inexperienced at their job, that the training provisions are designed to prevent.

The 1977 Mine Act specifically did not exempt any segment of the industry from the training requirements. In fact, during the development of the 1977 Act, many industry representatives, including those associated with the sand and gravel and stone mines, stressed the importance of training as a necessary tool to reduce accidents and injury rates in the mining industry.

In each year since 1974, sand and gravel and stone operations have consistently accounted for half of all the metal and nonmetal

mining fatalities. In each of those years, the fatality rates for the surface stone and sand and gravel industries were higher than the rates for the surface coal mining industry. The methods and equipment used in the surface mining of coal are similar, if not identical, to the methods and equipment used in the surface mining of stone and sand and gravel. If one can assume that the fatality rate is one indicator of the degree of danger associated with an occupation, then this data clearly indicates that the surface stone and sand and gravel industries are at least as hazardous as the surface coal mining industry. I believe that the workers in those industries from which we are currently prohibited from enforcing the training requirements deserve at least the same protections as the workers in the surface coal mining industry.

It has never been our belief that MSHA's efforts alone will result in reduced accident and fatality rates. We sincerely believe that it is through a coooperative effort between labor, management and government that mining may become as safe and healthful an occupation as any individual may choose to enter. The training provisions provide a forum for all segments of the mining community to work together to reduce accidents and injuries.

Mr. Chairman, I sincerely believe that the training rules do not impose a significant burden on the shell dredging, or sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone operations. This is borne out by the fact that approximately 90% of the active mining operations in these industries had submitted acceptable training plans prior to attachment of the restrictive language. Therefore, I strongly urge deleting the language which prohibits us from ensuring that these important provisions of the Act be effectively used in promoting health and safety in all mines.

In summary, Mr. Chairman, we are requesting an increase of $12.0 million to conduct the Mine Safety and Health programs for FY 1981. There will be no decrease in our program output although our request for positions represents a decrease of 47. Funds requested for construction will provide a modernized testing laboratory and increased efficiencies in the future years.

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.

REDUCTION OF COAL MINE INSPECTIONS

Senator BURDICK. Your budget justification shows an overall reduction of coal mine inspections, from 77,000 down to 72,000.

What types of inspections are being reduced? Why will there be less inspections, since you propose no cuts in enforcement staff?

Mr. LAGATHER. Mr. Chairman, almost all of our inspections are required by the 1977 statute and many are specified in terms of frequency—that is four complete inspections for each underground mine, two per surface facility annually, once every 5, 10 or 15 days for gassy mines, depending upon gas liberation, et cetera.

We will continue to make these types of inspections. Other inspections do not have these specific frequency requirements. These types of inspections are normally to check on a particular area of the mine—a spot inspection, information-gathering inspections such as nonfatal accident investigations, or to check specific details of mining plans.

We feel that if we concentrate on the more comprehensive regular inspections, we will have a better understanding of other mine conditions than if we continue to make the spot-type of inspections.

We estimate that in 1981, there will be a net increase of 337 mines, 289 of which will be underground. With this anticipated increase in mines and as the law requires, we must make the required number of inspections that are specified in the act. These inspections will be more thorough and include a review of all activities within the mines.

At the present time, production is off. In the Appalachian region, there are about 20,000 miners out of work because of part-time activity, shut down of producing sections, or temporary closures.

Senator BURDICK. You mean they are closed down?

Mr. LAGATHER. Yes, some areas are hard hit because the entire mine is closed down, or part of it is out of production.

Senator SCHMITT. You will have to speak up. The hearing reporter is behind you, and she can't hear you.

ENFORCEMENT STAFF

Senator BURDICK. I have not made myself clear with you gentlemen. My point is, why do you have to have as much enforcement staff when you inspect fewer mines?

Mr. LAGATHER. An inspection may take less than a day or it may take more than 10 days. What you have in those gross numbers are a combination of many types of inspections taking different lengths of time. What we are trying to say is that in fiscal year 1981, we will be doing more complete mine inspections which take longer—several days instead of part of a day—and less of the partial mine inspections. Consequently, we do not expect to reduce actual presence at the mine.

PRESIDENT'S COMMISSION ON COAL

Senator BURDICK. The President's Commission on Coal just released a report citing major differences in the safety records of larger coal companies and called for an immediate investigation by the National Academy of Sciences of the facts that distinguish the safest from the most dangerous mines.

What is already known about the facts that lead to safe mining conditions? Do we really need another study, and what is being done to concentrate on reducing hazards at those mines with the worst safety records?

Mr. LAGATHER. Let me start out by saying that I was on the Coal Commission Task Force and supplied them with the statistical data that you reference. We are doing some statistical analysis with our limited analytical staff, but it is always difficult to determine why some mines have better records than others. There are many factors that may affect mining conditions such as geological conditions on the mine itself, the technological design of the machinery, and the human element. We have been trying to approach this problem from many angles.

For example, in geology, we are using satellites to photograph mining areas and to identify faults as part of our roof control program. We are

working with the Department of the Interior in safety research to channel research money to areas where specific problems have been identified.

We have developed special programs in enforcement such as our resident inspection program where an inspector is at the mine during all working shifts. In our metal program, we have initiated a compliance assistance visit program to help operators identify hazardous conditions prior to actual operations. We are working with mine management in developing comprehensive education and training plans to assure that the miners are properly trained and to increase their awareness of safe working practices. In fiscal year 1981, we expect to do an in-depth analysis and evaluation of about 100 individual mine training plans.

We also have a technical assistance program to advise operators of how compliance can be achieved and assist in unique problem areas.

There is still much to be learned from looking more in depth in these areas. I would not object to the National Academy of Science conducting a thorough investigation of the factors that distinguish the safest from the most dangerous mines.

In response to the other part of your question, I have no objection to the National Science group making a study. They will be working with us. I think we are all interested in identifying these difficult areas in the industry. They will be working with us, the industry, and with employers' representatives and associations, trying to pinpoint problems, and really, Senator, that's what we are trying to do.

We, for instance, know exactly where every accident occurs and what causes it, we investigate it, and we are trying now to pinpoint areas that we can try to cure either with new regulations or cooperation with everyone else in the industry. I will point out to you last year we had 66 deaths in the calendar year that resulted from roof falls, and so we are trying a new approach. That was by far the biggest killer, and I have gotten together with the Bituminous Coal Operators Association and the union, and we together are studying what is a very serious problem for the whole industry, and that joint committee is going to work with the mine people for a technique to come up with a solution.

It may be that regulations will be required where no one is allowed under an unsupported roof, or there may be other solutions that we may be able to come up with that people have been involved with in the industry that can level that terrible total off.

ROOF FALLS FATALITIES

Senator SCHMITT. What was the previous few years total? Is that a doubling of deaths from roof fall?

Mr. LAGATHER. It has varied, Senator. In 1977, it was 38, in the fiscal year. In 1978, it was 42, and last year it was 55.

Senator SCHMITT. Generally unsupported roofs? Does it have anything to do with a shortage of bolts?

Mr. LAGATHER. No, no; as a matter of fact, we were very careful. Every mine has to have a roof control plan, and they have to have a copper metal base on the roof bolts. Our investigations—and we investigate every one of these accidents—indicate accidents occurred either

while they were under there putting up temporary jacks or going in to set up the roof bolts. There are many other reasons.

You find that of these number of deaths, 12 of them were foremen. Some of these men had told their miners, "I don't want anybody under that unsupported roof because it's dangerous," and they walk right up there with a methanometer or some other instrument to do something, and the roof caves in.

So what's needed is training for the supervisors, training for the miners, and for God's sake, testing.

Senator SCHMITT. They are not concentrated in any specific mine or a new mine that didn't open up that had a particularly bad back or roof?

Excuse me. I come from hard mining country. There's nothing like that?

Mr. LAGATHER. No; it's straight across the spectrum. Some of it is sheer carelessness. Some of it occurs while they're in there setting up temporary jacks, and before they ever get the jack or the two jacks or whatever they were trying to set in place.

We now have what we call temporary roof support machines which we have been pushing very hard, and many of the big companies are adopting them. It leads you to the conclusion, that we should come out with a regulation that requires temporary roof support machines.

Senator SCHMITT. Of course, that has to do a great deal with the economics of a particular mine.

Mr. LAGATHER. That's right.

SEMIAUTOMATED MINING

Senator SCHMITT. I think largely because of new technology, plus semiautomated mining, that maybe we're going to get rid of a lot of these problems. You just let the roof fall behind you and don't worry about it. There is a whole spectrum of technologies here, that hopefully are coming along, that within a decade we will be able to avoid the problems because we won't endanger mining personnel.

Mr. LAGATHER. We are working very closely. We are trying to be very careful, working with the industry and the unions that represent them. We are asking them to tell us their problems. We are looking at the equipment. They are actually going out together. I think this is the first time that I ever recall—and I've been in this industry for a long time—where the joint committee of the industry, the union, and our people visited a large number of mines to iron out problems that the industry might be having.

PRODUCTION AND ACCIDENTS

Senator SCHMITT. There is nothing here to indicate that we are pushing production to the point where people are starting to get careless because we are trying to make production schedules or something?

Mr. LAGATHER. There is some of that. It is always a concern to me. I don't think they are really doing it. I think there is a much greater consciousness on the part of the companies and on the part of the leaders of the union that they want safe and healthy working conditions, because they get better production and an improved public image, which they are now concerned with.

One thing that bothers me is that I have a feeling where you have steady work over a long period of time, where you don't have mines closing because of economic conditions, your health and safety record is much better. When miners are unemployed in a certain area for 1 or 2 months, because of working conditions, or economic conditions, and then rush back in, we try to get in there before they do and check the overall conditions.

Nevertheless, that can result in exactly what you are saying, Senator.

Senator SCHMITT. Well, management and labor are trying to get in there and earn back what they have lost.

Mr. LAGATHER. Right; so I prefer the steady working conditions and the greater use of coal, really.

NEW MINES PRODUCTION

Senator SCHMITT. What percentage of the increase will the new mines represent? You said what? 250?

Mr. LAGATHER. Last year I think we had——

Senator SCHMITT. Of the new coal mines, what percentage is that? Is that a 10-percent increase?

Mr. LAGATHER. No.

Senator SCHMITT. So it's not anything like that. It's either a question of more mines or more working. Is it because of an increased exposure?

Mr. COOK. Yes.

Senator SCHMITT. So it's partly just an increased exposure to risk?

Mr. COOK. And then, of course, we talk about west of the Mississippi. I can remember about 10 years ago west of the Mississippi, we mined about 80 million tons of coal a year. Last year it was 235 million.

Mr. LAGATHER. It may startle you, Senator, but 63 percent of the coal last year was produced in the West.

Senator SCHMITT. It doesn't startle me a bit.

Senator BURDICK. You've got that fine quality lignite coal out there. [Laughter.]

Senator SCHMITT. You mean that peat moss? [Laughter.]

Mr. LAGATHER. But I think what I'm trying to get across is what we are really trying to do—because we estimate this next year there is going to be over 800 million tons mined—is work cooperatively with the coal industry, getting better safety and health.

ACCIDENTS PREVENTION AND GEOLOGY STUDIES

Senator BURDICK. Well, these accidents that occurred during the period of setting up the structures or supports, it didn't actually occur after the supports were in place and you were mining coal?

Mr. LAGATHER. Some did.

Senator BURDICK. Some, but most of them——

Mr. LAGATHER. You can have the best building system in the world, and we've had situations where 70 feet of roof just comes down in one big slab.

Senator SCHMITT. Are we doing enough geology research? Are we moving so fast that we are ignoring the geological conditions?

Mr. Cook. We are using standby energy now.

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Senator SCHMITT. Yes; I'm aware of that.

Mr. LAGATHER. We're finding great success with it.

Senator SCHMITT. You'd be amazed how hard it was to sell that, though, about 1974.

Mr. LAGATHER. But the more we see it—1½ years ago, we had to go to the——

Senator SCHMITT. But in terms of knowing the stratography and where you may have a zone in a particular area coming in, it's going to give you a weak back.

Mr. LAGATHER. There is more of that being done, but not enough.

Senator SCHMITT. Production is outstripping the available supply.

You will have to speak up. The recorder can't hear you.

Mr. LAGATHER. I am usually accused of shouting.

Senator SCHMITT. Causing the roof to fall because you're talking too loud? That's a new accusation. I'll have to remember that. You're the cause of roof accidents. [Laughter.]

EFFECT OF MINER TRAINING

Senator BURDICK. What are your statistics on the effect that the miner training provisions had on the fatality and injury rate among miners, between the time that training regulations went into effect and the time that Congress suspended training regulations for surface metal and nonmetal mines in fiscal 1980 appropriations legislation?

Mr. LAGATHER. I know what you're talking about, and at this moment I can't give you statistics, because we are really in the first year of evaluating what education and training can do, but I am absolutely convinced that education and training is the cure for all of this, and I think that most of the companies have become convinced of that. Although we have, as you know, some difficulties in certain areas with regard to what you do and what you have to do.

In the last 3 or 4 months, that's really calmed down to a great extent. We think our education and training program and our people working with the company's education and training program are being effective.

If you're asking for statistics, I'll have to provide them because we really didn't get those.

Senator BURDICK. Remind me to ask them this when we come back.

Mr. LAGATHER. I'll be ready.

Senator BURDICK. Well, gentlemen and ladies, I appreciate your coming. We have some more questions, and we would like to get some timely responses, and I believe you will also receive some questions from Senator Robert Byrd and Senator Jim McClure and Senator Schmitt will have some more. In fact, any member of the committee could have some more, as far as that's concerned.

So we're not going to set any time limit, but try and reply as soon as you can.

Mr. LAGATHER. We will try to get them in as promptly as we can.

Senator BURDICK. Fine.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

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MINER TRAINING

Question: What are your statistics on the effect that the miner training provisions had on the fatality and injury rate among miners, between the time that the training regulations went into effect and the time that Congress suspended training regulations for surface metal and nonmetal mines in the fiscal 1980 appropriations legislation?

Answer: The effects of training on fatality and injury, as in many accident reduction measures, will take some time before they can be detected in the statistics. We are now essentially only in the first year of evaluating the impact of the training regulations and it is too early to find any meaningful trends. However, it is commonly recognized that effective safety education and training is probably the most important factor in reducing accidents.

INDUSTRY COMPLAINTS

Question: Recently, I have received some complaints from New Mexicans that labor may be using OSHA and MSHA as avenues to pressure management when it cannot gain desired results from collective bargaining. Are you aware of any such complaints against your respective organizations? Would you comment on the possibility of your organizations being used by labor for this purpose? What do your organizations do to assure that they are not used by labor to harass management?

Answer: The Mine Safety and Health Act of 1977 applies to all mine employees, whether or not they are organized. It grants them various rights, some of which may be similar to rights which exist or have been bargained for under collective bargaining agreements. MSHA will protect employees in the exercise of the Mine Act rights. In some cases, miners may utilize parallel proceedings of both MSHA and their collective bargaining units to achieve certain results. For example, an employee who has been disciplined may file both a union grievance and an MSHA discrimination complaint. It is quite possible that the employee could win his/her grievance case, but lose the MSHA discrimination action if the activity for which he/she was disciplined is protected by contract, but not by the Mine Act. If MSHA's investigation does not indicate that the miner was discriminated against for the exercise of Mine Act rights, MSHA will not pursue the case.

Miners also have the right, under Section 103(g) of the Act, to request and receive an immediate MSHA inspection if they believe a violation of a mandatory health or safety standard exists. If the inspector agrees that the violation exists, the operator will be required to abate it. It is certainly possible that the miners may have earlier attempted to correct the condition through collective bargaining mechanisms, but MSHA cannot allow this factor to affect the performance of our responsibilities under the Act. If any complaint received by MSHA concerns Mine Act requirements, MSHA takes appropriate action. If a complaint is not related to the Act, MSHA will not--and cannot--become involved. MSHA, to the best of our knowledge, has not received any complaints from New Mexicans that labor is using this agency as an avenue to pressure management when it cannot gain desired results from the collective bargaining process.

MSHA co-sponsors seminars like the "Coal Mine Illumination Seminar" and "Exhibit 1980" in order to inform coal operators and representatives of the miners of new regulations and technological developments. Coal mine illumination seminars are held periodically to present the latest information to persons who are responsible for the illumination of working places in underground coal mines. The seminars are held at various locations throughout the coal mining regions of the country. Information presented includes: current regulations and enforcement policies applicable to underground coal mine illumination, practical solutions to illumination problems, results of research on coal mine illumination, and recent developments in lighting system hardware.

The West Virginia University (WVU) Conference on Coal Mine Electrotechnology is conducted every other year at WVU in Morgantown, West Virginia. The conference is sponsored by the WVU Institute of Electrical and Electronics Engineers and the U.S. Bureau of Mines in cooperation with the Mine Safety and Health Administration. The conference provides a forum for technology transfer in the areas of electric power systems, electronic communications, detection and location of trapped miners, and electronic sensors and monitoring systems.

MSHA continually participates in and/or co-sponsors meetings, seminars, and conferences to work with industry and labor groups alike to understand and comply with the provisions of the statute. We believe that through these types of meetings we are assisting the mining industry. Listed below are some specific examples of this type of cooperation and assistance.

1. Meetings co-sponsored with the Colorado School of Mines such as the recent Sputum Cytology Conference.

2. Participation in conferences held by trade associations such as the American Mining Congress. MSHA will be speaking at this organization's upcoming International Coal Show.

3. Cooperation with the Bureau of Mines in conducting symposiums around the country on various mining topics.

Question: Assessment reductions made by a field assessment officer based upon evidence submitted at an assessment hearing have been reversed by the Arlington, Virginia Office of Assessments. On what basis have these reversals been made? Is the operator given an opportunity to contest these reversals? If so, when and where has such an opportunity been given?

Answer: The field assessment offices are supervised and controlled by assessment officials in the headquarters office in Arlington, Virginia. The Director of Assessments in Arlington is responsible for all assessment activity. Only on very rare occasions has the Director taken personal control of a case and, in those cases, control was exercised with the best technical and legal advice available. If there is a question regarding a specific case, we would be prepared to respond.

Mine operators have two courses of action regarding Assessment decisions. The Director of Assessments can be contacted personally, and the proposed assessment of penalty may be contested before the Federal Mine Safety and Health Review Commission.

MINER HEALTH AND SAFETY

Question: Have you seen any reduction in the number of fatalities, injuries, and illnesses among miners since the new stronger mine safety and health law went into effect?

Answer: Probably the 1977 Act will have a greater effect on metal and nonmetal mining than on coal mining fatality and injury statistics because the Federal Government has had a strong active enforcement role in coal mining for a number of years. The 1977 Act amended the Coal Act and brought all mining operations under a single, comprehensive enforcement structure. One of the reasons for amending the Coal Act was because that statute had demonstrably improved the health and safety conditions in the coal mines since its effective date. It should be emphasized, however, that the mandatory health and safety standards remain separate and distinct for metal/nonmetal and coal.

During 1979, the first full year of operation under the 1977 Act, the number of fatalities in metal and nonmetal mines decreased from 136 to 123. However, it is still too early to determine the full impact the Mine Act will have in reducing the number of fatalities, injuries, and illnesses among miners. One of the major provisions of the 1977 Act is the requirement that all miners receive comprehensive safety and health training. This provision became effective only during 1979, and the impact of training in reducing accidents and illnesses is not immediately measurable. Similarly, most occupational illnesses result from prolonged exposure to health hazards, and the results of improved control of these hazards will not appear for years.

MSHA recognizes that reductions in deaths, injuries, and illnesses do not result solely from its enforcement efforts. Rather, these reductions represent a cooperative effort among all segments of the mining industry. We believe the Mine Act strengthened these relationships and provided increased incentives for cooperation.

Question: In what categories of mining have there been increases in injuries and fatalities since the law went into effect?

Answer: There was an increase in fatalities at metal/nonmetal milling operations from 32 in 1977 to 38 in 1978, but a decrease to 28 in 1979. Under the new Act, the number of reported nonfatal days lost injuries has increased in all categories.

The statistics listed below reflect the fatalities by categories experienced in coal during the years 1977, 1978, and 1979. It should be noted that for three months in 1978, approximately 50 percent of the mines were on strike.

	1977	1978	1979
Roof Fall	38	32	66
Haulage	28	27	36
Machinery	22	13	11
Electrical	11	13	12
Other	40	21	19
	139	106	144

In August 1979, MSHA initiated a roof control hazard alert to stimulate miners' awareness of the alarming frequency with which fatal and serious roof and rib-fall accidents have occurred. In development of this program MSHA has offered the assistance of Coal Mine Safety and Health personnel.

In addition, there have been increases in nonfatal disabling injuries in underground and surface coal mining operations.

ONSITE CONSULTATION

Question: Under your new CAV program, why can't you permit onsite consultation inspections when the mine is operational, as in the OSHA onsite consultation program, through grants and contracts with States?

Background: "CAV" stands for "Compliance Assistance Visits." On November 11, 1979, CAV went into effect in the metal and nonmetal mining industries. Under this program, personnel will point out mining violations without penalties being assessed. However, the CAV program is applicable only to new mines not yet producing, and seasonal, closed or abandoned mines prior to reopening.

Answer: MSHA, unlike OSHA, does not have the authority to cede any of its Mine Safety and Health Act inspection responsibilities to the States. Thus, there are no State plans into which we can incorporate a system of CAV's or onsite consultation type visits. Further, MSHA believes that one of the strengths of our CAV program is that the inspectors performing the CAV's are the same safety and health professionals who are responsible for enforcing the provisions of the Act and the mandatory health and safety standards promulgated under it.

MSHA does have a State grant program, through which we make grants to States for various purposes. The amounts and purposes for grants are determined on the basis of applications submitted by the States themselves. If a State submitted an application for such a program, we would accord it the same consideration as all other applications.

MSHA limits its CAV program to mines which are not in operation for a variety of reasons. Mines which have been closed for a significant period are likely to have a larger number of violations involving hazards created by deterioration of geographical and equipment conditions. New mines may also have hazards undetected during construction, but which should be corrected before production begins. Mines which are operating continually are far less likely to be subject to these types of problems. Further, given the language of the Act itself, it is unlikely that the courts would uphold a failure by MSHA inspectors to issue citations when they found violations of the Act or the standards promulgated under it.

However, it should be emphasized that MSHA's Technical Support Staff are available to provide operators with assistance in solving specific problems. Technical support personnel may visit the mine during production shifts, and they do not issue citations.

NATIONAL MINE HEALTH AND SAFETY ACADEMY

Question: The National Mine Health and Safety Academy experienced annual increases in its use for each fiscal year through FY 1979. I note in MSHA's FY 1981 Budget Justification that student-days are being projected at a reduced level. What is MSHA doing to increase the awareness of eligible workers to obtain needed education at this Academy? What is the maximum student-days capacity for this institution and when would it be achieved under current projections? Please describe the new publications that will be developed during FY 1980 and FY 1981 by this Academy. What new courses could be offered?

Answer: MSHA has made a special effort to apprise various mining groups of the programs available at the National Mine Health and Safety Academy. We have worked closely with the United Mine Workers of America (UMWA) and others to develop meaningful programs for safety specialists. We have been complimented by the UMWA and other organizations for the training provided at the Academy.

During FY 1979, 2,500 mining industry personnel were trained at the Academy. The maximum capacity of the Academy, based on 350 resident and 50 commuting students is 100,000 student days. However, to reach this figure we would have to train a total of 400 students five days per week for 50 weeks. While we often exceed this total during the middle of the week, on the average, we operate at about one-half this level. Mondays and Fridays are typically low enrollment days, as many organizations use these days for travel. Additional student-days are lost because of last-minute cancellations. We are working to increase our weekend utilization. However, for the immediate future we anticipate our student load will level off at about 55,000 student days now that MSHA has completed its massive entry-level inspector training program.

The Academy has two publications series: Programmed Instruction Manuals and Safety Manuals. In addition, we will shortly initiate two additional series: Textbooks and Workbooks or Laboratory Manuals. To date, we have published 10 Programmed Instruction Manuals and 16 Safety Manuals. During FY 1980 and 1981 we hope to develop at least 6 additional Programmed Instruction Manuals, 5 Safety Manuals, 4 Textbooks and 4 Workbooks or Laboratory Manuals. In addition, we will issue updated versions of the Academy Catalog and the Student Handbook.

To date, we have developed and now offer 85 courses. In addition we have co-sponsored two annual regional Health and Safety Seminars with Marshall University. We hope to continue this series. Also, we are in the midst of an extensive task analysis to determine future training needs of newly employed mine inspectors. Additional courses will be developed as needed to complete this program and to meet the needs of any of our user groups.

INTERAGENCY COOPERATION

Question: MSHA has agreed to numerous memoranda of understanding with other Federal agencies. Please explain how these momoranda have been utilized during FY 1979 on coal mining issues. I am particularly interested in your cooperative efforts with the National Institute for Occupational Safety and Health.

Answer: MSHA has memoranda of understanding and interagency agreements with several other Federal agencies, including the National Bureau of Standards, the U.S. Air Force, the Department of Energy, the Bureau of Mines, as well as NIOSH. All of these agreements have a direct relationship to the promotion of mine safety and health.

For example, MSHA recently executed a memorandum of understanding with the Department of Energy (Office of Fossil Energy) to ensure that DOE will take safety and health considerations into account in its efforts to improve coal production and to cooperate in efforts to develop safe and productive methods of mining coal. We have had a similar agreement with the Bureau of Mines since 1978. The Bureau is currently working with MSHA to develop ways to control dust generated by the long wall underground coal mining system. In addition, there is an agreement with the U.S. Air Force to transport MSHA's mine rescue equipment during mine emergencies.

MSHA also cooperates entensively with NIOSH, on safety and health issues affecting both coal and metal and nonmetal miners. For instance, MSHA and NIOSH jointly approve respirators, respirable dust samplers and other health and safety instruments. In another area, the transfer of miners with pneumoconiosis, NIOSH is responsible for the medical aspects of the program involving taking and processing of miners' x-rays; but, MSHA is responsible for the enforcement of the HEW regulations in this area and for the transfer of miners which the x-rays show to have pneumoconiosis. Since 1976, MSHA and its predecessor, the Mining Enforcement and Safety Administration, have had a cooperative MSHA-NIOSH working group consisting of persons from each agency to define problems and approaches applicable to preserving the health of miners. An example was the prompt joint action in 1977 to revoke approval of respirable coal mine dust samplers that were malfunctioning due to inadequate quality control by the manufacturer.

On May 4, 1978, a formal memorandum of understanding was signed by MSHA and NIOSH which further defined the cooperative efforts. In addition, representatives of NIOSH attend and are members of applicable mine safety and health review committees. NIOSH also responds to MSHA requests for technical assistance and has conducted several health hazard evaluations. Finally, the Department of Labor has an official NIOSH planning group which submits to NIOSH on an annual basis, those departmental research requests which reflect the needs of ESA, OSHA, and MSHA. The group's first request was submitted for FY 1981.

DALLAS PIKE ACTIVITIES

Question: Please explain the range of activities that will be undertaken when MSHA completes the extension for its Dallas Pike facility. What forms of testing will be initiated at that time that cannot be undertaken now? In what ways will the new extension at Dallas Pike provide more efficient forms of testing and certification? Please explain how coal mining will benefit from an expanded Dallas Pike facility?

Answer: No new forms of testing are proposed in the extension of Dallas Pike unless directly warranted by the promulgation of new or revised standards regulating the approval and certification of mining equipment and materials. The extension of Dallas Pike will allow explosion environment testing to be performed and monitored

from a common control room with improved instrumentation, gas mixing, and control mechanisms.

The consolidation will result in increased program efficiencies. Presently, restricted explosive environment testing is conducted at both the Pittsburgh and Bruceton facility. Large scale testing of materials has been severely curtailed because of urban encroachment and the lack of sophisticated, expensive emission control devices. Locating the gallery at Dallas Pike takes advantage of the existing terrain, and with provision of adequate emission control technology, provides a scientific and safe environment in which to conduct tests.

The mining industry will benefit from the expansion of Dallas Pike through basic consolidation of the approval and certification program activities. Manufacturers of new high production coal equipment will have only one common testing facility to contact for submission of applications and for receiving professional assistance from mining equipment and materials engineers.

CONSOLIDATING TECHNICAL SUPPORT OPERATIONS

Question: How much of the additional $6.2 million requested for consolidating approval and certification activities and testing laboratories at Dallas Pike, West Virginia, is a one-time cost?

Answer: The total $6.2 million dollars requested will be utilized for one-time costs in constructing a new structure for the Approval and Certification Center's administration and general laboratories; relocating the explosion environment test galleries and other facilities to a remote area, and moving the mine illumination simulator from Beckley, West Virginia, to the Dallas Pike facility.

Question: How much is this consolidation expected to save over the long run?

Answer: The construction of the building, with a 40-year life expectancy on land donated to the Government will result in anticipated savings over the life of the building of approximately $470,000/year or over $18 million for the 40 years. This savings was computed by comparing the cost of renting with the cost of construction.

MINE EMERGENCY OPERATION PURCHASE

Question: Your budget proposed to purchase, at a cost of $1 million, the Eastern Staging Facility of the Mine Emergency Operation (MEO) located in Hopewell, Pennsylvania. What prompted this decision?

Answer: The primary reason is economy. Purchasing the Hopewell Facility and closing the Salt Lake City Facility will result in a saving of approximately $100,000 each year in rental costs. This can be realized with no diminution in response capability to a mine emergency because immediate response is provided by the local rescue team under the MSHA District in which the emergency occurs. Should the local team require assistance, the Hopewell operation can respond without delay. It is in close proximity to a major airport at which large cargo planes can be utilized to transport the equipment to the

mine emergency site anywhere in the country. To expedite this type of movement, each load of equipment has been palletized, weighed and the center of gravity determined. Air lifting has been coordinated with the Air Force through an existing memorandum of understanding which provides planes to accomplish the task.

Question: Who now owns this center, and why do you wish to purchase it?

Answer: The Hopewell facility is owned by Mr. Jack Gilberti. MSHA desires to purchase it to reduce long-term costs and improve overall facility utilization.

Question: How long have you been renting the Hopewell site and at what annual cost? Why won't the present landlord give you a long-term lease?

Answer: We have been renting the Hopewell site since July 1, 1976, a total of four years. Lease costs will have amounted to $249,100 at the end of FY 1980. Government contract restrictions limit this type of lease to a one-year renewable lease. The cost would presumably continue to increase and our overall objective would be to reduce costs and provide stability for our function.

Question: How much is in the budget to purchase the Mine Emergency Operations Center at Hopewell, Pennsylvania?

Answer: The budget contains $600,000 for purchase of the Hopewell facility. An additional amount of $400,000 is requested to make alterations to the building.

SUITABILITY OF MINE EMERGENCY OPERATION STRUCTURE

Question: To what extent is Hopewell ideally suited for housing, testing, and maintaining mine emergency equipment?

Answer: The Hopewell facility is within 10 miles of a major airport which provides for emergency airlifts.

Hopewell's lease costs are extremely cost effective--approximately 55 cents per foot. Other facilities would cost five to six times this in the Pittsburgh area.

Although Hopewell has ideal office and storage space, the building needs repairs.

Hopewell's available surrounding land provides for private surface testing of trucks and other equipment. There is ample maneuvering room for large, heavy truck loads into and out of staging buildings.

Question: Is there sufficient space at Hopewell to store the equipment that will be relocated there from your Salt Lake City facility?

Answer: Yes, adequate room is available for the additional equipment.

FREQUENCY OF MINE EMERGENCY OPERATION USE

Question: How often has Hopewell's equipment been used for locating trapped miners?

Answer: Since 1971, the Hopewell equipment has been used 12 times.

Question: Has this number declined in the nearly two years that the new law has been in effect?

Answer: For metal and nonmetal mining operations, the average number of violations per underground mine has declined by two since the 1977 Act has been in effect, but the average number per surface mine or mill has remained the same.

In coal mining operations, the average number of violations per surface mine has declined by one since the Act, but the average number per underground mine has increased by two.

REDUCED COAL MINE DUST

Question: What progress do you expect will be made to reduce the dust in mines, and how much will this reduce the level of black lung disease?

Answer: Substantial progress has been made in the past 10 years in reducing levels of dust to which working miners are being exposed. For example, a 1968-1969 survey of 29 mines revealed that a continuous miner operator was exposed to 6.5 milligrams of dust per cubic meter of air; a roof bolter, 3.9; a cutter operator, 5.9; and a loader operator, 6.0 milligrams of dust per cubic meter. Analyses of inspector samples in 1978 indicate that these same occupations' dust level exposures have been reduced to 1.3 to 1.5 milligrams per cubic meter.

During FY 1980, MSHA is proposing to promulgate new coal mine health regulations, which will put more emphasis on dust control. By putting more emphasis on dust control, it is believed that the dust levels throughout the coal mining industry will be reduced.

These regulations will assist MSHA in reducing the level of respirable dust by:

Requiring corrective action to be taken each time a high dust level is revealed.

Accelerating compliance determinations by analyzing dust sampling at the MSHA district in which a mine is located.

Requiring a written dust control plan at surface mines with dust control problems.

Requiring a person certified in respirable dust sampling techniques to be in the environment where dust samples are being taken to improve on the quality of the respirable dust level results.

Requiring operators to sample areas between the working sections and the entries to underground mines in order to ensure that these

areas of the mines have a dust concentration of 2.0 milligrams or less.

Requiring a series of samples from the area to which a miner with pneumoconiosis is transferred.

Reducing the time limit during which a miner with pneumoconiosis must be transferred to 15 days.

MSHA has requested that the Bureau of Mines assist with research on ways to control dust on long wall mining systems. The Bureau of Mines has initiated many research projects which MSHA believes will ultimately lower the dust levels in mines using this technology.

MSHA has also implemented a program to zero-in on repeated violators of the dust standard. This program is designed to apply more enforcement pressure and technical assistance to problem areas. In addition, MSHA is directing its efforts toward the development of a machine-mounted dust monitor which will continually measure coal dust levels.

MSHA is unable to answer the part of the question relating to the incidence of black lung disease. Representatives from NIOSH would have information about the effects of reduced dust levels in relation to black lung disease.

Question: What are the specific percentage increases or decreases in underground coal and metal and nonmetal mining injuries and fatalities since the Act went into effect in March of 1978?

Answer: In underground coal mining operations the number of fatalities increased from 67 in 1978 to 106 in 1979--a 58% increase, and the number of reported nonfatal disabling injuries increased 39%--from 9,864 in 1978 to 13,695 in 1979. While these figures are disappointing, we believe they are at least partially accounted for by a prolonged strike in the coal mine industry in 1978. In addition, underground coal production increased nearly 30% in 1979. When comparing fatalities and injuries to underground coal production in 1978 and 1979, the fatality and injury rates increased by 23% and 8%, respectively, in 1979 over the previous year.

In metal and nonmetal operations underground fatalities decreased from 39 in 1978 to 31 in 1979--a 21% decrease. During the same period injuries increased 19%--from 2,892 to 3,432.

Questions Submitted by Senator McClure

Question: What is the average number of violations per surface and per underground mine in the metal and nonmetal and in the coal mining industries, respectively?

Answer: For metal and nonmetal mining operations, an average of 9 violations per underground mine and three per surface mine or mill were issued in FY 1979.

During the same year, the average number of violations per surface coal mine was 7 and the average per underground coal mine was 61.

The large difference between violations in surface mines and underground mines is partially due to differences in the number of employees in each type of mine. The average number of employees per underground mine in FY 1979 was 75 and for surface mines the average number of employees was 29.

COVERAGE OF REGULATIONS

Question: Understanding that many MSHA regulations would concern the entire mining industry, why is it that all MSHA regulations blanket the entire industry even though they would be inappropriate to some districts?

Answer: MSHA's regulations are designed for the specific hazards which may be encountered by a specific segment of the mining industry. For example, MSHA's regulations for the coal mining industry were (and are) developed for that industry and are broken down into surface coal mining health and safety standards and underground coal mining health and safety standards. MSHA does not apply health and safety standards designed for the coal industry to the metal and nonmetal mining industry.

The health and safety standards which MSHA is enforcing at metal and nonmetal mining operations were designed specifically for that industry. Further, they were developed in the early 1970's by an advisory committee which was comprised of representatives from labor, management and State agencies. The standards which are being enforced at underground metal and nonmetal mining operations were developed by individuals knowledgeable about the health and safety hazards which can be encountered at underground metal and nonmetal mining operations. Similarly, the standards being enforced at sand and gravel and crushed stone operations were developed by individuals knowledgeable in the particular hazards which can be encountered at sand and gravel and crushed stone mining operations.

MSHA's standards are developed around specific types of mining operations rather than mining districts because the accident, injury and illness data indicate that it is the type of operation which presents hazards. That is, certain types of hazards can be encountered at sand and gravel and crushed stone operations, regardless of the size of the particular operation or its location. As a more specific example, guards are needed around certain types of equipment to prevent "pinch point" injuries. These types of injuries can occur if that equipment is unguarded, whether it is located in South Central Texas or Northeast Maine.

INSPECTOR EXPERIENCE

Question: Why are inspectors, with experience in a certain type and method of mining, required to inspect an operation for which they are totally unfamiliar?

Answer: MSHA's inspectors are hired after approximately five years of practical mining experience. They are then all formally trained in the standards they will be enforcing and MSHA's enforcement policies and procedures. Generally, MSHA assigns its inspectors to the type of operation they have worked in before, as they would then have had practical experience in the "workings" and hazards of

that particular type of operation. However, MSHA does not permit an inspector to inspect the operation where he/she was formerly employed during his/her first two years of MSHA employment.

After enactment of the Federal Mine Safety and Health Act of 1977, MSHA had to recruit approximately 400 inspectors in order to carry out its responsibilities under the Act. Because it had to recruit so many new inspectors in such a short period of time, an individual whose practical mining experience had been in underground silver mining may have been inspecting surface open pit mines. However, MSHA has attempted to keep this situation to a minimum, and all MSHA inspectors are well trained in the hazards to look for at the particular operations they are inspecting. Their training also includes on-the-job training, during which all MSHA trainees are accompanied by an Authorized Representative to ensure that they are familiar with the kinds of operations they will be inspecting and the hazards which may be encountered at those operations.

MINE OPERATOR INQUIRIES

Question: Why are many MSHA inspectors reluctant to offer answers to mine operators' questions such as "How may we do this particular function safer?" For example, a question was posed to a team of four inspectors at a mining operation which they all refused to answer on the basis that there would be four different answers. If an inspector does not know how to answer a safety question, how and why is he hired and trained?

Answer: MSHA inspectors are instructed to answer mine operators' questions on how to make operations safer. They may suggest several alternative means to achieve this and leave the decision to the operator's prerogative. There are various solutions to some safety and health problems and it is not inconceivable that our inspectors may have different views. We would be interested in further particulars regarding the "team of four inspectors."

If the question is highly technical, they may refer the operator to our Technical Support Staff who would have the expertise in that particular situation. The standard procedure is for the operator to request assistance from the District Manager. If the problem is beyond the capabilities of the safety and health specialists in the District, then the assistance of Technical Support is requested.

UNIFORMITY OF CITATION STANDARDS

Question: Citable offenses, their number and severity and judgment of what is citable, vary greatly from district to district, and even from mine to mine within a district. Is this fair and impartial treatment under the law, or are inspectors encouraged to use discriminatory judgment varying with mine operators? Two examples--in several districts the mine operator is cited if any miner is seen not wearing safety glasses; in other districts only miners employed near eye hazard risk areas need glasses. In most districts it is a citable offense to have miners working out of the raised bucket of a loader, yet in another district inspectors ask to be raised in the bucket to check the back for loose ground. Is this fair and impartial treatment?

Answer: Within broad categories of mining, citable offenses do not vary from district to district or from mine to mine within a district. For example, violations citable in an underground coal mine in Kentucky are also citable in an underground coal mine in West Virginia. In the examples cited, MSHA requires that all persons shall wear safety glasses, goggles, face shields or other suitable protective devices when in or around an area of a mine or plant where a hazard exists which could cause injuries to unprotected eyes. In addition, MSHA regulations require that a person shall not work on or from a piece of mobile equipment in a raised position until it has been blocked in place securely. Any inspectors who request to be raised in the bucket of a loader to check the back for loose ground are using improper procedures. Anyone who has specific knowledge of any MSHA inspector making such a request should report the information to the proper district manager and appropriate action will be taken. This does not preclude the use of equipment specifically designed as elevated mobile work platforms. Violations of these regulations would be cited in any district or mine.

All MSHA inspectors are given training in the health and safety standards they will be enforcing and MSHA's policies and procedures for enforcement of these standards fairly and uniformly. Also, each district office is informed of all policies and procedures instituted by MSHA. However, many of the health and safety standards do allow the inspectors to use judgment in applying the regulations to diverse mining operations. In fact, many operators have indicated a preference for flexible standards because they allow for differences in mining operations.

It is MSHA's policy to enforce the health and safety standards in an equitable, uniform manner throughout the Nation. Any operator who believes that a particular standard was inconsistently applied should bring the matter to the attention of the appropriate MSHA district manager.

INSPECTOR CONDUCT

Question: How do you handle an inspector who gets fresh with a female safety person during an inspection without adverse consequences affecting the company in future inspections?

Answer: All MSHA personnel have received notice of the Department of Labor's standards for ethics and conduct for employees. When a specific incident of questionable employee conduct is reported, the matter is thoroughly investigated and, if necessary, appropriate disciplinary measures are administered.

LIABILITY FOR VIOLATIONS

Question: In one of the above examples, it is noted that mine operators can be and are cited for miners failing to wear safety glasses. Assuming that the miners have been properly trained through the 40-hour "new miner training course" and/or the "experienced miner annual refresher training," is there not a point at which that miner should bear his own safety responsibility rather than assuming the operator at fault at every opportunity?

Answer: It is true that under the Federal Mine Safety and Health Act of 1977 (Mine Act) an operator is penalized for violations committed by its employees. The miners are required to comply with the provisions of the Mine Act and regulations and standards issued thereunder, but, with the exception of penalties for smoking in a mine, the Mine Act does not contemplate penalties against miners. It is the operator which has final responsibility for affording safe and healthful work places for miners. Therefore, operators have the responsibility for developing and enforcing, through appropriate disciplinary measures, effective safety programs that could prevent employees from engaging in unsafe and unhealthful activities. However, although the operator may be found liable for the violations committed by its employees, the assessment procedure is designed to take mitigating circumstances into consideration in determining the amount of the penalty. Considerations of the operator's lack of negligence may result in an assessment of a relatively nominal penalty.

Question: Why are operators cited and assessed fines when it is clearly the employee's failure to use company-supplied safety equipment, or follow established procedure that causes the violation of the regulation? A citation was issued for failure to use a safety belt while working over an open chute. A safety belt was available to the employee involved, and the employee knew that use of the belt was required by company policy. Evidence of this knowledge was shown by his use of the belt, when seen by the MSHA inspection party on two previous occasions on the day the citation was issued.

A special assessment was issued as a result of an accident involving an employee leaving his protected location and walking into a moving haulage truck. The MSHA accident investigation clearly stated that the operator was not in violation of any regulation and not responsible.

Answer: The Act and the implementing regulations require that the operator comply with standards and hold the operator responsible for seeing that the miners adhere to and comply with the regulations and standards. The operator must, by whatever means may be necessary including disciplinary action, insist that the miners perform their tasks in a safe manner. Citations are issued to the operator because the operator is in the best position to control the behavior and safety practices of mine employees.

SINGLE SPACED

The degree of operator negligence is one of the factors that is considered in determining penalty points. An operator who feels that he has been excessively penalized for the negligence of a miner should raise this as a mitigating factor in the assessment conference. Also, if an accident investigation report states that there was no violation, the Assessment Office does not issue any penalty.

Question: At what time is the information gathered in a special investigation made available to the operator and to the public?

Answer: Information is made available upon request under the Freedom of Information Act (FOIA), except as otherwise exempted under that Act. Much of the information in investigatory files is exempt from disclosure under exemptions 4, 5, 6, 7(a) and 7(d) of FOIA. Exemption 4 protects trade secrets and certain commercial or financial information. Exemption 5 protects certain interagency or intraagency memoranda or letters. Exemption 6 protects certain documents the release of which would constitute an unwarranted invasion of personal

privacy. Exemption 7 protects several categories of investigative records compiled for law enforcement purposes.

FREEDOM OF INFORMATION REQUESTS

Question: What is required to be furnished under the Freedom of Information Act? Have there been requests under the FIA for a listing of the number of special investigations made; the names and addresses of the investigated operation; and what was furnished in answer to these requests?

Answer: MSHA furnishes all information requested by the public under the FIA that is not specifically exempt under the Act's nine exemptions. If the request pertains to information on special investigations, MSHA has in the past invoked exemptions 4, 5, 6, and 7 as necessary to protect the integrity of investigations and the identities of confidential sources. Exemption 4 protects trade secrets and certain commercial or financial information. Exemption 5 protects certain inter-agency or intra-agency memorandums or letters. Exemption 6 protects certain documents, the release of which would constitute an unwarranted invasion of personal privacy. Exemption 7 protects several categories of investigative records compiled for law enforcement purposes.

MSHA has received requests for the number of special investigations made and has furnished this information. We also have received requests for names and addresses of investigated operations. When the requested information involves ongoing investigations, we have withheld that information from all parties except the party under investigation, until the investigation becomes a matter of public record.

PERSONAL PROTECTIVE EQUIPMENT

Question: Why does MSHA, as a general policy, refuse to accept the use of personal protective equipment as a means of protecting miners from rock drill noise? Citations are issued for rock drill noise when the employee is using protective equipment, if the drill is not equipped with a muffler. The current state of the art has not yet produced an effective muffler that does not have operational problems, including icing and low productivity, making the muffler both economically and technically unfeasible.

Answer: MSHA's general policy on noise in the mining industry has been to reduce this hazard at its source. If source noise is controlled in the work place by engineering and/or administrative controls (rotating worker to limit exposure), the use of hearing protection does not have to be relied upon to protect the miners.

There are problems with accepting hearing protection to control noise in the work place environment. Some miners refuse to wear the protection while in other instances these devices are not properly fitted to the user. In these cases, either no protection is provided or there is reason to doubt that a sufficient degree of protection is afforded to the miner. Another one of MSHA's major concerns is the additional hazard that may be presented if underground coal miners are allowed to use hearing protection in the working place. This hazard is that individuals wearing acceptable hearing protection may

not be able to hear the movements or shifts in overlying roof strata that often occur before roof falls. Hearing this advanced warning may prevent an injury or fatality. In addition, studies have indicated that hearing protection may not adequately protect a worker's hearing when the worker is exposed to noise levels exceeding 95 decibels.

Recognizing the limited noise reductions in rock drill noise by engineering controls and the problems/hazards associated with the use of acceptable hearing protection, MSHA has encouraged the coal mining industry to replace the compressed air rotary percussion rock drills with quieter, electrically or hydraulically driven, rotary rock drill equipment. The coal industry has virtually eliminated the day-to-day use of these compressed air rotary drills. The effort by this industry has produced a quieter work place environment, eliminating the need for hearing protection where rock drills are used, and has eliminated much of the source noise.

Mufflers now exist which significantly reduce rock drill noise levels without the operational problems initially experienced during early muffler design and development. Mufflers on rock drills are capable of reducing noise levels from 3 to 12 decibels. Most drills currently manufactured can be purchased with mufflers at a small additional cost. Most unmuffled rock drills can be retro-fitted with effective mufflers which can be cheaply constructed by mine operators. An effective muffler, which is made from a section of a rubber tire strapped over the exhaust ports of the drill, was developed by a mine operator and is now being used in several mines. No freezing or production problems have been experienced with this muffler and noise reductions of 3 to 10 decibels have been realized.

Some mine operators that had experienced freezing problems with specific types of mufflers have used water traps, compressed air drying systems, or anti-freeze in the airlines to eliminate the freezing problem.

CITATION STANDARDS

Question: Why are citations of the significant and substantial (S&S) type issued for violations that have only a remote and speculative chance of causing an accident? Citations are being issued for violation of regulations for which the chance of an accident is extremely slight. Two recently issued citations are examples of this when the physical locations are examined. The citations were issued to a general office, located in a building that is several miles from the mine and not physically attached to the mill.

Some examples of this are: (1) An unguarded 100-watt light bulb was cited. This light bulb is located in a closet behind a water heater, and the closet is carpeted with indoor-outdoor carpeting. (2) Two-prong electric plugs were cited on the copy machine, electric eraser and Coke machine in the engineering room of an office. The office is carpeted and could be considered the same as any managerial-type office.

Answer: MSHA's current interpretation of the term significant and substantial is derived from decisions by the United States Courts of Appeal and the Interior Board of Mine Operations Appeals, the latter being the predecessor to the present Federal Mine Safety and Health Review Commission established by the Act. Int'l Union, United Mine Workers of America (UMWA) v. Kleppe, 532 F. 2d 1403

(D.C. Cir. 1976), cert. den. sub nom. Bituminous Coal Operator's Assn., Inc. v. Klappe, 429 U.S. 858, No. 76-40 (October 4, 1976); on reconsideration Alabama By-Products Corporation, 7 IBMA 85 (1976). These decisions, which were specifically approved by the Senate Committee on Human Resources in its report on the Mine Act, S. Report 95-181, said that most violations occurring at a mine were of a "nature as could significantly and substantially contribute to the cause and effect of a mine safety or health hazard," except in two categories: (1) those violations which posed no risk of injury at all, such as "purely technical" violations; and (2) those violations which posed a source of injury which had only a remote or speculative chance of happening. Also, the term can apply to a violation without regard to the seriousness or gravity of any injury for which the violation poses a risk of occurrence; that is, there need not be a finding that the violation poses a risk of serious bodily injury or death for the term to apply.

We are unable to locate the citations referred to in the two examples. In order to provide an adequate explanation, we would need to know the operation at which these citations were issued.

DETERMINATION OF ASSESSMENT AMOUNTS

Question: Is the amount initially assessed for a violation considered to be reasonable, and based upon the facts observed by the inspector at the time of the violation? Have Department of Labor ALJ's assessed penalties well in excess of the original assessments? In the past, cases have been appealed, not on the basis of excessive fines, but on matters relating to the remote and speculative nature of the violation that has been classed as significant and substantial. Mine operators now feel they are being blackmailed into payment of assessments by the knowledge that ALJ's can and do increase assessments in a manner and sum which was never contemplated at the time of the appeal. These assessments have, in cases, been increased by large percentages by an ALJ.

Answer: The amount initially assessed for a violation is considered to be a reasonable penalty based on the 6 criteria contained in Section 110 of the Act. These criteria are applied according to the procedures established in MSHA's regulations 30 CFR Part 100. The assessor also uses the information contained in the citation itself and the inspector's statement. He may also draw on his own experience as both a miner and inspector.

MSHA's civil penalty regulations and procedures are currently under review and we anticipate proposing changes in the near future. We have had substantial input from the industry on these regulations. All comments are being carefully considered and will be addressed in our proposed revision.

The Administrative Law Judges who review MSHA assessment penalties are not part of the Department of Labor but, rather, a part of the independent Federal Mine Safety and Health Review Commission. The Commission was created as an independent authority in order to ensure that operators have the opportunity to receive an impartial review. The Commission and its ALJ's are not bound by MSHA's penalty determinations and, if they find a citation to be valid, may assess a penalty of any amount up to $10,000 for each violation.

MSHA, however, has reviewed the cases which were appealed to the Commission between January 1, 1979, and September 30, 1979. The number of cases referred to the Commission during that time was 1,487. Only 39 (2.6%) of those cases received higher level penalties that had been proposed by MSHA.

MINE HEALTH AND SAFETY ACADEMY

Question: How effective is the training presented at the Mine Safety Academy in Beckley, West Virginia?

Answer: The Academy began providing training to Mine Safety and Health inspectors, technical support personnel, and mining personnel in September, 1971.

Newly appointed inspectors receive 12 weeks of entry level training at the Academy consisting of courses designed to enable them to acquire the basic skills and knowledge to conduct an inspection in accordance with the Federal Mine Safety and Health Act. In addition, the inspector receives on-the-job training at his duty station. After the inspector completes the entry level training and becomes an authorized representative of the Secretary, further training of at least two weeks a year is taken at the Academy.

In order to ensure that the training offered is effective and relevant, the Academy is conducting a comprehensive analysis of the tasks performed by the Federal mine inspector during an inspection. Any revisions to the current training program or new courses required will be developed to meet the needs not only of MSHA inspectors, but also of the other groups using the Academy. Attention has also been given to updating courses to reflect new technologies and changing mine conditions.

Judging by the favorable comments received from surveys of MSHA personnel and other feedback from user groups, the Academy's training has been effective. Input from the users is encouraged so that the best possible training can be provided.

SPECIAL INVESTIGATIONS

Question: Why are MSHA special investigators allowed to use tactics that are clearly beyond any limits of the authority of the law during "fact finding" investigations? MSHA special investigators are not required to warn or explain their function to employees and operators being interviewed. These interviews can lead to civil fines of up to $25,000 and/or criminal charges being filed against the operator.

In an incident, special investigators told the injured party (who was still taking medication for pain relief) that the company was trying to place the responsibility for the accident on him, in order to deny his workman's compensation claim.

Answer: MSHA special investigators are under instructions to act well within the limits of the law in conducting fact finding investigations. The Department of Justice has advised us that Miranda-type warnings are not required in non-custodial MSHA-type interviews. Further, they have advised us that it is not necessary for investigators to explain all of the possible consequences of an investigation.

Indeed, the investigator may not be aware of all of the consequences. However, the investigator may not mislead the interviewee as to the nature of the inquiry. In every instance, interviewees must be advised of the purpose of the questioning, that they are not required to make a statement, and that they may have an attorney present at this voluntary interview.

Special investigators are delegated authority to investigate discrimination complaints, possible knowing and willful violations, and serious non-fatal and fatal accidents, all investigations which are required by the Act. All investigations are conducted with the knowledge of mine management personnel and miners involved in the inquiry.

In addition, it is MSHA policy that strict confidentiality be maintained concerning special investigations to protect against unwarranted injury to reputations of individuals or companies who may be the subjects of inquiry, but against whom no action is taken.

It is also MSHA policy that special investigators do not discuss workers' compensation during an interview. Workers' compensation is not a matter of concern to the investigator; it is between the miner, his employer, and the State.

Question: How many investigations have been conducted in metallic and non-metallic mines by special investigators in each 1979 quarter? Of these investigations, how many have been completed?

Answer: MSHA conducted and completed special investigations in metal and nonmetal mining operations in each quarter of calendar year 1979 as follows:

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter	Total
Special investigations conducted	52	70	92	72	286
Special investigations completed	30	50	74	47	201

INSPECTION PROCEDURES

Question: Are MSHA inspectors required to advise mining operators of their rights prior to assessing penalties during an inspection?

Answer: MSHA inspectors do not assess penalties during an inspection. When a new mine is opened an MSHA inspector provides the operator with copies of all agency forms required by the Act and explains these forms and the requirements to the operator.

Each proposed assessment sent to an operator by the assessment office contains a card describing the steps the operator can take to contest the penalty.

SAMPLING PROCEDURES

Question: Allegations have been made regarding improper MSHA industrial hygiene samplings. For example: unmonitored noise measurements; grab samples picked up with fingers; recent all-day sampling for dust in the parking lot; samples taken for nuisance dust with no control cassette with samples; liquid samples taken with dry samples shipped together resulting in a contamination of the samples taken. How does MSHA account for this?

Answer: MSHA requires its inspectors to follow the procedures outlined in the Inspection and Investigation Manual for taking industrial hygiene samples.

These procedures include requirements to periodically check the noise dosimeter sampling equipment and to take sound-level meter readings. MSHA has determined that back-up sound-level meter readings, which are consistent with noise exposure results from a dosimeter, are reasonable safeguards against sample tampering and, thus, the inspector is not required to observe the sampled employee continually.

Inspectors are instructed on how to collect bulk samples. If an inspector collects a sample with his fingers, he is not following proper procedures. MSHA has no knowledge, however, that this practice has ever occurred. If any person is aware of samples being taken improperly, he should notify MSHA immediately so that appropriate action can be taken.

Sampling for dust in a parking lot may be legitimate if an employee works there or if the inspector is trying to determine ambient dust levels.

Inspectors are instructed to carry control samples for each set of samples taken in a mine on any one day. Inspectors are not required to carry a control sample for each personal exposure sample. Control samples are required to assess the amount of weight change on the filter resulting from ambient temperature fluctuations.

MSHA inspectors are instructed to ship charcoal tube samples or oil mist samples separately from bulk liquid samples because of the potential contamination of the charcoal tube or filter if the bulk sample vial were to break or leak. This, however, is a precaution and does not imply that properly sealed bulk liquid samples would contaminate the air samples. A broken or leaking bulk liquid sample is easily detected by anyone receiving the shipment.

MSHA believes that our procedures for industrial hygiene sampling are professionally, scientifically, and legally sound.

IMPACT OF MSHA

Question: What has been the cost and the demonstrable improvements to date for MSHA?

Answer: The Federal Mine Safety and Health Act of 1977 strengthened the Federal role in mining safety and health in several respects. In general, the Act provided increased responsibilities in the following areas: Accelerated rulemaking procedures, increased inspection

frequencies, increased emphasis on occupational health, expanded enforcement provisions, including more stringent penalties for noncompliance, and the provision for mandatory training regulations for underground and surface mine employees.

Demonstrable improvements have been made by MSHA in all of the foregoing areas. Specific examples follow:

Fourteen sets of regulations have been developed and promulgated since the Act became effective. They are intended to further the protection of the safety and health of all miners.

MSHA has improved its enforcement program. In FY 1979, 72,481 coal mine inspections were conducted and 37,790 inspections of metal and nonmetal mines were completed. To assist in meeting the increased inspection requirements mandated by the Act, MSHA hired and trained over 400 additional mine inspectors. These inspectors are now enforcing the Act.

Improvements in the assessment program have been made since enactment of the Act. For example, all violations were assessed within 17 days of receipt in 1979. This was the lowest processing time in the history of the program. To further ensure fairness and timeliness in assessing violations, MSHA developed an assessment conference procedure which provides mine operators the opportunity to discuss additional information relevant to the initial assessment. Currently, approximately 80 percent of assessments are settled at the conference level. However, we recognize that many members of the mining community have concerns about the assessment process; therefore, MSHA has begun a comprehensive review of the assessment program. We have received numerous comments from the mining community and we are currently reviewing those comments to determine what changes should be made in the program.

The Act required promulgation of mandatory regulations for underground and surface mine employees. These regulations were promulgated in October 1978, and during 1979, MSHA reviewed and approved 20,424 training plans. MSHA is prohibited from enforcing the training provisions during FY 1980 at certain surface nonmetal mines. We have requested that the prohibitive language be deleted from our 1981 appropriation.

Since passage of the Act, 22 additional States have been awarded grant funds to develop and enforce mine health and safety laws. The amount of funds allocated has grown from $3,500,000 in FY 1977 to $6,000,000 in FY 1979 and 1980.

Another demonstrable improvement for MSHA has been the transfer of the National Mine Health and Safety Academy from the Department of the Interior in FY 1979. The Academy assists in reducing accidents and improving the health conditions in the Nation's mines through education of mine inspectors and other members of the mining community. During FY 1979, students received 56,221 days of training at the Academy. The comparative figure for FY 1977 is 28,873. Feedback from groups who participate in the Academy's training is favorable.

The new Act imposed additional responsibilities with respect to protecting miners from dust and other toxic materials in metal and nonmetal mines, as well as in coal mines. These responsibilities are being met. To illustrate, the number of samples collected

and analyzed increased by 50,000 from FY 1977 to FY 1979. Recently, machine-mounted dust monitoring devices were approved to protect miners from excessive dust. These devices will alert the miner when dust levels are unsafe and can be coupled to mine machinery to shut it off when excessive dust levels are reached.

Numerous other improvements have been made since the Act became effective. However, in many cases, it would be speculative to assume a cause and effect relation. Further, some of the most significant improvements are not demonstrable. For example, there is no accurate method of determining what the fatality statistics would have been if the expanded provisions of the Act had not been put into effect.

MSHA's cost for 1978 to 1980 is as follows:

1978	1979	1980
$ 113,249,000	$128,604,000	$144,422,000

INDUSTRY INQUIRIES

Question: Comments have been received stating that MSHA ignores inquiries regarding their regulations (i.e., phone calls are not returned, etc.). What are instructions to MSHA in the 1977 Act regarding communicating with companies who have legitimate inquiries?

Answer: Although there are no specific instructions in the 1977 Act regarding communicating with companies who have legitimate MSHA inquiries, Section 101(e) of the 1977 Act does require MSHA to send a copy of all proposed and final regulations to each mine operator. After the effective date of the new Act, MSHA held seminars throughout the country in order to help educate interested persons on the provisions of the new Act. In addition, MSHA personnel continuously participate in meetings involving trade associations, union groups and other affected groups to apprise them of new developments regarding the 1977 Act and its implementation.

It is our policy to assist operators in any way possible to understand the requirements of the Federal Mine Safety and Health Act of 1977 and MSHA's regulations. It has never been our policy to ignore written or telephone communication with operators or representatives of the miners and our personnel are fully aware of our "open-door" approach. All MSHA employees are instructed to respond promptly to calls and correspondence.

VIOLATION TERMINATION

Question: Why have termination due dates on citations when the inspectors never bother to show up to check out the violation until 3 to 4 months later? Terminations of citations should be handled on the due dates.

Answer: The termination due date on a citation is intended to reflect the seriousness of the hazard cited and be a valid assessment of the time needed to correct the violation. It is not intended to establish a time for the inspector to return to the operation. The length of time from issue to termination is projected as a real-

istic period in which to correct the hazard based on its severity and the material and resources available for abatement. The inspector should, and does, make every effort to return as closely as possible to the abatement date. However, it is incumbent upon the operator to correct the violation as soon as practicable, as he is responsible for the health and safety of the workers.

INSPECTOR REPORTING

Question: The inspector's statement, form 7000-4, has been alledged to be poorly devised, as are others. Some inspectors are not aware that the information they report is a determination as to how much of a penalty is assessed. Why does such secrecy between the inspectors and the assessments office exist? Why not do away with assessments unless there is a failure to abate a violation?

Answer: The inspector's statement is prepared by the inspector during or shortly after an inspection. The information contained in the statement relevant to the negligence, gravity and good faith abatement for each cited violation is used by the Assessment Office to evaluate the violations for penalty assessments. Every inspector has received training and knows how to fill out the statement and what the statement is used for. The Assessment Office and the inspectors are always in communication to ensure that assessments are fairly imposed.

You also question the need for civil penalties in cases where there is not a failure to abate a violation. Each of MSHA's standards was promulgated to deal with a specific hazard. The longer the hazard is allowed to exist, the greater the chances are that it will cause an injury. Therefore, the purpose of the civil penalty provisions in the Mine Act is to encourage voluntary compliance with the standards before an MSHA inspector arrives, but more important, before an accident occurs.

The Federal Metal and Nonmetallic Mine Safety Act of 1966 was in effect for 10 years prior to the enactment of the 1977 Mine Act. Congress found that penalties were needed to encourage voluntary compliance.

As with all of our programs, should a demonstrable need arise to change any of our forms or procedures for more effective operations we will do so.

MSHA has continually stated that any problems with policies or procedures should be brought to our attention and we will review them. For example, the civil penalty regulations were in effect slightly more than one year when we initiated a review of them as particular proolems concerning the regulations were brought to our attention. That review is currently ongoing. Similarly, should a legitimate need to change the inspector's statement arise, the specific problems will be reviewed with the goal of developing a method of effectively meeting the objectives of form 7000-4.

Question: What degree of truth is there in the allegations that inspectors attending that academy are simply enjoying a "vacation at taxpayers' expense"?

Answer: There is no truth to the allegations. High standards are required of all inspection personnel attending training classes at the Academy. MSHA's inspectors are conscientious, dedicated safety and health professionals who view the required training as essential in order to perform their duties to the best of their ability. All inspectors serve an initial one-year probationary period during which time their performance at the Academy is reviewed and evaluated. Learning the skills necessary to be a successful inspector involves attending a full eight-hour day of classes for two to three weeks at a time. Evenings are spent studying, exchanging ideas, preparing for the next day's session, or taking advantage of the recreational facilities which are similar to those found at most other institutions of higher learning with dormitory facilities. We feel the time spent by our inspectors at the Academy for training is essential for developing and maintaining a competent, professional inspection staff.

PROGRAM IN ACCIDENT REDUCTION

Question: Will you describe the Program of Accident Reduction (PAR) for the Committee and explain why programs such as this cannot be more widely utilized if it is as effective as has been reported?

Answer: The Program in Accident Reduction (PAR) is designed for metal/nonmetal mines with high injury rates. It requires a complete survey of the mine in order to determine the weak points in the operation or the causes of the number of injuries occurring. The Mine Safety and Health Analysis Center in Denver, Colorado, has instituted a computer program that enables MSHA to determine, according to 5 criteria, mines that fall into the high injury categories. This enables MSHA to select those mines experiencing high incidence and severity for participation in the PAR program. The initial action in the program is an audit of the accident/injury reporting procedures to determine if the injuries are being reported properly and whether the operation in fact should remain in the PAR program. A survey is then taken in all of the departments of the operation to study the work procedures and practices. Management and employee work methods with respect to job safety, communications, environment, attitudes and behavioral practices are analyzed for the purpose of developing and submitting recommendations to eliminate the injury causes. After recommendations are made to the company, a return visit is made once each month to observe and assist the company in implementing the program. The operator, once selected, is retained in the program for one year. If the operator has obtained a low accident frequency rate and the accident incidence is on a downward trend, the mine will not appear on the PAR mine list selected for the following year. This program is effective, but it is most effective for those operations that realize they need assistance and are willing to cooperate with the program guidelines. Currently, we believe that MSHA has achieved a reasonable balance between our enforcement efforts and assistance programs such as the PAR and CAV. As we review and analyze the results of our current efforts, MSHA may consider expanding PAR. The PAR program is an important part of our overall enforcement strategy and is one of the tools we use in reducing the accidents and injuries in the metal and nonmetal mines.

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HEALTH AND SAFETY STATISTICS

Question: Is the very broad base of accident statistics compiled by the Health and Safety Analysis Center in Denver, Colorado, ever utilized to bring to the attention of the mining public such information as an inherently less safe piece of mining equipment or mine haulage system; or a mining method which is inherently less safe than another? It would seem that information such as this, if developed, would be widely utilized by companies engaged in planning and designing future mining operations.

Answer: Yes, the statistics compiled by the Health and Safety Analysis Center are used to inform the mining industry that certain machines, systems and mining methods do present a greater hazard than others. As an example of this, in the past the mining industry was experiencing a large number of fatalities involving front-end loaders. Meetings were held in different locations with industry people and others invited to attend where explanations were given for the accidents that had occurred for a number of years.

Other recent examples of problems identified through accident statistical analysis relate to: scaling high walls, emergency brakes on underground mining equipment, and payloader design and maintenance problems.

In addition to analyzing statistics to identify existing unsafe mining practices and inherently less safe equipment, MSHA is attempting to develop a trend forecast ability to focus on problems before they cause accidents. These forecasting tools attempt to analyze data with respect to individual mines and problem areas (i.e., roof falls, material handling, etc.). While this program is relatively new, it has been moderately successful.

INSPECTOR-OPERATOR COOPERATION

Question: What has happened to the cooperative and helpful spirit that existed between mine inspectors and mine operators prior to the formation of MSHA?

Answer: One of the more significant changes of the Federal Mine Safety and Health Act of 1977 for the metal and nonmetallic mining industry was the imposition of civil penalities for violations of mandatory health and safety standards of the Act. Although MSHA is enforcing standards at metal and nonmetallic mining operations which were promulgated pursuant to the repealed Federal Metal and Nonmetallic Mine Safety Act, operators are now more aware of MSHA's presence because of the civil penalties.

MSHA has always believed that it is only through a spirit of cooperation that our objective of reducing the accidents, injuries and illnesses in the mines can be achieved. We have stated publicly numerous times that the progress that has been made to date, we believe, has occurred through the combined efforts of management, labor and government. For example, the first Federal legislation which contained mandatory safety provisions for coal mines was passed in 1952. During the 1950-1960 period, the average annual number of coal mine fatalities was about 450. In 1966, amendments to the 1952 Act were enacted and during the 1960-1970 period, the average number of fatalities dropped to about 250. MSHA has publicly stated that

these significant reductions represent a cooperative effort between all segments of the mining industry.

MSHA has made special efforts to encourage a cooperative relationship among MSHA, industry and labor. We have begun these efforts at what we consider the initial phase of our relationship--the development of regulations. The President has demonstrated on numerous occasions that he is very serious about controlling the proliferation of Government regulations. His Executive Order 12044 requires that regulations be written clearly and that interested parties be assured of early and meaningful involvement in the regulatory process. We at MSHA believe that we must encourage comments and discussions as early in the regulatory process as possible in order to foster a spirit of trust that can produce concrete benefits. The primary means we have adopted for accomplishing this end is the distribution of a pre-proposal draft of the regulations to interested parties.

In addition to soliciting early input into the regulatory process, MSHA has made every effort to be responsive to public comment and testimony in preparing final rules. Further, we also encourage input and comment from affected parties regarding the manner of implementation of final regulations.

Once regulations are final, MSHA provides any technical expertise necessary to assist the industry in meeting provisions of the regulations and the law, as evidenced by our recently initiated Compliance Assistance Visit program. We also have engineers, geologists, industrial hygienists, chemists and other safety and health specialists who are available for consultation.

A continuing dialogue is maintained with members of various mine operators' associations to solicit advice and resolve problems. We feel the improved climate between MSHA and the industry has been one of our major accomplishments.

DEVELOPMENT OF REGULATIONS

Question: Why does MSHA disregard expert testimony provided during hearings on proposed regulations? During recent hearings regarding the proposed mine rescue regulations, several operators and members of mine rescue teams testified that the regulations would in effect restrict team membership and lower the protection currently available to the miners in the Coeur d' Alene, Idaho mining district. The regulations, as issued, did not contain any evidence that this testimony was even considered.

Answer: First of all, it should be noted that the mine rescue team regulations have not been issued in final. When they are issued, copies will be provided to all underground mine operators and to all interested members of Congress. When MSHA was conducting public hearings on the proposed mine rescue team regulations, representatives from the metal and nonmetal mining community in the Coeur d' Alene, Idaho mining district testified to a great extent, raising several issues related to the rule's equipment, experience and training requirements. MSHA is now in the process of developing the final rule and all of those issues will be addressed with an eye toward changing the rule to build in more flexibility. MSHA needs and indeed, welcomes comments on the proposed regulations from the affected public. To the maximum extent feasible, MSHA tries to be

responsive to all public comments. All regulations which MSHA has published since March 1978, the effective date of the 1977 Act, reflect this philosophy. For example, the nonmetal mining industries, particularly sand and gravel and stone, were among the principal participants in the education and training rulemaking process during the public comment and public hearing stages. It is largely as a result of their input that important changes to our initial proposal were made before promulgation of the final training rules.

These changes included:

1. Scheduling of 24 hours of new surface miner training.
MSHA's proposed rules would have required completion of 24 hours of inexperienced miner training prior to commencing work. In their comments the nonmetal mining industries complained of the burdens that this would entail, particularly for small surface operations with a high employee turnover rate. MSHA recognized the validity of this concern and provided that up to 16 hours of inexperienced surface miner training could be stretched out over a 60-day period upon approval by MSHA.

2. Flexibility in obtaining MSHA approval of training instructors.
The nonmetal mining industry comments were that it would be very costly and disruptive to obtain approval of qualified instructors from MSHA under the proposed rule. Recognizing the difficulty that many small operators would have in hiring fully trained instructors or sending key employees to attend a formal MSHA instructor training course, the final rules permit an operator to obtain instructor approval by sending to MSHA a statement of the qualifications of the more experienced miners who will provide the miner training.

3. Clarification of the term "miner" and hazard training for nonproduction workers.
The definition of "miner" contained in Section 3(g) of the Act includes "any individual working in a coal or other mine" and was made intentionally broad to provide protection for all persons working on mine property. In response to comments contending that it would make little practical sense to provide certain types of persons doing work on mine property with comprehensive instruction in mine safety and health, the final regulations generally require that only those persons engaged in the extraction or production process or who are regularly exposed to mine hazards must receive comprehensive training. Other workers who are only occasionally exposed to mine hazards are to receive "hazard training." Hazard training merely requires the operator to identify the hazards to which workers, such as short-term contract maintenance or service personnel, will be exposed during their stay on mine property and to acquaint them with these hazards. This may consist only of an instructional sheet containing a "checklist" of hazards.

In administering the regulations, MSHA has made every effort to assist the industry in the development of its training plans and in explaining and clarifying the requirements of the regulations.

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VACATING CITATIONS

Question: During a conference on a proposed assessment, the conference officer cannot vacate the citation when the operator shows the citation to be invalid. Why? Citations cannot be vacated by the MSHA conference official. In several instances the assessment was reduced to an amount relating only to the company size and the mine size when the operator showed the assessment officer that the citation was not valid.

In that the conference officer is the first step in the appeals process, the assessment officer should be given the right to vacate a citation that, in his belief, is not valid and avoid cluttering the ALJ court with cases which logically should never have been brought to that level.

Answer: Conference officers do have the power to assess no penalty and to have a citation vacated. (See assessment regulations 30 CFR 100.5(a).) In the instances referred to by the questioner, the conference officer may have raised some questions regarding the validity of two citations, but not enough to take the necessary steps to invalidate the assessments. Those violations were recently the subject of a formal hearing before an administrative law judge of the Federal Mine Safety and Health Review Commission. The judge disagreed with the operator and found that one of the violations did in fact occur and he assessed a penalty of $84. The other violation is still under consideration by the judge (as of March 14, 1980).

Also, if an operator believes a citation was inappropriately issued, he can and should ask for a review by the subdistrict or district manager. The citation will then be reviewed and, if it is determined to be inappropriate, it will be vacated.

INSPECTION COVERAGE

Question: The State of Colorado has only 11 inspectors and they have inspected 100% of the 600+ mines in the State, yet the records received from MSHA show that only about 50% of the mines have been inspected by MSHA's staff of over 50 inspectors since March 1978. How do you account for this?

Answer: Since 1978, MSHA has inspected all active Colorado mines of which we are aware. Colorado State inspectors may be credited with performing a higher number of inspections than MSHA inspectors because of differences in the way the State and Federal agencies count inspections. Colorado counts each visit to a mine as a separate inspection, while MSHA considers that a single inspection may involve more than one visit to the mine.

FATAL ACCIDENT INVESTIGATION PROCEDURES

Question: On two occasions during fatal accident investigations in Colorado, MSHA inspectors restricted the activities of the State personnel, once by interpretation of an order and the other by verbal order. Is this a practice that you plan to continue? Was it by request of Labor, or was it to show unwritten authority to harass the State?

Answer: It is unfortunate that these instances occurred, but they happened because the inspector did not follow MSHA procedures. When the supervisor became aware of the occurrences, an investigation was made and MSHA sent a letter of apology to the State.

These occasions highlight a need to devote more attention to Federal-State coordination in mine safety and health. MSHA's policy is to work with State officials in the event of a mining accident. MSHA is firmly committed to a program of cooperation with all State mine agencies.

EDUCATION AND TRAINING FUNDING

Question: Since most safety professionals agree that proper and adequate training is essential for workers' safety, why has MSHA consistently reduced the amount of money available to the Education and Training branch?

Answer: Education and Training funds have been reduced only once during the last four years as shown in the following table:

1978	1979	1980	1981
$10,278,000	$11,957,000	$11,680,000	$11,770,000

The reduction of $277,000 and 31 positions in 1980 was related to a decrease in workload requirements for training plan approvals. It was believed that once the initial phase of review and approval of plans was completed, the manpower and resources could be reduced with no adverse impact on mine safety and health. A large part of the effort devoted to training plan approvals in FY 1979 is being devoted to monitoring and evaluating these plans in FY 1980. In addition, more resources are being directed to the training, testing, and qualification of miners to conduct tests of work areas. This is especially necessary to assist the mining industry in meeting the requirements of the new dust regulations.

We agree that proper and adequate training is essential for workers' safety and have requested sufficient money in FY 1981 to fund 149 positions dedicated to this goal. The emphasis in FY 1981 will be placed on reapproving the 10,000 training plans for sand, gravel, crushed stone, clay, limestone, dredge, and phosphate operations exempted during FY 1980. We will also certify more instructors, particularly in mine rescue, so that every underground mine will have a team available as required by law.

COST EFFECTIVENESS OF MSHA POLICIES

Question: Has MSHA ever studied (or caused to be studied) the cost effectiveness of their rigid enforcement stance as opposed to a more flexible assistance stance?

Answer: A formal study has not been conducted. However, Section 502(b) of the 1977 Mine Act directs the Secretary "...to the greatest extent possible, (to) provide technical assistance to operators in meeting the requirements of this Act and in further improving the health and safety conditions and practices in coal or other mines." MSHA has taken many actions to provide such assistance.

Past experience has shown that mines with high injury rates and potentially serious safety problems need more than the usual regular inspections for noncompliance to significantly reduce their incidence of accidents and injuries. This is the basis of MSHA's Program in Accident Reduction (PAR) implemented in 1976. Experience indicates that significant reductions of accidents and injuries have been achieved in the PAR program mines. Whether these mines (approximately 60) would have achieved similar reductions had they not been under the program cannot be determined. The effectiveness of the PAR program is reflected in the statistics which show an overall reduction in the lost-time or disabling injuries among the PAR mines since its inception. From 1976 through 1979 there were 27%, 35%, 17% and 17% reductions annually. The 17% decrease in 1979 compares with an increase of 11% industry-wide for an overall differential of 28%.

The Compliance Assistance Visits (CAV) program in metal and nonmetal mines has been operational only since November 1979. The program makes inspectors available, upon the requests of operators, to conduct compliance assistance visits in new mines not yet producing; seasonal, closed or abandoned mines prior to reopening; and new facilities or new installations of equipment in an operating mine. During the visits the inspectors will issue notices of violations alerting operators to potentially hazardous conditions so that corrective actions may be taken prior to the beginning of operations or the use of installations, equipment, or plans.

The tremendous response of the operators since its inception indicates a high degree of acceptance of the program. We estimate that about 300 CAV's have been conducted thus far. If the rate of compliance with advice given is consonant with the response to the program, there should be a significant reduction in injuries and fatalities. Operators are coming forward and requesting assistance in their efforts to reduce the incidence of accidents and injuries in the metal and nonmetal mining industry.

Similarly, our Coal Mine Safety and Health program has provided many flexibilities in providing compliance assistance. MSHA has established an Office of Engineering on the staff of the District Managers to handle assistance requests from coal mine operators.

Our Technical Support activity also provides engineering and other technical assistance to the mine operators when requested. Problems of compliance with safety and health standards are investigated and solutions recommended.

SYNFUELS EXPERTISE

Question: Has MSHA allocated (or do they intend to allocate) any funds for the development of people competent in the highly technical synfuels industry?

Answer: Synfuels are normally defined as fuels developed through the process of gasification or liquefaction of coal. However, many authorities classify petroleum derived from oil shale as a synfuel. MSHA has been involved with the development of oil shale since the inception of the industry in the United States. MSHA has a cadre of people who are competent in and/or knowledgeable about the health and safety hazards of the oil shale industry.

Presently, no funds are needed by MSHA to develop additional people in the synthetic fuels technologies unless the synthetic fuels industry has plans to develop and/or process synthetic fuels in active or abandoned underground mine workings. As a matter of regulation and Public Law, MSHA has no authority to regulate the safety and health of synthetic fuels workers.

INSPECTION IMPACT ON MINE PRODUCTION

Question: Considering the fact that when an inspector arrives at a mine site, several high-level professional people must be assigned to him for his inspection in order to protect the company's interest, and considering the fact that at some mines inspectors arrive in pairs to work separately, has MSHA ever attempted to calculate the resulting slow-down in production?

Answer: MSHA has not attempted to undertake a study to assess the impact of mine inspections on production. Our responsibility under the 1977 Act is to ensure that every miner works in a safe and healthful environment. By enforcing the law through inspections, we hope to prevent accidents and injuries which may result in lost production time. Although we do believe it is important for a representative of the operator to participate in an inspection, it is rarely necessary for more than one representative of management to participate in each portion of the inspection. We believe a strong safety and health program benefits not only the miner, but the mine operator as well. The long-term benefits of reduced accidents, injuries and illnesses can result in increased productivity for the mine operator.

ENFORCEMENT STRATEGY

Question: Since MSHA has enormous computer capabilities and must be aware of the leading causes of mining accidents, how well do the types of citations written correlate with accident causes (i.e., is a major part of MSHA enforcement effort directed toward those leading accident causes, or is any effort made in this direction)?

Answer: MSHA uses the reports of accident, injury and illness to develop control charts for mines that have excessive accident rates. These charts are used by enforcement personnel for development of inspection strategy. Also, they are used as a factor in determining which mines are to be included in MSHA's Program in Accident Reduction (PAR).

MSHA is currently developing a model to analyze patterns of citations relative to the forecasting of fatalities resulting from given causes. Results, although encouraging, are not precise enough for use at this time.

Recently, an overview was conducted of the fatalities which occurred in certain segments of the metal and nonmetal mining industry during the last three quarters of calendar year 1979. That review indicates that the majority of the citations issued during the fatality investigations were related to the accident causes. It also indicates that the majority of those fatalities may have been prevented if the mine had been operating in compliance with the mandatory health and safety standards.

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DUPLICATION OF EFFORT

Question: Colorado legislators feel State inspection is a duplication of the Mine Safety and Health Administration's (MSHA) efforts. Several States have dropped their inspection services due to the Federal act. Does a system exist for checking duplications?

Answer: The Federal Mine Safety and Health Act of 1977 gives MSHA direct responsibility for enforcing the provisions of the statute. Section 506 permits States to continue to enforce their own laws, as long as there is no conflict with the Federal statute or the mandatory health and safety standards promulgated under it. However, neither this section nor any other permits the Secretary to delegate or cede any of MSHA's enforcement or investigation responsibilities to the States. MSHA does not have a system for checking duplications as such. However, we do attempt to cooperate with State inspection agencies to the fullest extent possible.

The elimination of State plans has caused some increase in inspection effort in Colorado because the State is continuing its own inspection program. We do not consider this to be "duplication of efforts" per se, but rather increased opportunities for ensuring adequate safety and health protection for the workers. Further, as the State does not have mandatory monetary penalties, our impression is that companies appreciate a State inspection prior to a Federal inspection since they can make corrections without necessarily having to pay penalties.

PROTECTION OF MINING OPERATIONS

Question: What protection does a State-based mining operation have from an unfeeling and overzealous super agency based in Washington, D.C.? With two years of Federal inspection nationally, Federal records show an actual increase in accident statistics. The Colorado Division of Mines' statistics show declines in Colorado.

Answer: First of all, MSHA is not an unfeeling, overzealous super agency. Rather, MSHA's objective is to administer the provisions of the Federal Mine Safety and Health Act of 1977 in order to protect the health and safety of the Nation's miners.

Although MSHA's main office is in Arlington, Virginia, a suburb of Washington, D.C., it has district offices all over the country, and the vast majority of MSHA's personnel work out of those field offices. Both our coal and metal/nonmetal activities have Denver district offices which are responsible for all mines in Colorado. If mine operators have any problems relating to MSHA, they should contact these district offices.

It is true that there has been some increase in certain accident statistics since the 1977 Act was passed. However, it is important to note that new mandatory accident, injury, and illness reporting procedures became effective on January 1, 1978, shortly before the Act took effect. These comprehensive procedures broadened the definition of a reportable accident, and have resulted in more accurate reporting, causing the disabling injury frequency rate to appear to rise.

The Colorado Division of Mines requires reporting only of those injuries resulting in lost workdays. MSHA, however, requires the reporting of all injuries other than those requiring only first aid.

INDUSTRY PROTESTS

Question: The advent of the Federal Government into the realm of mining in Colorado has brought a storm of protest from the industry primarily because of the destructive nature of inspections, along with the great bulk of paperwork and documentation required to protect the individual mining company from future jeopardy.

Specific examples of the above problems are as follow:

A one-man placer operation near Black Hawk received two full days of inspection by MSHA. This operation is only occasionally operated, hasn't had an accident in memory, and requires at the most a one-hour inspection by State and mine inspectors, including completion of the paperwork.

Last year a Bureau of Land Management road to two mines was closed down to the miners, not the public, in western Colorado, effectively closing the mine. This road had been judged to be adequate by other MSHA inspectors and the Colorado Division of Mines.

Apparently, this harassment was finally quietly dropped by MSHA when Senator Hart's office called to find out when the hearing was to be held. One small mine operator who was an innocent victim in the ill-conceived power struggle lost at least $75,000 in lost production and attorney fees. A second operator lost production and income from January to April, 1979.

Answer: The inspections conducted by MSHA personnel are not destructive in nature but, rather, they are for the purpose of detecting hazardous conditions and noncompliance with mandatory health and safety standards in order that corrective actions can be taken that will protect the health and safety of miners. In addition, MSHA, during the various stages of regulation promulgation, has attempted to minimize the paperwork requirements wherever possible. For example, in the final training regulations, the requirement for submission of annual training plans was rejected. Operators need only to submit changes, therefore reducing their paperwork requirement.

The following explanation is provided in response to your first example. We believe the mine to be the Black Hawk Placer Mine, ID # 05-03483. On September 20, 1979, an MSHA mine inspector went to the Black Hawk Placer to begin an inspection of the mine, but found it closed. The following day the mine did operate and the inspection was then made.

This one man placer is worked only sporadically due, principally, to the increased flow of the nearby stream after rain or snow, as explained by the owner and operator.

As this was the first inspection under the 1977 Mine Act, the inspector spent about four hours discussing and explaining MSHA requirements for legal identity, the required quarterly reports and the established safety standards.

The actual inspection lasted two hours during which time the pit, mine machinery, access roads, electrical installation and the repair shop were inspected. No safety violations were found and no citations were issued.

The second example concerns the closing of an access road to a uranium mine. MSHA received an employee complaint on January 17, 1979 alleging several safety violations, including the unsafe conditions of the access road to the Blue Cap Mine, F & F Mondisco Mining, lessee. An inspection of the mine, including the access road, was made on January 18, 1979; and MSHA found the road conditions posed an imminent danger to miners traveling the road. The withdrawal order described the condition of the road: "Adequate berms or guards were not provided for the elevated access road to the mine. Berms were provided at some locations, but would not restrain vehicles from leaving the road. Some areas of the road were barely wide enough for vehicles to stay on the road. Elevation from the top of the road to the valley bottom was near 1000 feet. Snow was about 8 to 12 inches deep on the road. Employees complained of this condition. Adverse weather conditions have increased the hazards to miners using the road."

The same road also served the St. Patrick mine in Colorado, and a similar order was issued to that mine on January 19, 1979. It has been alleged that the road closed was a public road, Bureau of Land Management road or a Forest Service road. Investigation disclosed the road was built by the original mine owners in 1953 and 1974. The Forest Service and BLM claim the road is not a designated access road to Government land and they do not maintain it.

The allegation that this "harassment was finally quietly dropped by MSHA when Senator Hart's office called to find out when the hearing was to be held," is completely unjustified. Before the hearing was held, Montrose County, Colorado, assumed jurisdiction of the road and repaired the condition. The imminent danger orders were vacated and the hearing was canceled.

During the period of closure, the operators could have used the old Atomic Energy Commission (AEC) road on the perimeter of Hideout Mesa for access if the snow had been removed.

RECORDKEEPING REQUIREMENTS

Question: A recent policy stand by MSHA has forced many small mining operators to maintain an unnecessary office (a repository for various records required by law) at the mine when the small company's only and main office is about 50 miles away. Doesn't this serve as a convenience of only the MSHA inspector? This auxiliary office serves no other purpose except a terrible inconvenience to the small businessman.

Answer: It is not MSHA's policy to force small operators to construct unnecessary office buildings at mine sites. However, Section 109(a) of the Federal Mine Safety and Health Act of 1977 (1977 Mine Act) does require that each mine have an office. MSHA inspectors are encouraged to use good judgment in determining whether or not small operators are in compliance with this section of the Act. For example, if an operator of a one or two person operation uses a home, approximately three or four miles away, as the mine office, this is generally acceptable. If this would be impractical, the inspector may suggest to the operator that any forms needed for the inspection be kept in a vehicle or shelter as close to the mine property as possible.

UNIFORMITY OF INSPECTION STANDARDS

Question: Do MSHA inspectors follow uniform inspection standards? Complaints are that an inspector will make an inspection after many other Federal inspections and will cite (and ultimately fine) items and improvements required by other MSHA inspectors that were approved earlier by these inspectors. Such practice is not in the best interests of safe and economic mining operations. This type of capriciousness costs unnecessary expenses to the operator and is particularly hard on the small operator.

Answer: MSHA inspectors enforce the published mandatory health and safety standards applicable to the various kinds of mining operations. All MSHA inspectors use specific inspection manuals. Therefore, they do follow uniform standards and practices.

MSHA's mandatory health and safety standards do allow some latitude for "judgment" calls. Indeed, some industry groups have praised this type of standard because it takes into account differences between mine sites. Further, given the experience and training of MSHA's inspectors, MSHA has a great deal of faith in their judgment. The inspectors come from the mining industry, and have first-hand knowledge of mining hazards. After they are hired, they receive extensive training in the standards they will enforce. They then spend several months accompanying experienced personnel before they are allowed to conduct inspections on their own.

Operators have frequently claimed they were cited for conditions which had not been cited during previous inspections. This has occurred on occasion and will probably occur again. Simple oversight (which can be caused by an inspector's attention being diverted to other things) is a factor in this situation. MSHA does not think this is an indication of applying new interpretations. Any mine operator will admit that a mine is a dynamic situation. Changes in weather conditions, for example, can affect the situation. Normal wear and tear can erode a particular item which had previously passed inspection.

A final point should be made here. Institutionally, MSHA learns from experience and is constantly learning about situations which may affect the enforcement of a particular standard. For example, chains were once an acceptable form of guarding. However, in reviewing the accidents and injuries which were continuing to occur in this area, it became obvious that the chains were not adequate.

When these kinds of "interpretations" are made, however, MSHA tries to assure that they are widely distributed and disseminated throughout the affected industries.

Question: Why does a mine operator become liable for citations on areas previously ordered or OK'd by other MSHA inspectors and required to pay fines on such violations?

Answer: Operators have frequently claimed they were cited for conditions which had not been cited during previous inspections. This has occurred on occasion and will probably occur again. Simple oversight (which can be caused by an inspector's attention being diverted to other things) is a factor in this situation. I do not think this is an indication of applying new interpretations. Any

mine operator will admit that a mine is a dynamic situation. Changes in weather conditions, for example, can affect the situation. Normal wear and tear can erode a particular item which had previously passed inspection.

MSHA does maintain a continuing program to ensure that inspectors apply standard interpretations to the regulations they enforce. This program begins with entry training for all new inspectors at the National Mine Health and Safety Academy. Continuing education at the Academy is also required for journeyman inspectors. We also periodically monitor inspections. However, as our inspectors are human and each mine is unique, there are bound to be occasions when different inspectors interpret a standard differently. We attempt to minimize these occasions, but acknowledge we have not completely eliminated them. When cases of different interpretations are brought to our attention, the case is reviewed and if necessary, corrections are made. Furthermore, we then send directives to all our field personnel requesting that all offices review their policies to ensure that they are in conformance with overall policy. We also would encourage mine operators to contact our field supervisory staff in those instances wherein they feel standards have not been properly applied. We believe that when this process is followed, most problems can be resolved.

Question: Why is there an inconsistency among the inspectors as to how they inspect? For example, an inspector will tell a mining operator that lightbulbs in a given area are such that protective covers are not required. Along comes another inspector who writes a citation because he feels that bulbs present a "shock or burn hazard."

Answer: MSHA inspectors all came from the mining industry. They have all had basic experience in the mines and the hazards which may be encountered in the industry. Once hired they are given specific training in the health and safety standards they will be enforcing and in MSHA's policies and procedures for enforcing those standards. Also, all MSHA trainee inspectors are accompanied by an experienced Authorized Representative (AR) for a number of months before they begin to conduct inspections on their own.

There are a number of reasons for what may appear to be inconsistencies among the inspectors. Many of the standards do allow some latitude for judgment calls on the part of the inspectors. Many operators, in fact, have indicated that they prefer this type of general standard because some flexibility is allowed for differences among mining operators. MSHA believes its standards also allow for the changing conditions and situations at a mine site, which can occur on a daily basis.

As conditions do change at a mine site, what may be acceptable one day may present a hazard during the next inspection. For example, adverse weather conditions can cause a berm to deteriorate significantly so that it no longer provides adequate protection to the mine workers. In the example cited in the question, it is possible that at the time the first inspector was at the operation, protective covers were not required on the lightbulbs because shock or burn hazards could not occur. However, during the next inspection, it is possible the workers were using long bars which could break the lightbulbs. This would then present a shock or burn hazard.

One also must allow for the "human" nature of MSHA's inspectors. During the course of an inspection, a particular inspector's attention may be diverted to a specific situation and certain other items

may be overlooked which might then be noticed by the next inspector. However, I wish to assure you that when inconsistencies arise and are brought to MSHA's attention, they are corrected. Any operator who believes that a particular standard was inconsistently applied should bring it to the attention of the appropriate district manager.

FEDERAL-STATE COOPERATION

Question: What recourse do State agencies have when legally required cooperative efforts between State and Federal agencies are avoided by MSHA? The Colorado Division of Mines is an independent inspection agency that held a State plan agreement prior to the 1977 Act. Since that time the Coal Section of MSHA has refused to cooperate, in sending the Divisions copies of their 7000-1 accident reports. Isn't this a violation of the Federal Act that promises full cooperation of MSHA towards the State? This has caused confusion, duplication and unnecessary expense to both government and the private sector.

Answer: MSHA has always tried to maintain a cooperative relationship with the States. We feel this is the most effective way to avoid duplication of efforts to ensure the safety and health of the Nation's miners.

Prior to passage of the 1977 Act, which combined the two separate mine safety laws for coal and metal/nonmetal mining, MSHA's Health and Safety Analysis Center furnished a copy of all injury reports to State offices for metal/nonmetal accidents only. Although this information was available when requested for coal accidents, it was never included automatically as part of the reporting package sent to the States.

Currently, MSHA has made no provision to include a copy of the injury forms in the reporting package for distribution since this information is summarized on a quarterly basis. However, anyone may request to be placed on a mailing list to receive the quarterly report.

With the passage of the 1977 Mine Act, and the elimination of State plans, MSHA consolidated its reporting procedures and, therefore, the separate distribution of the metal/nonmetal injury forms was eliminated. The information in the injury forms is summarized on a quarterly basis and is available to the general public, including State agencies, who request to be placed on a mailing list.

Question: Why has the State of Colorado sanctioned MSHA, allowing them to over-rule the Colorado Bureau of Mines and, in many cases, not even acknowledging them?

Answer: The Mine Safety and Health Act of 1977, gives MSHA direct responsibility for enforcing the provisions of the statute. Section 506 permits States to continue to enforce their own laws, so long as there is no conflict with the Federal statute or the mandatory health and safety standards promulgated under it. However, neither this section nor any other permits the Secretary to delegate or cede any of MSHA's enforcement or investigation responsibilities to the States. Conversely, MSHA has no authority over State agencies unless their actions would conflict with the Act.

INSPECTOR SAFETY PRACTICES

Question: Why do some MSHA inspectors trepass and create potentially dangerous situations with impunity, and why aren't MSHA inspectors disciplined for safety infractions? On several different occasions Federal inspectors have entered mines without notifying the operator. One Federal inspector was nearly caught in a routine blasting sequence because of this. In western Colorado, MSHA inspectors have entered small underground mines without steel-toed shoes or safety glasses as required for all mining industry personnel. In Arizona, one inspector stood on top of a very high ladder when conducting his sample pump placement testing.

Answer: Section 103(a) of the Federal Mine Safety and Health Act of 1977 requires that representatives of the Secretary shall make frequent inspections and investigations, give no advance notice of an inspection and have a right of entry to, upon, or through any coal or other mine. It is and always has been MSHA's policy to adhere to Federal regulations and nonconflicting mine safety policies while on mine property.

MSHA procedures require an inspector, upon arrival at a mine, to inform a member of management of the purpose of his/her visit. It is, however, not uncommon to arrive at a mine whose office is located beyond the mill or quarry, in which case an operator may allege unwarranted trespassing without proper justification. If it were possible for an individual (MSHA inspector, salesman, etc.) to approach any blast site without being properly alerted or warned, it could mean a significant violation of a mandatory standard. It remains incumbent upon the operator to protect the blast area from anyone acquiring entry.

Several small mine operators have a standing invitation for inspection personnel to enter the mine upon their arrival due to the fact that no one works around the mine perimeter. The inspector must gain entry to alert anyone of his/her presence.

MSHA inspectors nationwide are provided with all necessary personal protective equipment and are instructed to wear this equipment any time they are visiting a mining operation. If an inspector should fail to comply with a mandatory standard, some form of disciplinary action would be taken.

The example of an inspector in Arizona placing himself in a precarious position on a ladder could not be substantiated. However, work can be accomplished safely from a ladder which is properly constructed and provided with adequate safety devices.

Section 103(a) of the Mine Act grants MSHA inspectors, as authorized representatives of the Secretary of Labor, "a right of entry to, upon, or through any coal or other mine." Therefore, they are not trespassing when they enter mines for inspection purposes. However, our inspectors are required to notify the operator whenever they perform an inspection. If an operator knows of any case where he has not been informed of an inspector's presence at the mine, he should notify the inspector's supervisor so that appropriate action may be taken.

MINE SAFETY AND HEALTH ACT

Question: Are all parts of the 1977 Act legitimately required? Questions about solicited information, equipment requirements and other such sections have been raised by mining operators. For example, formulation of Part 49 of the 1977 Act is causing great concern among operators because of reportedly unnecessary documentation, unduly strict training and equipment requirements, very likely causing terrific increases in costs to the miner and ultimately to the consumer. These requirements are also driving away the present, highly motivated, volunteer mine rescue team members.

Answer: MSHA believes that all parts of the 1977 Act play a significant role in promoting health and safety at the Nation's mines. The mine rescue team regulations, which will be promulgated as part 30 CFR 49, are required under section 115(e) of the 1977 Act. That section requires the Secretary to publish regulations providing for the availability of mine rescue teams at all underground mines. Some background information on the approach MSHA adopted in the development of these regulations might prove useful. In July of 1978, MSHA made available to the public a preproposal draft of the mine rescue team regulations. In addition, the Assistant Secretary-MSHA and some of his staff toured several underground limestone mines to look at conditions in those mines which the operators believed justified changes in the way the mine rescue team requirements should be applied to them. MSHA then published the proposed rule, allowing the public 60 days for comment. Six public hearings were then held throughout the United States at which the mining community was given another opportunity to present its views on this regulation. Comment and testimony on these proposed regulations are voluminious. MSHA is in the process of drafting the final rule and will address all of the issues raised by the comments in the preamble to the final rule. MSHA fully recognizes the traditional voluntary nature of mine rescue work and it is not MSHA's intent that these rules will change that tradition. MSHA is aware of its responsibility to be responsive to the needs and concerns of our regulated public. The final mine rescue team regulations will reflect this philosophy as have all the other regulations MSHA has promulgated.

INSPECTION FREQUENCY

Question: Are all MSHA visits warranted? One small mine in western Colorado has had eight visits (inspections?) in a 14-day period. This may have been consolidated on paper into one inspection when in reality it constituted a real and unnecessary burden for the small miner.

Answer: Section 103(a) of the Federal Mine Safety and Health Act requires that authorized representatives of the Secretary make frequent inspections and investigations in coal or other mines each year. Four of these inspections in underground mines, and two in surface mines, must be comprehensive inspections of the mine "in its entirety." Such inspections can cover several days. Also, the mine operator in some instances may ask for guidance or consultation on a particular problem that has been encountered. MSHA personnel may also visit a mine to investigate accidents, or discrimination complaints, to abate citations issued previously, to review training, or to respond to requests by miners for an inspection.

An informal investigation was conducted by the subdistrict manager and supervisor assigned to the western part of Colorado. They were unable to determine where the incident described in your question occurred. If you care to provide us with the name and location of the mine involved, we will review its inspection history.

INSPECTOR HARASSMENT

Question: What controls does MSHA exercise over its inspectors to prevent excessive and harassing inspections?

Answer: First of all, MSHA does not believe it is conducting either excessive or harassing inspections. As required by the Federal Mine Safety and Health Act, MSHA must conduct four complete safety and health inspections of all underground mines and two complete safety and health inspections of all surface mines. If violations are found and cited, MSHA inspectors must return to the operation to determine if the hazardous or unsafe conditions have been corrected.

MSHA's inspectors are highly qualified and trained individuals. They must have had five years of practical mining experience before they can be selected for a Federal mine inspector positions. They have been exposed to the very real hazards which can be encountered in the mining industry.

If accepted for positions as MSHA inspectors, they must go through on-the-job and formal training. These individuals are not only trained in the specific standards they will be enforcing, but also in MSHA's policies and procedures with respect to how to conduct a thorough and impartial inspection. Once their formal training is completed, MSHA trainees still do not conduct inspections on their own; for a period of time, they are accompanied by an experienced Authorized Representative (AR) to ensure that the trainees not only know what to look for during an inspection, but how to conduct an inspection. In essence, therefore, during their entire first year of employment with MSHA, the inspectors are continually being trained and supervised.

Once an inspector becomes an AR, that individual is still subject to normal supervisory controls and is required to complete 80 hours of retraining each year. MSHA's supervisors review the performance of their inspectors at least annually. Also, the headquarters staff conducts field audits and monitoring of the inspection force.

MSHA recently initiated a Human Relations and Communications course which MSHA metal/nonmetal inspection personnel must take. It is to draw the attention of the inspector to the importance of dealing with the public in the proper manner. MSHA believes that successful interpersonal relations are essential if we are to achieve the objective of improved health and safety conditions in the mines.

Finally, if an operator has a specific complaint about an inspector or inspection, he/she should contact the district, subdistrict or headquarters office in order that a review can be conducted.

Question: Why isn't MSHA liable for unnecessary expenses caused the mining companies by carelessness or misguided zeal?

Answer: The allegation that MSHA inspectors are over-zealous has been made before. Earlier this year every citation that was issued in three metal/nonmetal subdistricts was reviewed in an effort to determine whether or not our inspectors were over-zealous. That review demonstrated that the vast majority of citations were issued for violations of mandatory standards which caused very real hazards.

An indication of over-zealousness on the other hand, would be case after case of erroneous citations or an overabundance of citations. This was simply not the case.

There may, of course, be individual instances where MSHA personnel do make mistakes. Any such cases should be reported so that they may be investigated and appropriate action taken.

Question: MSHA will not take responsibility for an accident they cause, and will harass the operator who is attempting to protect the employees. Why? An MSHA sampling device, installed by MSHA personnel on an employee, caused a lost-time accident by becoming entangled as the man was dismounting from a piece of mobile equipment. The operator informed MSHA officials by mail of the problem, and no answer was received. During the next inspection, the operator refused to allow the same type of device to be installed on his employees, telling the inspector that any other method could be used to obtain the required samples. The operator was then cited, and threatened with closure.

Answer: MSHA is aware of this incident and is investigating it. Reportedly, while wearing an MSHA noise dosimeter, an employee was thrown off balance when the cord on this instrument became entangled as he dismounted from a mobile personnel carrier. As a result, the employee suffered a twisted ankle which prevented him from working the following day.

Because of this accident, the mine operator would not allow MSHA to place further personal sampling devices on his employees. MSHA issued a citation against the operator due to his refusal. Later that same day, the mine operator agreed to allow MSHA to sample his employees provided the cords on the sampling instruments were secure. Accordingly, MSHA terminated the citation.

MSHA has taken over 150,000 personal samples and this is the only accident of which MSHA is aware involving the wearing of sampling equipment. Similar accidents could occur with other equipment that miners wear, such as electric cap lamps and self rescuers, if the employee is in a position where such equipment could restrict or interfere with his/her movement.

MSHA has always instructed its inspectors to attach sampling equipment in a manner which will minimize such hazards and will be placing greater emphasis on this in the immediate future. Additionally, MSHA will alert the employees being sampled so that they are aware of any possible hazards that wearing this equipment could present.

Personal samples are needed by MSHA in order to assess the employees full-shift exposure to hazardous airborne contaminants or physical agents. To use other methods of sampling would seriously impair the efficiency of mine inspectors, since the inspectors would then be forced to carry the equipment and follow individual miners throughout the entire shift. In some situations it is impossible for an inspector to accompany the miner, such as on some types of mobile equipment.

In regard to the letter received from the mine operator, this incident occurred in the Denver Subdistrict in October 1978. The Subdistrict Manager did not believe that the letter required a response. The letter requested MSHA "assistance in preventing needless

loss in production and injury to our people during further inspections of our operations." MSHA personnel subsequently acquired additional clothing clips for securing any tubing or microphone wires out of the way of the worker. Since the incident was acted upon in a manner favorable to the operator, we did not believe a written response was required.

SUBCOMMITTEE RECESS

Senator BURDICK. The subcommittee will be in recess until 10 a.m. tomorrow morning, March 7, and we will have testimony from HEW.

[Whereupon, at 4:45 p.m., Thursday, March 6, the subcommittee was recessed, to reconvene at 10 a.m., March 7.]

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1981

FRIDAY, MARCH 7, 1980

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, Hon. Lawton Chiles presiding.

Present: Senators Chiles and Schmitt.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATEMENT OF NATHAN J. STARK, UNDER SECRETARY

ACCOMPANIED BY:
BERNARD E. KELLY, DIRECTOR, OFFICE OF REFUGEE AFFAIRS
WILFORD H. FORBUSH, DEPUTY ASSISTANT SECRETARY FOR MANAGEMENT AND BUDGET

BUDGET REQUEST

Senator CHILES. Today we will hear from the Under Secretary of the Department of Health and Human Services, Mr. Stark, on the request for refugee assistance. After we discuss refugees, we will look at other requests from the Office of the Secretary concerning the Inspector General, civil rights, policy research and departmental management.

During the Inspector's testimony we have a few questions we would like to address to the Under Secretary. While we want the independent views on how to make the system work better, we need to know how the Department will implement his recommendations.

We have your full statement, Mr. Secretary. We will place that in the record.

[The statement follows:]

STATEMENT OF NATHAN J. STARK

Mr. Chairman, members of the Committee, I appreciate this opportunity to discuss with you today the Administration's funding proposals to support our Nation's refugee resettlement effort.

It is important to note at the outset that resettling refugees truly is a national, rather than a Federal, effort and undertaking. It involves not only a number of voluntary resettlement agencies, which spend millions of dollars each year in locating and supporting sponsors of refugees, but literally thousands of sponsors themselves -- Americans from all walks of life who give selflessly of their time, their energy and their own money to help fellow humans in need.

All of us have borne witness to the tragic conditions that have forced Southeast Asians by the hundred of thousands to flee their homelands. These are people who, in many cases, literally are fleeing for their lives. Many of them fall by the wayside.

Those who survive may spend many weeks, months, and even years in squalid, horribly crowded camps in the Nations of first asylum, awaiting their chance to begin rebuilding their lives in new homelands.

Heeding their pleas President Carter in June 1979 doubled, from 7,000 to 14,000 per month, the number of refugees from Vietnam, Laos and Cambodia which this country would accept. During the current fiscal year and in fiscal year 1981, we anticipate that 168,000 refugees from these countries will enter the United States as refugees.

And we are accepting other refugees as well. Overall our 1980 budget assumes that some 60,000 nonSoutheast Asian refugees--

the greatest number of them Soviet Jews and Cuban political exiles--will reach our shores during the current fiscal year.

The aim of our refugee program is simple: to help these victims of political oppression become self-sufficient, contributing members of our society in the shortest time possible.

To achieve this goal--and to do so without unduly burdening individual States in which the refugees resettle--our refugee program funds a range of services, including cash and medical assistance, English language and job skills training, all of which are 100 percent federally reimburseable.

To the maximum extent possible, we have avoided creating a new bureaucracy to assist refugees. Instead, we have welded our assistance programs for refugees onto existing programs which serve nonrefugees.

For example, to provide cash assistance, the Federal program works through the existing program of Aid to Families with Dependent Children. States apply the same eligibility criteria to refugees that they apply to their own residents. For those judged eligible, HEW then pays the State's share from the refugee appropriation. For cases where refugees are not categorically eligible for AFDC but meet the income and resource requirements, the refugee appropriation pays the full amount.

A similar arrangement exists for Medicaid. For delivering educational and social services we reimburse State agencies, local affiliates of national voluntary groups and other nonprofit agencies for appropriate costs.

1980 Supplemental and 1981 Budget Request

We are appearing before you today to request $107.1 million in additional funds for 1980, and a total of $598.5 million

in 1981. Our 1981 request represents a $74.6 million increase over the $524 million revised 1980 level.

Our $107 million 1980 supplemental complements $417 million already available through 1980 appropriations. Of the $417 million already appropriated, the Labor-HEW 1980 appropriation bill provides $75 million for phasedown of the ongoing Cuban refugee program; for assistance through Voluntary Agencies primarily on behalf of Soviet Jews; and for Federal administrative expenses; and the 1980 Continuing Resolution provides $340 million for assistance to Indochinese refugees. Our $107 million supplemental request includes $45.0 million for assisting increased numbers of Cuban, Soviet and other non-Indochinese refugees not expected at the time the regular 1980 appropriation was enacted; and it includes $50.0 million for language training and health prevention activities for Indochinese refugees which were not conducted in 1979 and are not funded under the Continuing Resolution, $12 million for increased refugees to be aided by voluntary agencies, and $.5 million for federal administrative expenses.

Of the $598 million in the 1981 budget, we are requesting $87 million under the existing Migration and Refugee Assistance Act of 1962, and proposing $511 million for later transmittal under the Comprehensive Refugee Act of 1979 legislation now pending in the Congress. The $87 million includes $36 million for assistance through Voluntary Agencies for Soviet Jews; $45 million for continuing the phase-down of the Cuban Refugee program, and $6 million for Federal administrative expenses.

The $511 million estimate under pending legislation is for assistance through State welfare agencies to newly-arriving Indochinese, Cuban and other refugees. This assistance includes cash and medical assistance, language and job training and other supportive social services proposed in our 1980 request. Our estimate is based on the Senate version of the pending legis-

lation which, at the start of FY 1981, would have limited special Federal refugee assistance to 2 years after a refugee's arrival in the United States.

However, the final conference committee action, completed just 2 weeks ago, includes no time limitation for the first half of FY 1981 and a 3-year limit for the last half of the year.

The increase in the eligibility time limit from 2 to 3 years, and other features of the Conference bill may increase FY 1981 costs by about $100 million over the $511 million estimate in the President's budget. We are now discussing with OMB funding requirements of the Conference bill, and should the bill be enacted, the President will submit a 1981 request sufficient to carry out the new law.

I would now like to describe in greater detail our funding request for each of the major activities we propose in the 1980 supplemental and 1981 estimate.

First, for State-administered programs, we are requesting an additional $25.3 million in 1980 to provide cash and medical assistance through States' public assistance agencies for refugees from the Soviet Union and other countries who cannot be assisted by the Voluntary Agencies because of insufficient private matching funds. Approximately 40,000 such refugees admitted during 1979 and 1980 would be assisted.

For 1981, we are proposing $324 million in cash and medical assistance through the State public assistance agencies. These funds would assist nearly 460,000 needy Indochinese, Soviet and other newly-arriving refugees who could not be served through matching grants from private voluntary agencies.

We derived the $324 million estimate using the Senate-passed bill, with a 2-year limit on eligibility to provide assistance for approximately 417,000 Indochinese refugees and approximately 40,000 refugees admitted during 1979, 1980, and 1981. As I

noted earlier, if the Conference Committee's recommendation to increase the 2-year limit to 3 years is enacted into law, 1981 costs will be greater than $324 million.

State-Administered Programs--English Language Training for Adults

We are also proposing increased funds in both 1980 and 1981 English language training for adult refugees. Our 1980 Supplemental request includes an additional $27 million to provide more intensive English-language training and related activities primarily for Indochinese refugees. A major weakness in our current program is that it has responded inadequately to serious language and literacy deficiencies. By addressing this problem now, we believe that we can help many refugees leave the welfare roles more rapidly than otherwise would be possible. We propose to review the status of refugees admitted since 1975 and provide intensified English language training to those who might profit most from a better command of English. We also plan to provide extended training to new arrivals if initial short-term training proves to be inadequate.

For 1981, we are proposing $41.7 million under the pending legislation, to continue this work.

Similarly, our budget includes additional funds in both 1980 and 1981 for social services provided through state agencies.

State-Administered Programs--Vocational Training and Social Services

In 1980, we are asking for an additional $8.1 million to provide vocational training and other social services through the States' public assistance agencies for refugees from the Soviet Union and other countries who cannot be aided by the voluntary agencies because of insufficient private matching funds.

In 1981, under proposed legislation, the budget includes $52 million. These funds will be used for vocational training and

other social services to refugees from the State agencies. Services include: day care, transportation, and interpreter services.

State-Administered Programs--State Administration

Finally, our request includes funds in both 1980 and 1981 to reimburse States for State and local administrative costs in providing welfare assistance to refugees. For 1980, we are seeking $3.6 million for such costs on behalf of new Cuban, Soviet and other non-Indochinese refugees not aided by voluntary agencies.

And in 1981, we are asking for $42 million for the States' share of the administrative expenses for helping all refugees requiring assistance.

Voluntary Agency Programs

Under the voluntary agency activity, the 1980 appropriation included $20 million to provide dollar-for-dollar matching grants, principally to Jewish resettlement agencies, to assist an estimated 20,000 refugees from the Soviet Union. We now estimate that 32,000 Soviet Jewish refugees will be admitted to the United States who can be assisted through the voluntary agency network. The supplemental request includes $12 million to provide similar matching grants for this higher number of Soviet refugees.

In 1981, we estimate 36,000 refugees will be admitted to the U.S. who will be helped by voluntary agencies. We are requesting $36 million for this assistance based on matching funds of up to $1,000 for each refugee resettled.

Cuban Phasedown Program

No additional funds for the Cuban program are being requested for 1980; our current appropriation of $53.3 million is

sufficient to cover all anticipated costs. We are requesting $44.8 million for it in 1981. These amounts carry out the 6-year phasedown of the Cuban program agreed to by Congress in the 1978 and 1979 appropriations. The phasedown is being accomplished by annual reductions in the funding to the States for cash and medical assistance to Cuban refugees and to the Dade County (Miami, Florida) public schools to offset a portion of educating Cuban refugee school children. Fiscal year 1981 will be the fourth year of the process and the rate of reimbursement will be 60 percent. The phase-out will be complete at the end of FY 1983.

Educational Assistance for Children

A special appropriation of $12 million was included in the Continuing Resolution to provide payments to school districts educating Indochinese refugee children during the current school year. These funds were appropriated under the Indochinese Refugee Children Assistance Act, a formula grant program similar Impacted Area Aid. We are requesting $23.2 million in this supplemental to assist school districts during the academic year 1980-1981. We are asking that these funds be appropriated under the Indochinese Refugee Assistance Program, an authority which gives us more flexibility to respond to special local needs. The grants will be administered by the Department of Education. We expect to provide educational aid to 85,000 children at an average of $275 per child. Actual per-pupil spending will vary from this depending on local need. For the current year we expect the $12 million appropriation to aid 50,000 children at an average grant of $240 per child.

In 1981, under proposed legislation, we will seek $44.3 million. This will continue the programs begun in 1980. This will provide aid to school districts for the education of Indochinese and other, refugee children at an average of $300 per child.

Health Activities

Although not a threat to public health, the personal health problems of Indochinese refugees now entering the United States are often severe and of acute concern in the communities where they are settling. To respond to this situation, we are seeking $6.4 million and an additional 40 personnel for the Public Health Service to carry out an expanded program of preventive health activities both within the United States and in the overseas refugee camps. The objectives of this effort are to identify and treat serious health problems before refugees arrive here, improve conditions in refugee camps to promote public health and prevent disease, and help refugees learn to use the American health care system.

In 1981, under proposed legislation, we will request $7.9 million to continue these health activities.

Office of Refugee Affairs

The current authorization for 37 permanent staff is much too low to run a program of this magnitude. Management systems, written policy guidelines, and programmatic and fiscal controls must be strengthened. Also, it is essential to expand data collection and improve its timeliness. The program has operated in the past on the assumption that it would be a temporary effort, but refugee problems will be with us for many years to come. Thus we must take steps now to build the necessary management capacity.

An increase of 48 positions is requested in the FY '80 supplemental as a first step in improving the management of the refugee program. Most of the new personnel will be located in our regional offices. They will be responsible for strengthening our fiscal and programmatic relationships with State agencies, local providers, refugee groups and voluntary agencies. They will more thoroughly review estimates from State and other organizations,

ensure that approved plans are followed, and monitor social services and training contracts. This accounts for the $.5 million request in the 1980 supplemental.

For 1981, we are requesting $6.5 million for administrative expenses. This includes a request for 16 additional positions over the 1980 level, and would increase the Office's total full-time permanent level to 101. The added personnel will help us to continue, enhance and expand operations and oversight of the refugee program.

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This completes my prepared statement. I would be happy to answer any questions which you and the Committee members may have.

INTRODUCTION OF ASSOCIATES

Mr. STARK. I am accompanied by Mr. Wilford Forbush who is the Deputy Assistant Secretary for Management and Budget; and Mr. Bernard Kelly who is the director of our Office of Refugee Affairs.

Mr. Chairman, members of the committee, I appreciate this opportunity to discuss with you today the administration's funding proposal to support our Nation's refugee settlement effort. My opening remarks will be very brief; but I would like to submit a more comprehensive statement for the record.

REFUGEE PROGRAM GOALS

The aim of our program is simple: To help these victims of political oppression become self-sufficient, contributing members of our society in the shortest time possible. To achieve this goal and do so without unduly burdening individual States in which the refugees resettle, our refugee program funds a range of services including cash and medical assistance, English language and job skills training, all of which are 100-percent federally reimbursible.

To the maximum extent possible, we have avoided creating a new bureaucracy to assist refugees. Instead we welded our programs onto existing programs which serve nonrefugees. For example, to provide cash assistance, the Federal program works through the existing program of aid to families with dependent children. States apply the same eligibility criteria to refugees that they apply to their own residents; and for those judged eligible, HEW then pays the State's share from the refugee appropriation.

For cases where refugees are not categorically eligible for AFDC but meet the income and resources requirements, the refugee appropriation pays the full amount.

Senator CHILES. Excuse me just a moment.

[A brief recess was taken.]

Senator CHILES. Please proceed.

Mr. STARK. We are appearing before you today to request $107.1 million in additional funds for 1980, and a total of $598.5 million in 1981. Of the 1981 request, we are requesting $87 million today under current legislative authorities and we are proposing $511 million for later transmittal under the comprehensive Refugee Act of 1980, legislation recently passed by both Houses.

To keep my opening remarks brief, I would like to make only one additional point. Our request in both years stresses English language and job training and other supportive social services aimed at helping assimilate refugees into the American culture quickly and avoiding long-term dependency on the welfare assistance rolls. We believe this program will help refugees become productive and contributing members of our society.

This concludes my remarks, and I will be happy to respond to any questions that you may have.

SPECIAL NEEDS OF REFUGEES

Senator CHILES. Thank you, sir.

Since 1975, about 300,000 Indochinese, 19,000 Cubans, and 83,000 Soviet, European, and other refugees have settled in the United States. Before we get into the specific aspects of refugee resettlement, I think we should clarify some of the basic issues regarding these new populations.

Generally, refugees should be viewed not as dependent populations but as people who are temporarily unemployed and in need of specialized support services such as language training, cultural orientation, et cetera, so they can use skills that they have already developed, or develop new skills, that provide income for their families in our economic setting.

I assume one of the reasons you have centralized the Office of Refugee Affairs under your direction, Mr. Under Secretary, is because you feel that refugees have a special need not served best by our existing program structure. How will your new administrative structure better serve these special needs?

Mr. STARK. I think it will first of all give us a better organizational approach. As you know, up to very recently, this program has always been viewed as temporary. Now we feel that it's a long-term, stable operation.

One way we felt that we could maximize the organizational benefits to these people was to give the office more visibility, to upgrade it to the Secretary's Office, and to finally staff it so that it could carry out the programs more effectively.

I think we are exhibiting some efforts in that regard right now. As a matter of fact, we are horribly understaffed for the amount of work that

we have to do in order to assure that we do the kind of job we say we are going to do: That is to get people off the dependency rolls as fast as possible and apply all of these programs to the goal of doing that.

One of the things, of course, we are asking for in this proposal is additional personnel to help us do just that.

THE FASCELL AMENDMENT AND STATE REIMBURSEMENT

Senator CHILES. We have asked you over the years to look at services for providing assistance, under the HEW programs that now exist, to Haitians who have recently entered the country. Very recently that review has neared completion. Have you figured out what you can do to provide basic medical services for people who are caught in this catch-22 policy?

Mr. STARK. You know recently the Fascell amendment was passed. We now have that amendment before us. It calls for the Office of Refugee Affairs to reimburse States for services provided to Haitians, but it does not specify the degree of reimbursement. It calls for reimbursement to States and communities for expenses incurred in serving the Haitians at any time before or after the enactment of the act.

In short, it doesn't specifically set a cutoff date for retroactivity. We have another problem for determination by the INS, which is whether those people who come under the act are, in fact, political refugees. I can only say that right now our Office of Refugee Affairs is studying the language of the amendment and the legislative history to try to resolve some of these issues.

Senator CHILES. Well, understanding that again we have compartments to the problem, it's placing a tremendous burden on local governments and on State governments, for what is basically a Federal problem.

The status of these refugees is is going to be determined by the Federal Government. It is a Federal determination; and yet the States and the localities now have the people; they are there.

The Federal Government courts have said you can't intern them. They are also entitled to assistance. So assistance is having to be granted by the States, but there is no kind of State financial relief. The States are really caught.

Mr. STARK. I agree with you. This program as well as the total refugee program is really a national program.

Senator CHILES. It is? Right now there is no national direction.

Mr. STARK. The burden shouldn't be on the State.

Senator CHILES. When is a refugee an illegal alien, for example? It's very hard to determine that. Right now it's virtually impossible.

I think people legitimately are saying, "We treat one person as a refugee; he gets benefits from all of the programs. We treat someone else as an illegal alien, and he's locked up and liable to be deported."

Unless we establish some kind of Federal framework for that, the local government takes all of the burden.

Mr. STARK. I agree with that, Senator. I think this amendment is a first step in giving us some idea of what should be done. You can be sure that we will work diligently in trying to come up with the answers to some of these problems.

LINES OF AUTHORITY

Senator CHILES. Over the past 3 years, the U.S.-Indochinese resettlement effort was divided between HEW, which managed most of the domestic programs, and the State Department, which had the contracts with volunteer agencies, both offshore and domestic programs.

This past summer President Carter doubled the monthly quota for refugee admittance from 7,000 to 14,000, meaning an increase in resettlement efforts. Have the lines of authority between HEW and the State Department changed, given this increase?

Mr. STARK. I don't think the lines have changed. As you know, the State Department has the initial responsibility for resettlement in the United States. In addition to that, there is a coordinator for refugee affairs. His job is to coordinate all of the Federal refugee assistance programs in the Federal Government. We are cooperating and they are cooperating very closely with us in not only the international scene, where we are also somewhat responsible for the initial health screening of these refugees before their transit to the United States, but also domestically.

Ambassador Victor Palmieri has been traveling around the United States visiting with mayors of cities and determining what their problems are. He has been meeting with us. We have been working out a joint program so that we can more effectively assist in that direction. I think it's much better now than it had been in the past.

PROGRAM MONITORING

Senator CHILES. The General Accounting Office, in the report on the Indochinese problem, pointed to a number of accounting weaknesses in HEW's administration of the program. They concluded there were serious deficiencies in the area of program monitoring.

Are volunteer agencies required to sign a specific contract designating what minimum services they are to provide with the $500 they get for each refugee? If not, how do we monitor, evaluate, and audit their activities?

Mr. STARK. That is a departure from HEW. Those agreements are made with the State Department, and I am not familiar with the exact language of the agreement, but the agreement does provide for rendering of certain services in terms of resettling the refugees in this country.

Do you have anything further to add on that, Mr. Kelly?

Mr. KELLY. The contract is between the State Department and the individual voluntary agencies. The specifics of performance are not as explicit as they probably will be in the future. They were drafted in 1975 during the Vietnam conflict.

Mr. STARK. I might also add that Mr. Palmieri is very anxious to tighten up that agreement somewhat and do a more constructive monitoring job.

ASSISTANCE LEVELS

Senator CHILES. We heard there was a difference between the various agencies of as much as $1,000 or $2,000 per family, with different amounts of assistance available that people could get between the

different volunteer agency sponsors. You are not doing anything to monitor this?

Mr. STARK. The only thing HEW does is work through the States in terms of cash assistance. We depend on the States again. The eligibility requirements are set there.

Senator CHILES. I am talking about the volunteer agencies.

Mr. STARK. No; we do not monitor that.

THE CUBAN PROGRAM

Senator CHILES. I would like you to clarify your cost estimates for the Cuban refugee assistance program. You show an estimate of $44.8 million in carrying out the terms of the congressional compromise. That's a nationwide cost.

It includes $13.5 million for the SSI related costs which are not phased down. The State of Florida informs us that they estimate that their 1981 costs would be at $49.5 million. Of that sum, $24.9 million is for new arrivals who will be funded at 100 percent for 2 years.

Do you include the costs for new arrivals in your Cuban program subtotal, or are they part of the $459 million you have asked for under State administrative programs under the new law?

Mr. STARK. I would say it's the latter.

Senator CHILES. The latter?

Mr. STARK. Yes.

Senator CHILES. If the costs were to turn out to be more like the State of Florida's $24.9 million dollar estimates, would you come in for a supplemental request?

Mr. STARK. We would have to come in for a supplemental request.

Mr. FORBUSH. I think we will look first to other activities in that account to see if there were some shifting possible. If that were not possible, we would have to come in for a supplemental request.

MATCHING GRANTS—NEW REFUGEE ACT

Senator CHILES. During fiscal 1979 and 1980, Federal assistance for Soviet refugees has been distinguished from assistance for Indochinese and Cuban groups by providing matching grants to volunteer agencies for the resettlement of refugees, rather than the 100-percent reimbursement for cash and assistance.

Among the purposes of the new refugee assistance legislation, the Refugee Act of 1979, is to provide a single program of assistance for all refugees no matter what their national origin, so that all refugees will be treated equally.

Would this preclude a matching program for one group and 100-percent reimbursement program for another? Does the Department feel it could retain some flexibility in its interpretation of the program specifics?

Mr. STARK. We feel we can maintain some flexibility. We would hope we could, because the matching grant has worked out so well.

Senator CHILES. You think there is a possibility to work out the matching grants for some of the other refugees?

Mr. STARK. The problem with the other refugees is there is no one to match.

MAINTENANCE COSTS VERSUS SOCIAL SERVICES AND TRAINING

Senator CHILES. It does create a problem. In fiscal year 1978, over 75 percent of the HEW Indochinese refugee assistance program was spent on medical assistance and State level administration, while less than 25 percent was invested in human resources development such as vocational and language training.

In the current proposed budget for 1981, what percentage will be spent on maintenance programs, administration, social service training, et cetera?

Mr. STARK. I don't have the percentage breakdown. I can probably get those for you. I have it only in dollars and cents. Do you want to have those, Senator?

Senator CHILES. Please, for the record.

[The information follows:]

SUMMARY OF 1981 BUDGET REQUEST UNDER PROPOSED LAW

[Dollars in thousands]

Item	Proposed legislation	Percent of total budget request
State administered programs:		
Cash and medicaid assistance	$323,352	63
State administration	42,000	8
Vocational training and other social services	52,000	10
English language training	41,678	8
Subtotal, State administered programs	459,030	89
Voluntary agency programs		
Cuban program phasedown		
Education assistance	44,268	9
Health prevention	7,859	2
Federal administration		
Total	511,157	100

WELFARE DEPENDENCY

Senator CHILES. We appear to be increasing Federal costs and the prospects for dependency by having welfare assistance dominate refugee adjustment. An ideal system for short-term economic assistance would establish a national benefit standard with a reasonable differential based on the cost of living. Has HEW moved toward this type of system where refugees are recipients under a temporary income maintenance program, and at the same time are automatically enrolled in language and skills upgrading programs?

Mr. STARK. I am sorry, I don't quite understand the question.

Senator CHILES. Well, I'm trying to find out whether we have a program that's perpetuating welfare dependency or not.

Mr. STARK. I would hope not. One of the reasons that we are asking

for these additional funds is to pick up those refugees who we feel have a real barrier to finding employment or holding employment of reasonable means because of their lack of language facility and of vocational training.

One thing we hope to do is pick up some of the older refugees as well as the newer and give them more extensive training in the English language. In this way, I think it has an economic viability to it by moving them more quickly toward self-employment, self-help.

CONCLUDING REMARKS

Senator CHILES. I have some additional questions in this area. I will ask them for the record.

After we started our hearing, I had a call from the majority leader urging me to come meet with him. I think I am probably going to have to reschedule the Inspector General portion of the meeting.

Mr. STARK. You would want me present at that?

Senator CHILES. If it would be possible, I would like to have you present. I wish I could do it today. That was my plan, but the majority leader has changed my plans.

Mr. STARK. I will be happy to be here.

Senator CHILES. Thank you very much.

[A brief recess was taken.]

Senator SCHMITT [presiding]. The subcommittee hearing will come to order.

As I understand it, we were in a discussion about the refugee programs. Is there a comment you would like to make? I would like to get to the Inspector General activities.

Mr. STARK. I have nothing further to say, Senator. I could stay here. I guess we have our group here for the Inspector General.

Senator SCHMITT. You would then like to leave; is that correct?

Mr. STARK. If that's permissible.

Senator SCHMITT. Why don't you do that?

Mr. STARK. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

REFUGEE ASSISTANCE

Question: We have heard that some refugee families in the same location, but with different voluntary agency sponsors, receive different amounts of cash assistance, sometimes varying by as much as one or two thousand dollars per family.

Answer: Although HEW does not administer the initial resettlement grants of $500 per refugee which voluntary resettlement agencies receive from the State Department, we are aware of differences in the amount of cash which different refugee families may receive. I am not prepared to comment on these differences, except to say that we also are aware that such differences in cash assistance can cause misunderstandings in the refugee community.

Question: What are you doing to eliminate (these discrepancies) this discrepancy?

Answer: I can report that the Department of State is in the process of effecting new agreements with the voluntary agencies which will require that they provide each refugee with a basic set of services. I would assume that these agreements will, in part at least, minimize the differences in the amounts of cash assistance passed on to refugees by the different voluntary agencies.

ENGLISH LANGUAGE TRAINING

Question: In the HEW budget for FY 1980, $54 million was earmarked for English language training for Indochinese, double the amount in FY 1979. Your fiscal 1980 supplemental requests $27 million for language training. Please clarify if $27 million is in addition to the $54 million and whether the $54 million is in fact the amount used in language programs.

Answer: The $54 million includes the $27 million requested in the supplemental. The original FY 1980 request was for short term English language training to newly arriving adult refugees. This additional $27 million will provide short term training to 23,000 refugees who arrived in 1975-1978 and who still lack sufficient English language proficiency to get jobs; long term training for about 44,000 newly arriving Indochinese refugees; and short and long term training to about 14,000 Cuban, Soviet and other refugees.

Question: What role will the Department of Education have in your English language training efforts? How will you prevent duplication?

Answer: The Office of Refugee Resettlement will coordinate with the Department of Education to avoid duplication of efforts. Within the Department of Education two programs in Adult Education will assist refugees with English language instruction. Based on the number of refugees in the population we expect that approximately $5.7 million in State formula ESL funds will benefit Indochinese refugees. Second, $2.5 million has been appropriated for Indochinese refugees under section 317 of the Adult Education Act. The Act requires that States assure the Commissioner (Secretary) of Education that LEA applications have been reviewed to ensure that the Section 317 funds will not duplicate activities carried out under other

programs.

At the present time the need for language training is almost overwhelming the existing ESL programs provided through the Office of Refugee Resettlement. The programs which are to be provided by the Department of Education will complement those of the Office of Refugee Resettlement rather than duplicate them.

SOCIAL SERVICE PROVIDERS

Question: Indochinese refugees will, in many instances, require assistance from social service providers with special skills. Specifically, it would be helpful if many social workers had some knowledge of at least one of the far eastern languages refugees speak. Does HHS have figures showing the manpower needs for social service providers with special skills to deal with incoming refugees? What are these?

Answer: We do not have exact figures as to the manpower needs for social services staff to work with incoming refugees. We do know that state and local personnel policies often preclude addition of adequate staff to serve the refugees - even with 100% FFP. We therefore emphasize development of programs through various non-traditional organizations such as refugee community groups and voluntary agencies to provide services to the refugees.

Question: What training is provided to current social workers to help them deal with incoming refugees?

Answer: The amount of staff training required in these organizations varies greatly from one to another depending upon their familiarity with the refugees or with service delivery. Staff training is an allowable activity under ORR guidelines.

Question: How much money out of the $417 million available in FY 1980 will pay for training of social workers?

Answer: Exactly how many dollars will be expended on this activity in FY 1980 is difficult to identify. It depends greatly upon the characteristics and distribution of refugees entering the country and individual State responses to the refugees' impact. We do, however, encourage development and training of refugee staff to become service deliverers. While this does involve increased training costs initially, it does help assure development of trained personnel who can provide services in a culturally appropriate manner over the long run.

EDUCATIONAL/VOCATIONAL ASSISTANCE--ADULT REFUGEES

Question: Funding for special projects to meet the educational needs of adult Indochinese refugees is authorized under title III of the Indochina Refugee Children Assistance Act as well as under provisions of the Indochina Migration and Refugee Assistance Act. You have testified that the latter authority is preferable for such grants because the eligibility is broader to include the voluntary agencies. An amendment to last year's HEW appropriations bill included $2.5 million for the title III program.

In the future, should any additional funds for such purposes be made available under the more general Indochinese Refugee Program?

Answer: Yes. Funds for adult Indochinese refugees education should be made available under the provisions of the Indochina Migration and Refugee Assistance Act as the eligibility to receive grants is broader and will include voluntary agencies. Under the IM&RA, the intent of the Congress was to award at least 51% of the grant funds to private nonprofit agencies and IRCA would restrict the services to school systems.

Question: Describe the types of projects that are undertaken with these funds and the average grant for this type of activity.

Answer: All educational projects were employment services projects and were required to develop a comprehensive manpower system including outreach, career planning, English as a Second Language (ESL), job development, job placement and followup. Many projects also have been able to offer skill training but limited funds have restricted this activity.

Awards totaling $4,225,424 were made for 53 employment services projects averaging about $80,000 per grant.

REFUGEE ASSISTANCE AID TO SCHOOL DISTRICTS FOR INDOCHINESE

Question: Title II of the Indochina Refugee Children Assistance Act authorized Federal assistance for school districts with refugee children enrolled. During fiscal years 1977 and 1978, $18.5 million was made available for this program. The program was thereafter not funded until recently when $12 million in "emergency" aid was made available under HEW's continuing resolution for fiscal year 1980.

Why have you not asked for funding under this authority?

Answer: The Indochina Children Assistance Act authorizes a formula grant program similar to Impacted Area Aid. The Indochina Migration and Refugee Assistance Act, on the other hand, provides a more flexible authority, which will enable funds to be targeted to those school districts which have experienced substantial impacts of refugee pupils. The change in authority would place special emphasis on districts heavily impacted with refugee enrollments, while assuring that Indochinese refugee children would receive the assistance they need, wherever they go to school.

Question: What is the distribution of the title II funds among States under the current appropriation?

Answer: The U.S. Office of Education is distributing the $12 million appropriated under the Children's Education Assistance Act to State Education Agencies (SEA's) for up to $450 per refugee child enrolled in public or nonpublic elementary or secondary schools in each State. The SEA in turn make subgrants to Local Education Agencies (LEAs) who must apply for the funds.

Question: Are all school districts with any Indochinese refugee children eligible?

Answer: Under this program, all school Districts with Indochinese children an eligible to receive Title II funds. Congress intended that these funds be used primarily for refugee children entering school for the first time in 1979-1980. Therefore, these children are weighted more heavily in the formula used for distributing the funds. It is expected that about 1,600 LEA grants will be awarded this year.

Question: How much of this money is being used by States for administrative costs?

Answer: Up to 5% of the grants made to SEA's is available to cover State administrative costs. SEA's have varying rules and limitations on the amount of LEA grants that can be used for administrative expenses.

We anticipate these funds will aid about 50,000 refugee children. The average grant - for the 1979-1980 year is $240 per child. We expect this to be increased to $275 in the 1980-1981 school year and $300 in 1981-1982.

Question: Of the $107 million you request for refugee assistance in an FY 1980 supplemental, $23 million is for education assistance for refugee children. Which school districts are most heavily impacted by incoming refugees?

Answer: Unfortunately, at this time, information on the specific school districts which are most heavily impacted by incoming refugees is not available. We are hopeful that if our supplemental request is granted we will be able to develop the sophisticated data systems necessary to collect this type of information.

However, based on figures submitted by the States applying for grant awards under the Indochinese Refugee Children Assistance Program (IRCA) in FY 1980, and viewing the phrase "heavily impacted" in terms of both number and percentage of refugees in a district, the following 10 States evidenced a large participation of Indochinese children in their public school systems:

STATE	NO. OF CHILDREN
California	16,888
Texas	5,427
New York	3,062
Illinois	2,922
Minnesota	2,745
Washington	2,648
Virginia	2,573
Oregon	2,283
Pennsylvania	2,117
Louisiana	1,789

Question: What would be the impact on school districts if no funds are provided to relieve the burden of the added costs of the

refugees?

Answer: If Federal funds are not provided, in many instances, school districts will not be able to provide the types of assistance that refugee children need. The educational needs of Indochinese refugee children are severe, and local school officials are already exasperated by the problems. The latest wave of refugees are not simply middle class expatriates who have difficulty with the English language. Many have been uprooted suddenly from agrarian, pre-literate societies and transplanted into a totally alien 20th century urban environment. Virtually no other immigrant group - with the possible exception of African slaves - has experienced such massive culture shock, or had fewer adaptive resources. We must provide aid quickly before confusion and bewilderment turn to bitterness, abject despair, and socially disruptive behavior.

They therefore require not only English language training, but also guidance counselling and cultural acclimation. State and local educational agencies insist they do not have the resources. In most instances, they are under very tight budget constraints and have already cut services to the bare bones. Their budget planning cycles and in some instances, contracts with various unions, preclude the types of major readjustments needed to serve refugee children. School officials estimate additional costs will range between $800 and $1400 per refugee child. At requested budget levels, the Federal government will contribute less than one-quarter of the actual additional costs. Further, many school officials insist that they should not be expected to bear total responsibility for a burden placed on them as a result of Federal actions.

FY '80 SUPPLEMENTAL REQUEST

Question: There appears to be no money available under the budget ceilings for supplementals this year. What would be the impact of continuing refugee assistance programs at the present $417 million level?

Answer: The supplemental requests funds for activities which cannot be financed through the Continuing Resolution.

For the Indochinese this includes activities which were not conducted during FY 1979, such as aid to local school districts, intensified English language training for refugees still on welfare rolls, and preventive health activities for refugees in overseas camps and in the United States.

We need this supplemental also to augment programs for Soviet and other refugees whose numbers flowing into this country have increased dramatically since our original budget was submitted.

If we do not get the supplemental funding and must divert funds from other areas, we will of course have to limit the assistance going to Indochinese refugees in the previously budgeted areas and we could not provide for the important needs addressed in the supplemental for the other non-Indochinese refugees. Additionally, we would place an immense burden on the highly impacted school districts which already are already struggling to meet the wide ranging needs of these refugee children. We would also have to do without the health screening and preventive health programs we propose to be conducted both here and abroad.

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Question: Would you term this supplemental urgent? If so why?

Answer: Yes. While we believe there is sufficient funds available under the continuing resolution to maintain the level of cash and medical assistance to Indochinese refugees who have entered or will enter the country during FY 1980, there are no provisions for assistance to these other refugees, who will be aided by both voluntary agencies and the States.

Also, as mentioned earlier, our supplemental would also provide funds for activities that would insure the refugees will not pose an excessive financial burden on the States where they may reside. Funds for English language training will help the refugees become self-supporting, productive members of society, and not remain public assistance recipients (with a pay off to both the States and the Federal government). We are asking for money for health preventive activities so that there is less pressing demands on our health care systems. The money for education assistance will help local school districts to better plan and provide better education training for refugee children. And finally, the request for increased Federal expenses will help in the administration of the refugee program.

Question: The Department of Labor (DOL) may implement several programs in response to the immense need for job training for Indochinese refugees. Has HHS formed any interagency agreements with DOL?

Answer: HHS and DOL do not at present have any formal interagency agreements concerning the refugee program. We have, however, been working closely to devleop a coordinated response to refugee training needs. For example, we have assisted DOL in indentifying resources in the area of English as a Second Language (ESL) training for refugees, resettlement issues and networks.

Question: Under the Indochinese Refugee Assistance Program (IRAP) sponsors and voluntary groups provide training services. How is HHS proposing to avoid duplicating efforts of DOL? For instance, DOL may decide to assess the needs of local communitites in the job training area while HHS may have obtained this information in its own assessments.

Answer: As noted above, ORR has maintained close contact with DOL in its efforts to assess the need for services for refugees and to design programs for them. We will continue to coordinate our efforts with DOL as these programs are developed.

Question: Voluntary agencies provide many services in helping to resettle refugees in this country. These agencies have been particularly useful in providing assistance to Soviet refugees. One of the responsibilities you list for these agencies is helping to recertify in the United States professionals trained abroad. This is a very important function, since many refugees, particularly Soviets, are skilled engineers, architects or physicians.

How long, on an average, does it take for a refugee after arrival in America to obtain certification to work in a specialty?

Answer: Recertification has been defined by the Soviet Jewish Resettlement Program to mean "needing a license to practice." This formal definition then applies primarily to doctors, and also includes a limited number of other occupations. A broader definition of recertification would include Soviet Jewish emigres with professional backgrounds who reconstruct their careers in the United States but who do not hold a license.

For both of these groups, the length of time to reestablish varies according to: profession, English language ability, age, job openings, health and frequency of requalifying exams. For engineers with English competence, placement is often immediate. For individuals with academic or artistic backgrounds, the length of time depends upon language and locating a position.

Some professionals, such as attorneys, cannot reconstruct their careers due to the wide differences in education and training. These and other professionals are often retrained in another field, such as computer programming.

Doctors and dentists, for whom formal certification is necessary frequently struggle for several years before they pass their exams and some are never able to practice again. In both instances, the refugees would be encouraged to find related employment (research, technicians) if possible as training for the examination is expensive and lengthy.

Question: How many refugees last year obtained such certification?

Answer: Statistics have been kept only for those fields requiring formal licensing in order to be recertified. In FY.1979, 42 doctors participated in educational and training courses, 21 had completed preparation for their exams, and 3 were recertified according to results which were available at that time. A much larger number of professionals were placed in jobs in their professions, although we do not have separate statistics due to the difficulty in defining "professional".

Question: What kinds of services are provided to aid these refugees to obtain recertification in America?

Answer: A wide range of services is available for emigres in professional fields. Upon arrival, the background and skills of each emigre is evaluated and a resume is prepared. A vocational counselor then explores the need of and options for each individual including possible job openings, and the need for retraining. Each emigre is given English instruction and often this includes technical English he must know to enter his field.

Sometimes professionals work at minimum wage jobs, full or part time, while studying in the evening. An increasing number of employers are providing on-the-job training, due to the efforts of job developers. On the basis of an individual case review, the Jewish community finances some emigres in training programs. Sometimes the employment counselor is able to locate other publicly funded programs such as CETA. Each professional is given extensive counseling about employment opportunities in this country, inter-

viewing, and job seeking methods. Efforts are made to introduce the emigre to other professionals in his field. Service is provided to the emigre until he or she is placed and this service continues to be available after placement to assist with upgrading.

PERCENTAGE OF FUNDING TO EACH ETHNIC GROUP

Question: Presently, the Indochinese represent 75% of the total refugee population in the U.S., while non-Indochinese make up the remaining 25%.

According to your 1980 supplemental request of $107 million, 47% of funds are proposed for Indochinese programs and 53% for the other groups. This seems to indicate that the proposed funds are not proportionate to the population.

Is that indeed the case?

Answer: Not at all. 82% of the monies in the current FY 1980 budget are earmarked for Indochinese refugees. Only 18% goes for other refugees.

The supplemental request is based on several items, the most pressing of which is the unanticipated increase of other non-Indochinese refugees being admitted to this country. Due to the higher admittance of Soviet, Cuban and other refugees, additional funds are needed to help the voluntary agencies resettle them. We must also provide monies to the States to help those who cannot be aided by the voluntary agencies. These extra previously unanticipated costs account for about $57 million of our request for $107 million.

Also if we combine the current budget with our supplemental request the percentage of assistance for each group is comparable to their share of the refugee population.

Question: Regarding the 1981 request for $598.5 million, you propose $324 million in cash and medical assistance to Indochinese, Soviet and other groups.

Please clarify what percentage is earmarked for each ethnic group and how this compares to each group's percentage of the total refugee population.

Answer: The $324 million for cash and medical assistance in our FY 1981 request is based upon an assumption of a 2 year eligibility limit on Federal reimbursement. This $324 million will be distributed as follows:

		($ in Millions)	
ETHNIC GROUP	% OF REFUGEE POPULATION	AMOUNT EARMARKED	% OF FUNDS
Indochinese	86.7	$281	86.8
Cubans	5.5	$ 18	5.5
Soviets & Others *	7.8	$ 25	7.7
	100	$324	100

* Also aided by voluntary agency programs ($36 million).

SOCIAL SERVICE DELIVERY TO INDOCHINESE REFUGEES

Question: We have heard that the dual system of State Title XX efforts and Special Indochinese Refugee Assistance Program (IRAP) project funds has caused some overlap. In some areas there is a duplication of efforts between these two programs and the efforts of voluntary agencies, while serious gaps exist in other geographical areas.

What are you doing to eliminate duplication and gaps in the provision of social services to refugees?

Answer: Special IRAP project funds were originally designed to assure services for refugees where local and State agencies were unable to develop the capability to do so. State and local agencies are now more capable of responding to the refugees' needs and have been utilizing social services funds to do so. We have recently significantly broadened the scope of services states may provide the refugees to help close gaps in services. While both special project and social services funds have been used for similar purposes, we have been careful to avoid duplication of services to the same clients from different funding sources.

Question: Which States are being required to submit to HEW an annual plan for providing services in order to receive grants?

Answer: All states desiring to purchase social services under IRAP must submit a state program description to HEW.

Question: Does HHS provide funds for State planning and State coordination of local refugee efforts in those states of greatest need?

Answer: State planning and coordination efforts are eligible for 100% federal reimbursement, and are in fact encouraged by the Office of Refugee Resettlement.

CUBAN POLITICAL PRISONER PROGRAM

Question: The Cuban political prisoner program under which 3,600 of Castro's prisoners and their families were admitted to the United States is drawing to a close.

What is the total number of admissions under the program, and where are these refugees being resettled?

Answer: As of February 21, 1980, 3,330 former political prisoners and 5,523 family members -- totalling 8,853 persons -- had registered with the Cuban Refugee Program in Miami since the inception of the Cuban Political Prisoner Program.

The majority of these people have settled in Dade County, Florida. California, New York, New Jersey, and Illinois are the principal locations of those who have resettled in other areas.

Question: To what extent is this new group of Cuban refugees requiring cash and medical assistance?

Answer: Almost all of these new Cuban refugees require initial cash and medical assistance. However, they are on the public assistance rolls for only an average of four months.

Question: Are there any characteristics of this group that would make them any more difficult to resettle than other Cuban refugees, or easier to resettle?

Answer: This group tends to have greater difficulties because of the effect of long periods of incarceration. However, except for those who are 60 years of age or older, or who are ill (about 9%), the average period of dependance on assistance is very short.

Question: Are there significant numbers of children in this refugee group and is any special assistance being provided to local educational agencies as a result?

Answer: Approximately 13% of the arrivals under this program are 18 years or under. Under the phasedown for the Cuban Program $9.4 million will be provided to the Dade County Public Schools in FY 1980 to help offset the cost of education for all Cuban refugee children in the county's school system.

Question: What percentage of actual education costs does Federal education assistance for Cuban refugees represent.

Answer: The operating budget for FY 1980 for the Dade County School System is $447,765,624. The Cuban Refugee Program provided approximately $9.4 million or 2.1% of actual education costs to offset the impact of Cuban refugee children on the school system.

The Office of Education advises us that this $9.4 million will be used in the following manner ($ in millions):

PURPOSE	AMOUNT
Education of Cuban Children	$2.5
Bilingual Program	6.7
Vocational Training	.2
	$9.4

During FY 1980 the Department of Education estimates that the Dade County School system will serve 2,677 children. Based on the amount Education has set aside for this purpose, we are providing assistance at the rate of $934 per Cuban refugee child.

INTERAGENCY AGREEMENT - HHS/ACTION

Question: I understand you have signed an interagency agreement with the ACTION agency in the amount of $750,000. How will this work?

Answer: We are about to sign an interagency agreement with ACTION involving approximately $750,000.

Its purpose is to undertake a six-month demonstration effort by ACTION to stimulate involvement of volunteers in refugee resettlement, to strengthen the self-help capacity of Indochinese mutual assistance associations, and to bolster local volunteer effort with that of others, on behalf of refugees.

Its principal elements include:

$350,000 from HHS to ACTION to carry out coordination of volunteers and technical assistance in volunteer mobilization, utilizing State Offices of Voluntary Citizen Participation in eight states with high refugee impact: Arkansas, California, Colorado, Florida, Hawaii, North Carolina, Texas, and Virginia.

$200,000 from HHS to ACTION to fund six to ten grants, averaging $30,000-$35,000 to provide training and technical assistance for voluntary efforts and activities through voluntary organizations, mutual assistance associations, and State Offices of Voluntary Citizen Participation.

$49,241 from HHS to ACTION to fund staff support for ACTION's Office of Voluntary Citizen Participation.

$149,085 from ACTION's own appropriation, including $100,000 in "mini-grants" plus training and staff support, to support refugee activities.

The Office of Refugee Resettlement has also provided a series of grantmanship workshops for association leaders, to instruct them in the practice of applying for grants from government and private agencies and foundations. A total of 150 association leaders attended these workshops.

Two associations received IRAP Special Projects grants in English language and vocational training.

Several associations are sponsoring refugees through affiliation with VOLAGS.

MENTAL HEALTH PROJECTS

Question: HHS Refugee Mental Health projects report that a combination of culture shock, anxiety over missing family, loss of status and general disorientation contribute to mental debilitation. Symptoms usually occur two years after arrival when family break-ups result from new tensions and role changes. Federal leadership is needed to address these and other mental health problems.

Which mental health projects funded under the $2.8 million special project grants of FY 1979 have produced useful results?

Answer: Although the mental health projects were originally designed to perform only three functions: impacting existing delivery systems, building community support systems, and training paraprofessionals, in many cases their most useful activities have been the client counselling provided by the paraprofessional trainees. Also of importance has been the development of community support mechanisms, i.e. counting resources in the refugee community

that refugees themselves can turn to for support and increasing the refugees' willingness to utilize the existing mental health service delivery system.

Question: What has been the extent of NIMH (National Institute of Mental Health) involvement?

Answer: NIMH recently convened a group of refugee community leaders to assist them in their planning efforts for refugee mental health. To help avoid duplication of services, NIMH has consulted with ORR regarding the nature and scope of our activities in the area of mental health.

Question: How is HHS assisting the mutual assistance (self-sufficiency) groups consisting of Indochinese community counselors? When can they start receiving funds as voluntary agencies?

Answer: HHS is maintaining liaison with approximately 200 Mutual Assistance Associations both by letters and telephone. Informational letters in English and in the three main languages of the refugees provide the associations with information important to the refugee community.

Question: Are any steps being taken to establish cultural centers which provide services to alleviate mental distress of refugees?

Answer: While it is not within the scope of HHS to support cultural centers, several mental health projects have provided cultural activities to alleviate refugees' mental distress.

WARRANT ISSUE

Question: Last month this committee learned that the General Accounting Office had misunderstood Congressional intent regarding the appropriate funding level for the Indochinese Refugee Program under the Continuing Resolution for fiscal 1980. On behalf of the subcommittee, Chairman Magnuson and Senator Schweiker wrote to the Comptroller General and our staff had extensive discussions with General Accounting Office staff to clarify the intended fiscal 1980 funding level. The Comptroller General subsequently issued an opinion in conformance with the committee's position and countersigned treasury warrants to provide the additional funds needed.

We understand the additional amount needed was $193 million. Is that correct?

Answer: Both OMB and HHS assumed that the Continuing Resolution provided appropriations to cover the full cost of delivering last years services to this years group of refugees.

The Treasury Department, however, did not share our view. They, therefore, restricted funding to the $223.5 million level of the 1979 appropriation - thus the $193 million shortage.

This view by the Treasury Department, which was informally concurred in by the General Accounting Office, failed to recognize Congressional intent as expressed in floor statements as well as in

the Committee Report on the Continuing Resolution in which it was stated that funds in the Continuing Resolution were provided for the 14,000 refugees now being admitted to the United States each month.

Fortunately with the help of Chairman Magnuson, Senator Schweiker, and others, we were able to clarify the intended funding level and subsequently received authorization to spend at the higher level.

Question: When would funds for the Indochinese Refugee Assistance Program have run out had this additional amount not been provided?

Answer: Had the warrant discrepancy not been resolved in our favor, the funds for the Indochinese Refugee Assistance Program would have run out at the end of March. After that time, the States would not have been reimbursed for AFDC, Medicare assistance and social services which they would be providing to refugees for the remainder of FY 1980.

LINES OF AUTHORITY

Question: We are told that the contracts with voluntary agencies, even for domestic operations, are negotiated and signed in Geneva. Why doesn't HHS handle the contracts for domestic operations of voluntary agencies?

Answer: Section 412(b) of the Immigration and Nationality Act, as enacted by the Refugee Act of 1980 provides for HHS to assume this responsibility at the beginning of FY 1982 unless the President determines that the responsibility should be placed in a different agency as the result of a special study to be reported to the Congress by March 1, 1981.

STATES AS VOLUNTARY AGENCIES

Question: I understand some states have applied for and become voluntary agencies and can therefore receive the $500 per refugee that is granted to these agencies. Why have only three states chosen to do this?

Answer: At present three states have contracts with the Department of State to provide resettlement services to Indochinese refugees. These include the states of Iowa, Michigan and Idaho. Michigan and Idaho are recent additions and it is still too early to determine the scope or probable success of their efforts, although we have every reason to be hopeful. Until the massive exodus of Indochinese refugees occurred last summer and the subsequent doubling of admissions to the U.S., refugee resettlement in the U.S. was clearly within the capabilities of established private voluntary agencies. Since that time, however, it has appeared logical to broaden the scope of resettlement agencies.

Question: Do you intend to encourage more states to become voluntary agencies?

Answer: The programs now being run by the three states mentioned above should provide evidence and guidance as to whether other states will be needed to augment the resettlement services and capabilities of established private voluntary agencies.

MANAGEMENT AND BUDGET

STATEMENT OF FREDERICK M. BOHEN, ASSISTANT SECRETARY

ACCOMPANIED BY:
ROMA J. STEWART, DIRECTOR, OFFICE OF CIVIL RIGHTS
RICHARD B. LOWE III, ACTING INSPECTOR GENERAL
JOHN L. PALMER, ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, DESIGNATE

BUDGET REQUEST

Senator SCHMITT. We will place a copy of your full statement in the record. If you care to summarize very briefly, I only have about a half hour.

We would like to proceed then directly to the Inspector General's testimony after you summarize your statement.

Mr. BOHEN. Thank you, Mr. Chairman.

Mr. Chairman, my colleagues and I are here to present and advocate the administration's request for four distinct accounts administered in the Department of Health and Human Services.

GENERAL DEPARTMENTAL MANAGEMENT

My own responsibilities focus on the general departmental management account, where we seek an appropriation of $136.4 million for fiscal year 1981, an increase of $4.6 million over fiscal year 1980, with the increase that we seek required largely for noncontrollable administrative cost increases as detailed in the budget justification and the testimony which we are submitting for the record.

[The statements follow:]

STATEMENT OF FREDERICK M. BOHEN

DEPARTMENTAL MANAGEMENT BUDGET

I am pleased to be with you today to present and urge adoption of the FY 1981 Departmental Management budget, as recommended by the President.

I would like to underscore my full support for the activities and priorities reflected in the Administration's budget recommendations. It is important to emphasize the extended and careful effort that has been made within HHS to reach agreement on the best use of available resources to make progress towards our most important objectives.

The budget I will discuss today is a product of that effort, and I commend it to you as a true reflection of a painstaking process of defining and affirming our priority needs and requirements.

I would like to summarize for you the most important features of our requests, and then we will be happy to answer your questions Ms. Stewart and Messrs. Lowe, Palmer and I will submit full statements for the record.

Office for Civil Rights

At my immediate left is Roma Stewart, the Director of the Office for Civil Rights. With the transfer to the new Department of Education, the OCR staffing level for fiscal year 1981 represents 33 percent of the positions authorized last year to the Department of Health, Education, and Welfare for civil rights enforcement in the combined areas of health, and human servies and education. The request for health and human services includes an increase of 100 positions that would enable the office to conduct additional compliance reviews in fiscal year 1981.

In the past, because of the court-imposed priority accorded educational institutions, civil rights enforcement in the health and human services areas has been neglected. There is a critical

need to reverse this pattern and focus attention on the delivery of health care and social services. These programs benefit a large number of our most vulnerable groups -- the poor, dependent children, the disabled and aged, and persons with limited or no ability to speak English. Compliance reviews are, by far, the most effective means we have of finding and eliminating patterns of discrimination. By permitting a major increase in our capacity to perform compliance reviews, the budget request would enable OCR to develop a well balanced, comprehensive enforcement program, the major elements of which are:

- o Prompt resolution of discrimination complaints.
- o Compliance reviews to identify and eliminate patterns and practices of discrimination.
- o Technical assistance to help recipients comply with nondiscrimination requirements on a voluntary basis.

The 100 new positions would be allocated to completing compliance reviews initiated during fiscal year 1980 and to initiating new reviews in fiscal year 1981. We estimate that of the 516 reviews underway in fiscal year 1980, 390 reviews will carry over into the next fiscal year. In addition, we plan to schedule 217 new reviews in fiscal year 1981.

Office of Inspector General

To my far left is Richard Lowe, the Department's Inspector General designate. The fiscal year 1981 request includes 25 new positions for Audit and $1 million in special funds.

The 25 new Audit positions we are requesting will be used to strengthen our audit effort in Medicaid and Public Assistance programs which experience has shown are most susceptible to fraud, abuse and error. If approved, these 25 positions are expected to result in an additional $2.5 million in Audit-recommended financial adjustments.

Major accomplishments by the Inspector General's office in fiscal year 1979 include:

- Issuance of 7,525 audit reports which resulted in recommended financial adjustments of $87 million with which Principal Operating Components concurred.
- A total of 159 indictments, 130 convictions, and over $13 million in fines, recoveries and restitutions.

The Inspector General has responsibility for oversight and coordination of State Medicaid Fraud Control Units, of which 27 currently are certified. This activity was previously the responsibility of the Health Care Financing Administration, but was transferred to the Office of the Inspector General in April, 1979. These units are comprised of attorneys, investigators and auditors, and are becoming the principal effective force which many States have for Medicaid fraud control. The law provides that States meeting statutory requirements may receive 90 percent Federal funding during a nearly three year period ending September 1980.

We are also requesting an additional $1,000,000 to fund special projects where the return on the Federal investment may be several-fold to one. These funds will be under the direct control and supervision of the Inspector General and will enable the Office to conduct coordinated attacks on high-priority programs of fraud, abuse and waste in HHS programs and to build effectively on the resources of State and local agencies to this end.

Policy Research

On my right is John Palmer, Assistant Secretary for Planning and Evaluation, designate.

The Policy Research program is one of the Department's principal sources of policy information and research on poverty problems, on income sources and characteristics of the low-income population, on the effectiveness of distribution of benefits under existing or proposed programs, and on other issues that cut across HHS agency lines. Among these are the problems of administering income maintenance, health and social service programs, long-term care financing and services, disability problems of the aged and problems of children, youth and families.

Findings from Policy Researh projects have made important contributions to the development of public policy and to the management of existing programs. Two major examples of these contributions include:

- Results from the income maintenance experiments, which have permitted us to estimate the costs and to project the number of jobs that would be needed for the Administration's welfare reform proposals and for many reform alternatives.

- Data from the health insurance study, which are being used to develop cost and utilization projections for different health insurance proposals.

The fiscal year 1981 request is $24 million, the same level as in 1980. Over 80 percent of our budget request will be directed toward continuation of important, ongoing multi-year projects.

General Departmental Management

The FY 1981 request for General Departmental Management includes increase of $2.4 million in program funds. Most of this ($1.5 million) represents efforts to improve the Department's financial systems and save significant amounts of Federal interest costs. The remaining funds would permit major improvements in the productivity of existing legal staff resources

($569,000) and accomplishment of increased data-processing work requirements in our personnel office ($300,000). The request also includes a reduction of 10 positions and $350,000 in the welfare reform and health insurance planning staff.

Letters of Credit--We are requesting an increase of $1 million to continue implementation of improved letter of credit methods for financing Public Assistance programs in the States. This increase, when added to the $1 million and fifteen new positions provided in fiscal year 1980, would enable the Department to implement improved letter-of-credit financing in all States.

The $2 million total would continue implementation of the checks-paid letter of credit procedure, where feasible, in the 10 largest States. In the remaining 40 States the Department will implement first a delay-of-drawdown letter of credit procedure, followed by implementation of a checks-paid letter of credit procedure where determined cost-effective in a State.

Each of these procedures will delay the transfer of Federal funds to a State until the checks issued by the State have cleared the State's bank account. We estimate that lag time between drawing of Federal funds to cover issuance of checks by the States and cashing of the checks by recipients has averaged 12 days. Eliminating this lag time will save the Federal government an estimated $49 million in annual interest savings and will produce an estimated one-time Federal outlay reduction of $495 million.

The Management Accounting Network--We are currently undertaking a major effort to revamp and modernize separate agency accounting systems and all departmental financial systems into a series of interrelated and compatible systems which will form an overall departmental Management Accounting Network. An additional $500,000 is requested to modernize three departmentwide financial systems which will be part of the Management Accounting Network. This would enable the Department to obtain data

immediately from these systems through on-line, telecommunications techniques. This will result in improved communications and efficiency.

Mr. Chairman, that concludes our opening remarks. I and my colleagues will be glad to answer the Committee's questions.

GENERAL DEPARTMENTAL MANAGEMENT

I appreciate this opportunity to discuss with you the fiscal year 1981 appropriations request for General Departmental Management of the Department of Health and Human Services.

The fiscal year 1981 request for 3,673 positions and $136,372,000 in budget authority will continue Office of the Secretary activities at the fiscal year 1980 level, with the exception of limited new program funds and a decrease of 10 positions. The request of $136,372,000 is $4.6 million over FY 1980, largely for non-controllable administrative cost increases. We also request authority to transfer $8 million from the Social Security and Medicare trust funds to cover costs of services provided by the Office of the Secretary that directly benefit programs financed by the trust funds. Thus, the total obligational level that we are requesting for 1981 is $144,372,000.

$3.4 million of the overall increase of $4.6 million in the OS Budget--or nearly 3/4--is required for non-controllable built-in cost increases including $1.3 million for increased salary costs such as annualization of the October, 1979 pay raise, bonus pay for SES employees, full year costs of new positions authorized in fiscal year 1980, career ladder promotions and within-grade salary increases; $1 million for increased costs of office space and GSA building management services; $1.1 million for increases in such other administrative costs as per diem and air fare rates, rentals, printing, supplies and virtually all other categories of costs. We have no ability to absorb these non-discretionary cost

increases in FY 1981 because of earlier reductions in our request to cover similar cost increases during the past two years.

We are also requesting increases of $2.4 million in program funds. Most of this ($1.5 million) represents efforts to improve the Department's financial systems and save significant amounts of Federal interest costs. The remaining funds would permit major improvements in the productivity of existing legal staff resources and accomplishment of increased data-processing work requirements in our personnel office. These program increases are partially offset by decreases of $1.1 million as the result of one less working day in 1981 and a reduction of 10 positions and $350,000 in the welfare reform and health insurance planning staff.

Before discussing the budget request in detail, I would like to outline the activities conducted by the Secretary under this appropriation. This appropriation is organized into two major activities--Departmental Operations and Departmental irection:

-- Departmental Operations supports six major services whose work results directly from agency program operations. These include: Legal services provided to all the Department's program agencies; Facilities Engineering which oversees all facilities operations within the Department; Administrative services provided to departmentwide headquarters staffs; The Grants Payment System that serves as a central departmental payment and cash control point for recipients of HHS grant and contract awards; Regional administrative services provided to the Department's regional program components; and Central payroll and personnel data services provided by the Employee Systems Center for all departmental employees.

-- Departmental Direction supports those activities related to the Secretary's overall responsibilities for the management of the Department, such as financial management, budget formulation, personnel management, grants and contracts management, policy analysis, and legal work affecting the Department in general.

Departmental Financial Management Improvements

The request includes an increase of $1.5 million to continue initiatives to improve the accounting and payment systems of the Department. These budgetary expenditures are expected to yield measurable savings by correcting long-standing shortcomings in the area of cash management.

Letters of Credit--We are requesting an increase of $1 million to continue implementation of improved letter of credit methods for financing Public Assistance programs in the States. This increase, when added to the $1 million provided in fiscal year 1980, will enable the Department to implement improved letter-of-credit financing in all States.

The $2 million total will enable continued implementation of the checks-paid letter of credit procedure, where feasible, in the 10 largest States. In the remaining 40 States the Department will implement a delay-of-draw down letter of credit procedure in 1981, followed by implementation of a checks-paid letter of credit procedure where determined cost-effective in a State. Each of these procedures will delay the transfer of Federal funds to a State until the checks or warrants issued by the State have cleared the State's bank account. Historically, the average time lag between drawing of Federal funds to cover issuance of checks by the States and cashing of the checks by the recipients has been 12 days. Eliminating this lag over the FY 1980-81 two-year period will save the Federal government an estimated $49

million in annual interest savings and will produce a one-time Federal outlay reduction of $495 million.

The funds requested will be used to provide technical and professional accounting assistance to enable States to develop the necessary techniques to modify their current systems for the new financing procedures.

The Management Accounting Network--The Department is continuing a major effort to revamp and modernize separate agency accounting systems and all departmental financial systems into a series of interrelated and compatible systems which will form an overall departmental Management Accounting Network. An additional $500,000 is requested to modernize three departmentwide financial systems which will be part of the Management Accounting Network. This will enable the Department to obtain data immediately from these systems through on-line, telecommunications techniques. This will result in improved communications and efficiency.

Other Requests

Legal Services--An increase of $569,000 is requested to purchase labor-saving equipment and technology. Of this, $410,000 would provide a comprehensive word-processing system which would decrease by 33 percent the support staff necessary to meet attorney needs, while providing a reduction of at least 25 percent in Office of the General Counsel response time to requests for legal services by departmental clients.

The remaining $159,000 would permit the Office of General Counsel to purchase software and the additional ADP processing time to accommodate 3,000 additional legal opinions in the Precedent Opinions Retrieval System which provides Office of the General Counsel attorneys with easy access to all past General Counsel opinions.

Employee Systems Center--An additional $300,000 is requested to meet increased ADP costs resulting from new requirements of the Civil Service Reform Act and to provide more comprehensive minority data for monitoring the Department's Affirmative Action Plan.

Facilities Engineering--The 1981 request includes 43 new reimbursable positions to provide on-site inspection of direct Federal construction. For the next several years, direct Federal construction by the Department will be significantly higher than normal. We have determined that utilizing Federal site inspection teams on a project-by-project basis compares favorably in terms of costs to contracts for architectural and engineering services and assures conformance to approved construction plans and specifications. The Federal inspectors will hold two- to four-year appointments during the life of a construction project. Funds to support these new positions have been included in the 1981 budget for several Public Health Service programs. No funds or positions have been included directly in this appropriation because salary and other support costs of these positions will be reimbursed to this activity as these costs are incurred.

Program Reduction--The fiscal year 1981 request eliminates 10 positions and $350,000 from the staff for welfare reform, national health insurance and hospital cost containment. This decrease reflects a further reduction in the need for basic data collection, analysis, and model development required in earlier stages of these efforts. The remaining staff in this area totals 24 positions and $2.2 million to respond to policy issues arising during consideration of national health insurance legislation, to continue analysis of implementation requirements for national health insurance and welfare reform, and to continue development of hospital cost containment measures.

Summary

In conclusion, Mr. Chairman, we feel that this is a tight but practical budget which strikes a reasonable balance between growing programmatic complexity and workloads on the one hand and the Administration's efforts to eliminate unproductive Federal expenditures on the other hand. While essentially maintaining operational activities at the fiscal year 1980 level, this budget would:

-- Provide increased financial management improvements and accountability in the Department and achieve important savings in both FY 1980 and FY 1981;

-- Provide labor-saving equipment and technology enabling the Department to meet its requirements in a timely manner; and

-- Provide for increased costs of continuing programs and services, particularly in mandatory personnel costs, space and building management, and other administrative costs.

STATEMENT OF ROMA J. STEWART

I appreciate the opportunity to present the fiscal year 1981 budget request for the Office for Civil Rights.

We are requesting $21,931,000 and 690 positions. In addition, $2,350,000 will be transferred from the Social Security trust funds.

The staffing level represents 33 percent of the positions authorized last year to the Department of Health, Education, and Welfare for civil rights enforcement in the combined areas of health and human services and education. The request for health and human services includes an increase of 100 positions that will enable the Office to conduct additional compliance reviews in fiscal year 1981.

Compliance Responsibility

OCR enforces several statutes that prohibit discrimination on the basis of race, color, national origin, sex, handicap, and age in federally assisted programs and activities. Because of the large amount of financial assistance extended, and because of the large number of recipient institutions, this Department is a major compliance agency. More than 43,000 of the Department's recipient programs are subject to the nondiscrimination laws, which protect 164 million beneficiaries.

In the past, because of the court-imposed priority accorded educational institutions, civil rights enforcement in the health and human services area has been neglected. There is a critical need to reverse this pattern and focus attention on the delivery of health care and social services. These programs benefit a large number of our most vulnerable groups — the poor, dependent children, the disabled and aged, and limited or non-English speaking persons. The budget request will enable OCR to develop a more comprehensive enforcement program in this area. Major elements of this program are:

Prompt resolution of discrimination complaints.

Compliance reviews to identify and eliminate patterns and practices of discrimination.

Technical assistance to help recipients comply with the nondiscrimination requirements on a voluntary basis.

Complaint Investigations

Since 1975, the number of discrimination complaints filed annually against health and human service providers has increased by more than 250 percent. In fiscal year 1979 the office received 1,405 com-

plaints. We anticipate receiving 1,563 complaints this year and 1,822 complaints in fiscal year 1981. In fiscal year 1979, OCR resolved 1,817 complaints, leaving a carryover of 300 complaints.

Many complaints are filed against individual hospitals and nursing homes that participate in the Medicare and Medicaid programs. However, several complaints have raised significant compliance issues that require extensive investigations. For example, we are now investigating a complaint against a large municipal hospital system. The complaint alleges that proposed hospital closings will discriminate against the city's minority populations. Another complaint recently received alleges that the selection of the members of a State Health Planning and Development Agency violates Title VI of the Civil Rights Act of 1964 and the National Health Planning and Resources Development Act.

Compliance Reviews

The fiscal year 1981 request includes 100 new positions to conduct compliance reviews. The new positions will be allocated to completing reviews initiated during fiscal year 1980 and to initiating new reviews in fiscal year 1981. We estimate that of the 516 reviews underway in fiscal year 1980, 390 reviews will carry over into the next fiscal year. In addition, we plan to schedule 217 new reviews in fiscal year 1981.

A compliance review is an in-depth assessment of the civil rights compliance status of an individual program or group of programs. Compliance reviews are an effective vehicle to identify and eliminate discriminatory practices. It is estimated that violations are found in 95 percent of the reviews, resulting in remedies that benefit substantial groups of minorities, women, and handicapped individuals.

To help select issues warranting review, OCR relies on research and analyses of survey data. This process enables OCR to concentrate its resources on civil rights problems that appear to be serious and national in scope. In the future, we will be focusing on a broad range of compliance issues, such as:

Admission practices and accessibility of hospitals, nursing homes and extended care facilities to minorities and handicapped persons.

Delivery of services under the Medicare and Medicaid programs.

Bilingual services to assure equal access and delivery of health and social services.

Hospital procedures for effective communication with visually and hearing impaired patients.

Referral and placement practices of child welfare agencies.

Activities of health planning agencies to ensure access and quality health care for minorities and handicapped persons.

Provision of social services to elderly and disabled adults under Title XX of the Social Security Act.

Technical Assistance

We will continue to assist recipient institutions in complying with the civil rights laws. The activities are intended to provide them with the information and skills needed to apply the laws to particular circumstances. The technical assistance program offers significant long-term benefits by helping to prevent and eliminate discriminatory practices, thus reducing the potential for complaints and time-consuming field investigations. Currently, a large part of

the program is designed to help recipients comply with Section 504, which prohibits discrimination against handicapped persons.

Support Services

To enforce the laws effectively and in a consistent manner, the office develops and refines compliance standards. This process is also important for local administrators who are responsible for operating their programs free of discrimination. In the near future, for example, we plan to provide more concrete guidance to recipients regarding child placement practices, access to hospitals and nursing homes, and services to non- and limited-English speaking applicants and beneficiaries of health and social service programs. To resolve legal questions and ensure that OCR case work is sound, the budget also provides for legal services at headquarters and in the regional offices.

Conclusion

In conclusion, Mr. Chairman, I have highlighted some of the activities that will be emphasized in fiscal years 1980 and 1981. The OCR request for fiscal year 1981 is $24,281,000 and 690 positions, which includes an increase of 100 positions. We believe this budget request will enable OCR to pursue an effective civil rights program in health and human services, an area that warrants greater attention than has been accorded in the past.

STATEMENT OF RICHARD B. LOWE III

I am very pleased to appear before you today to provide a brief synopsis of the activities of the Office of the Inspector General during the past year and to present our appropriations request for FY 1981. In the past, my office has enjoyed the strong support of your committee, and as a result I believe we have made substantial contributions to

the Department's progress toward reducing fraud, abuse and error in the programs administered by the Department of Health and Human Services. However, we continue to discover new problems and opportunities for improvement, and in order to take advantage of such opportunities we are requesting modest increases in both audit personnel and special project funds.

Transfer of Positions to the Department of Education

Before detailing our accomplishments and our budget request, I want to note the transfer of 275 of our authorized total of 1,244 positions --22 percent of our workforce-- to the new Department of Education. This transfer will involve 220 audit positions, 45 investigative positions, and 10 administrative and support positions.

Although we, of course, accept the Administration's decision concerning the transfer of resources required to establish an adequate, effective Inspector General's office in the new Department, our own capabilities are correspondingly reduced in both the audit and investigations area. Indeed, because we will be operating during the second half of 1980, and into the future, with manpower resources disproportionately lower than we have had in recent years to deal with the workload of programs remaining in HHS, we expect our audit coverage to be reduced below the levels achieved in recent years, and we also face comparable problems of contraction in the investigations area.

Moreover, Mr. Chairman, the changes caused by the transfer to the new Department of Education will exacerbate the long-standing gap between the adjusted audit staff of 731 positions and the full staff which my predecessor and I

have repeatedly testified we need to effectively discharge all of our auditing responsibilities. The request for 25 new positions in fiscal year 1981 will partially offset this shortfall between existing and optimal performance of our audit obligations as we see them and will be targeted on Medicaid and Public Assistance programs which experience has shown are highly susceptible to fraud, abuse and waste.

Accomplishments and Budget Request

In FY 1979, the Audit Agency, with an authorized staffing level of 950, issued 7,525 audit reports, including audits performed for other Federal agencies. In addition, about 12 percent of available professional staff were assigned to Inspector General initiatives in health care, welfare and financial assistance. Over $87 million in Audit-recommended financial adjustments were accepted by the Principal Operating Components in FY 79, and the total through the first quarter of FY 80 was $48 million.

The 25 new Audit positions we are requesting will be used to strengthen our audit effort in Medicaid and Public Assistance programs which experience has shown are most susceptible to fraud, abuse and error. If approved, these 25 positions are expected to result in an additional $2.5 million in Audit-recommended financial adjustments. Our FY 81 budget request also contains $3,250,000 for 90 staff years of contract audit support. This represents no increase over the level authorized in FY 80.

Investigations, with a FY 1979 staffing level of 229, continued to handle a growing volume of criminal cases. At the end of FY 1979, the regular caseload of criminal allegations consisted of over 500 cases affecting all HHS program areas, and over 800 matters under preliminary

inquiry. In addition, investigative personnel participated in managing special Inspector General initiatives involving other Federal and State investigative and prosecutive units. After the transfer to the Department of Education our authorized staffing level for Investigations will be 184.

We compiled a significant record in FY 1979, including 157 indictments, 130 convictions, and over $13 million in fines, recoveries and restitutions. During the first quarter of 1980, this record included 16 indictments, 26 convictions, and over $8.7 million in fines, recoveries, and restitutions.

We also have responsibility for oversight and coordination of State Medicaid Fraud Control Units--currently 27 are certified. This activity was previously the responsibility of the Health Care Financing Administration, but was transferred to the Office of the Inspector General in April 1979. These units are comprised of attorneys, investigators and auditors, and are becoming the principal effective force which many States have for Medicaid fraud control. They are expected to have at least two very beneficial long-term effects. First, as the units' activities and accomplishments are publicized, there should be a deterrent impact on potential defrauders of the Medicaid program. Secondly, as the units isolate weaknesses and deficiencies in State Medicaid programs and recommend improvements, they have great potential for improving the efficiency and cost effectiveness of those programs.

The law provides that States meeting statutory requirements may receive 90 percent Federal funding during a nearly three year period ending September 1980. Following September

1980, units may be funded at the 50 percent level, and our budget request of $22,310,000 is based on the 50 percent level. If proposed legislation is enacted, it would permit 90 percent Federal funding for 12 full quarters from the date of initial unit certification. We expect that this would cause an additional 13 State units to seek certification, and that would increase our budget requirement by an additional $21,580,000.

The Office of Health Care and Systems Review, which is the principal "research and planning" arm of the OIG, had an authorized staff of 40, and four of those will be transferred. No new positions are requested in FY 1981. Priority attention of this office in FY 1981 will be given to projects related to fraud, abuse and inefficiency of health care providers such as hospitals, nursing homes, home health care agencies and durable medical equipment companies. Major focus will be on institutional providers and computerized systems.

We are also requesting $1,000,000 to fund special projects where the return on the Federal investment may be several-fold to one. These funds, which will be under my direct control and supervision, will enable the Office of the Inspector General to conduct coordinated attacks on high priority problems of fraud, abuse and waste in HHS programs and to effectively build on the resources of State and local agencies to this end.

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That concludes my statement, Mr. Chairman, and I will be happy to answer questions from you and the Committee.

STATEMENT OF JOHN L. PALMER

I am here this morning to present the Department's fiscal year 1981 request for Policy Research activities authorized under Section 1110 of the Social Security Act.

Our request for FY 1981 of $24,000,000 represents the same level of funding as that of the current fiscal year.

I would like to talk briefly today about the general philosophy that guides the Department's Policy Research program. I will then outline several of the major projects that are underway at present and describe our plans for the future.

General Purpose

The Policy Research program is one of the Department's principal sources of policy-relevant data and research on poverty problems, on income sources and characteristics of the low-income population, on the impact, effectiveness and distribution of benefits under existing or proposed programs, and on other issues that cut across HHS agency lines. Among those are the common problems of administering income maintenance, health and social service programs, developing alternative approaches for long-term care financing and services, and examining a range of service issues affecting the disabled population, the aged, and children, youth and families.

Policy Research projects generally are not designed to answer narrow, specific policy questions. Rather, this program provides the Department with a unique opportunity to examine policy initiatives that differ from programs already embodied in current law and to gather basic data on the characteristics of target groups of concern to the Department.

Policy Research projects are selected for their perceived relevance to future policy decisions. They are managed in an open manner, with frequent issuance of status reports and interim findings. The results are available to Department decision makers, others in the Administration, the Congress, interest groups, the academic and analytic community, and the press. In the past, Policy Research

projects initiated by one Administration have been useful to succeeding Administrations in designing new legislative proposals.

Past Usefulness of Policy Research

Findings from Policy Research projects have already made important contributions to the development of public policy and to the management of existing programs. Policy Research supports a series of modeling efforts that enable us to estimate the cost, caseload and distributional and other effects of various tax, transfer and service delivery options. We are therefore able to provide much more precise predictions of the future effects of these alternatives than if we did not have this modeling capability. For example:

- Research results from the income maintneance experiments have played an important role in the analysis of welfare reform alternatives. A model based on results of the Seattle-Denver Experiment was developed and used by HEW to produce cost estimates for the Administration's welfare reform proposals, to project the number of jobs that would be needed for the program and to predict the program's effects on work effort. The Congressional Budget Office and the Department of Labor also use this model to make their projections.

- The research findings from the Monthly Reporting Projects provided, in part, the basis for monthly retrospective reporting and accounting procedures in the House passed Welfare Reform Proposal H. 4904. Twelve States have moved to institute monthly reporting systems and we estimate that full implementation of this technique will result in substantial annual budget savings.

- Research data collected on State and local disability programs contributed directly to departmental policy formulation, notably to legislative proposals for the reform of the Social Security Beneficiary Rehabilitation Program.

FY 1981 Plans

In 1981, over 80 percent of our budget request will be directed toward continuation of important, ongoing, multi-year projects. Any significant reduction of funding would lead to a serious loss of information and would, in effect, waste monies invested in the projects in previous years.

I would like, now, to discuss the goals of several major experimental and developmental Policy Research activities.

The Seattle-Denver Income Maintenance Experiment is a 10 year large-scale field project designed to measure the effects of welfare payments on the work effort and marital stability of recipients, and on the effects of manpower training subsidies on the earnings and employability of low-wage workers.

During FY 1981, analysis of the experimental data and writing of the final report will be completed. In addition, the experimental data will be prepared for dissemination so that other researchers can replicate and expand on the initial studies utilizing these data.

The Monthly Retrospective Reporting and the Welfare Administration projects are intended to provide estimates of the cost and efficiency of various new methods of welfare administration. The Monthly Reporting Projects are designed to test the effects that an automated, retrospective, client reporting system in the AFDC (and in some sites the Food Stamp) Program has on administrative cost, error rates, and responsiveness to recipient need.

The Welfare Administration Project, which will extend the research begun in the experimental tests of monthly retrospective reporting, will produce a body of knowledge on the cost effectiveness of various techniques of welfare administration. This study is the first attempt to develop a measurement system for assessing the administrative performance of State and local welfare agencies.

The absence of consistent and comprehensive data on administrative performance of welfare operations has, in the past, impaired the

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efforts of both Federal and State officials to develop policies and incentives to improve the management of welfare systems.

In FY 1981, one-year tests of monthly retrospective reporting in fourteen urban welfare offices in four States will be completed. In addition, we intend to support the development of monthly reporting systems in two States. The funds requested for the Welfare Administration Experiments will support a planning effort and some initial design work.

The Health Insurance Study is a major social experiment designed to measure the effects of different health insurance plans on the demand for medical care, the quality of care given and the health status of participants. Families at six sites are assigned to insurance plans having different coinsurance rates and out-of-pocket expenditure ceilings or to a Health Maintenance Organization. The families are followed for either three or five years. This study will provide information that will permit more accurate estimation of the cost of various health insurance programs for almost any segment of the non-aged population. The study will also permit evaluation of many other health care issues, including the quality of care provided by Health Maintenance Organizations and the fee-for-service delivery system, and the value of preventive care.

The Health Insurance Study has been collecting data on the insured population since 1974. Sufficient data have now been collected for analysis to begin. Some findings are becoming available and we expect more precise results over the next three years.

This year's Health Insurance Study funding request of $8.4 million reflects the fact that FY 1981 represents the peak period of field activity in the project. Commitment of Policy Research funds to this project will decrease in FY 1982 and beyond.

I am responsible for overall development of policy alternatives in the area of Long-Term Care. This includes coordination of the Long-Term Care Channeling Demonstrations being funded by the Health Care Financing Administration and the Administration on Aging. Over and above this demonstration effort, we intend to commit Policy Research funds to examine policy areas including develop-

ment of a multi-agency research agenda, and examination of barriers to expanded use of alternatives to institutional long-term care.

The Retirement Policy Study is a multi-year project focusing on issues surrounding retirement, government policies that affect retirement decisions, and other household behavior in anticipation of retirement. FY 1981 funds will support the development of a data base that includes information from a variety of sources (e.g., Census, IRS and pension data) pertinent to retirement issues, and the initial development of a model that permits analysis of the interaction of household, demographic, employment, and savings behavior with private pensions, Social Security, Supplementary Security Income (SSI) and alternative government retirement policies.

The Survey of Income and Program Participation (SIPP) will provide improved information on income, assets and the extent of participation in available government programs. Two major objectives will be served: SIPP will support better estimates of participation in and costs of proposed program and policy changes, and will provide more sophisticated assessment of the impact of program changes on individuals and families. Operational responsibilities for SIPP will be transferred during FY 1981 to the Social Security Administration although my office will continue to chair the Departmental Steering Committee on SIPP.

In addition to these major programs, in FY 1981, we are supporting a number of important smaller projects, covering issues in disability, family policy, refugees and Hispanic demographic changes.

Conclusion

This budget is in line with the President's overall budgetary goals. I might note that in the seven years since this program was transferred from the Office of Economic Opportunity to the Department of Health, Education, and Welfare, its budget has been reduced by over 50 percent in constant dollars. We have been able to achieve this reduction in spending, in part, through careful coordination of Policy Research with other research activities within the Department.

In the Health and Human Services area, policy choices have great impact on people's lives and great impact on the Federal budget. It is imperative that we make such choices equipped with the best information available. It is our goal in the Policy Research program to try to predict future policy choices and data needs and to initiate investigations which will make these choices, if not easier, at least better informed.

SUMMARY OF BUDGET REQUESTS

Mr. BOHEN. For the Office of Civil Rights, we seek an increase in 1981 of $2.1 million, largely to cover the costs of 100 new positions we are seeking for that office.

We have an appropriation for policy research which is administered by the Assistant Secretary for Planning and Evaluation, Mr. John Palmer, on my immediate right; a request for 1981 that is constant at $24 million. For the Office of Inspector General, we have pending before your committee a request of $56.1 million which includes funds for 25 additional auditors in fiscal 1981 and $1 million in funds for special investigative projects which Mr. Lowe, the Acting Inspector General to my right, is prepared to explain in response to such interest and questions as you may have.

We have detailed statements on these for the record which we will submit. We are pleased to answer the questions you may have.

MEDICARE AND MEDICAID FRAUD ABUSE

Senator SCHMITT. I am sure the committee will have questions on each area; but as you recognize this year—and it ought to be that way every year—hopefully the Inspector General can make it possible to every year evaluate the administrative savings that may be possible within the Department. Could you summarize what impact the activities of the Inspector General have had on the fraudulent activities under medicare and medicaid?

Mr. LOWE. I'm sorry?

Senator SCHMITT. What impact have your activities had on the identification and prosecution of fraudulent activities by unscrupulous health providers under medicare and medicaid?

Mr. LOWE. Mr. Chairman, I think we have had a significant impact in that area. The Office of the Inspector General, and more particularly the Office of the Investigations within our office, have compiled what I consider to be a significant record in fiscal year 1979.

We have had 157 indictments in that area, 130 convictions, and over $13 million in fines, recoveries, and restitutions. During the first quarter of 1980, this record included 16 indictments, 26 convictions, and over $8 million in fines, recoveries, and restitutions.

As you know, Mr. Chairman, we have recently assumed the oversight responsibility for State medicaid fraud control units; and as I have indicated in my statement for the record—those units have very impressive accomplishments. We hope continued funding for those fraud units

will be forthcoming. We view them as more or less an extension of the Inspector General's Office throughout the country. I think that their efforts, along with ours, have proved to be a significant deterrent to fraud in the medicaid program.

CUTBACKS IN MEDICARE/MEDICAID APPROPRIATIONS

Senator SCHMITT. Is it possible now to say as a result of these activities that less money will be required because of less fraud and abuse? Less total moneys for the medicare, medicaid programs?

Mr. LOWE. No; I don't think that is the correct approach, if I might say that, Mr. Chairman. Through our efforts we identify those people who would take advantage of the system. To cut back on the appropriations for those programs is to deny the qualified recipients the funds which are allocated for that purpose.

I do not believe that the one correlates to the other. I think what we can do is constantly make an effort to keep on top of those who would take advantage. But I think it's the wrong approach to have the Inspector General identify either soft areas in administration or hard areas in terms of actual out and out criminal fraud, and then reduce the allocation by the corresponding amounts of fraud, abuse, and waste. I don't think that is the correct approach.

INSPECTOR GENERAL'S ROLE

Senator SCHMITT. What good is it to have an inspector general as far as the total budget is concerned? I realize that you can prosecute criminal activity. That's important. That's law enforcement. But unless you can point to a reduction of the error rate and to actual savings, because people aren't doing this any more, then I don't see why we should continue to fund your office.

Mr. LOWE. Let me put it this way: The value in my opinion of an Inspector General's office in terms of ultimate reduction in appropriations to a particular agency or department would be in its ability to identify managerial, administrative, systemic problems, and recommend improvements.

Toward that end, if we can examine management, examine the administrative process, examine inefficiency in the adminstration of programs, ultimately I think that could have the corresponding effect of reducing the need for appropriations to a particular program.

In the area of fraud and abuse, you will never, in my opinion—and that certainly is based upon my 12 years experience as a prosecutor—you will never totally eliminate the people who would choose to steal and deprive people from that which is theirs. In other words, we will never eliminate thieves, I don't think, in this country.

By identifying people who have ripped off the system and prosecuting them, that doesn't mean that you will have a reduction in the number of people who will rip off the system in the future, or the number of people who will be successful. In my opinion, it's a sad commentary, but law enforcement is really a holding action. That's all.

DISINCENTIVES TO FRAUD

Senator SCHMITT. You don't think you can create disincentives that, through law enforcement, prosecution, sentencing, will be disincentives not to rip off the Government?

Mr. LOWE. Yes, I do. I think you can create disincentives, yes.

Senator SCHMITT. Doesn't that reduce the number that choose to be thieves?

Mr. LOWE. I think it may. But I don't think the evidence is sufficient to warrant a reduction in the appropriations to programs.

Senator SCHMITT. How long will that take? In other words, you are saying you can't make a reduction in the number of thieves. Then, shoot, we might as well accept what we have got.

MANAGEMENT SAVINGS

Mr. LOWE. Because in my opinion, Mr. Chairman, the larger amount of savings is in management and efficiency in the administration of programs. I think that only approximately 13 percent of the total dollar annual losses my predecessor estimated existed in HEW in the first Inspector General's annual report could be contributed to fraud and abuse. That would be approximately 13 percent of $7 billion.

Senator SCHMITT. You are saying the actual fraud and abuse, that which would be subject to criminal prosecution, is about 13 percent of that?

Mr. LOWE. That's right.

Mr. BOHEN. The precise figure was $218 million of that $7 billion.

Mr. LOWE. The 13 percent amounts to abuse.

DEFINITION OF ABUSE AND WASTE

Senator SCHMITT. How do you define "abuse"?

Mr. LOWE. "Abuse" is almost legal fraud. In essence, let's assume you were playing softball and sprained your thumb. If you went to a physician, to fix your thumb, and he put you through a series of tests, electrocardiograms, et cetera, well, he has performed the services. Those services simply weren't needed; so he——

Senator SCHMITT. That's an abuse?

Mr. LOWE. That's an abuse of the system as opposed to fraud committed by charging medicaid for an electrocardiogram which he did not perform.

Senator SCHMITT. But abuse of that nature is subject to criminal prosecution?

Mr. LOWE. No, sir; it is not.

Senator SCHMITT. What is it subject to?

Mr. LOWE. It is subject to termination of the physician's participation in the medicaid program, but it is not——

Senator SCHMITT. Termination as a qualified provider?

Mr. LOWE. Yes; that's correct, sir.

Senator SCHMITT. Then $7 billion minus $218 million——

Mr. BOHEN. For fraud.

Senator SCHMITT. That leaves us with what the Inspector General

would estimate is the administrative waste within HEW in these programs?

Mr. LOWE. Yes.

Senator SCHMITT. Why can't we just subtract that amount of money out of the budget and say, "You guys go clean up that administrative waste"?

Mr. BOHEN. May I try my hand on that, Senator?

Senator SCHMITT. Sure.

DEPARTMENTAL SAVINGS PLAN

Mr. BOHEN. Let me say the Inspector General's work in HEW, starting with the report in March of 1978, has led to a serious effort to direct an attack on waste and inefficiency in HEW, to bring down the error rates in the programs that serve millions of needy people. I think that we have reported to this committee; and I would submit for the record at this hearing the Department's savings plan, the measurements under that plan for 1979 and our goals for 1980 and 1981.

We have brought down the error rates in medicaid, AFDC, and SSI over the 2 years since the Inspector General first reported. The result of that is that there are clearly fewer dollars going to people who are ineligible or for overpayments to people who are eligible.

Those don't show up as dollar-per-dollar reductions on the bottom line, because there are other variables in the AFDC and medicaid programs. As you know, the Federal Government is in a posture of matching what States decide to do.

You can have a situation where you are bringing the error rate down, as we know we have done in medicaid; but have other aspects, including, indeed, the rate of inflation going on in the health care industry, that change the estimates from one month to another, or from one 6-month period to another. We have, I think, a plan that simply wasn't in existence before the Inspector General went to work.

It has been put into effect. It affects every operating agency in the Department. There have been monthly reports going to the Secretary and 6-month reports coming to the appropriation committees on where we are and what we plan to achieve.

1979 SAVINGS PLAN

We reported to this committee in January that of our 1979 goal of $1.3 billion in savings, we had at that point documented approximately $1 billion, just about 80 percent. We continue, because of auditing and other activities, to get recoveries on an ongoing basis. We think we can make that $1.3 billion goal.

Senator SCHMITT. Is that agencywide?

Mr. BOHEN. That's agencywide and includes education. We are losing, as you know, the education part of the Department. For activities remaining in HHS, we are continuing the savings plan in 1980 and 1981 under Secretary Harris' leadership. I can submit for the record the details of our goals for 1980 and 1981 which are higher than they were for 1979.

Senator SCHMITT. We would like to have them.

[The information follows:]

SUMMARY OF HHS MANAGEMENT SAVINGS PROGRAM
1980 and 1981

	Outlays in Millions 1980	1981
Medicaid management improvement.....	$269	$318
Medicaid quality control: Focuses on critical management factors which are tracked in the semi-annual quality control sample. Savings come from implementing the quality control regulations and helping States carry out corrective action plans:		
Eligibility errors: Assumes implementation of new Michel Amendment regulations. Base period error rate is 6.1%. Target for 1980 is 5.4 percent and 4.7 percent in 1981.....	(72)	(95)
Claims processing: Savings come from technical assistance to States.....	(27)	(43)
Third party liability: Measures improvement in States' correction of reimbursement from other health insurance for which Medicaid beneficiaries are eligible.....	(92)	(102)
Subtotal, MQC.....	(191)	(240)
Medicaid financial management: Savings primarily stem from closer Federal review of States' Medicaid claims, and provision of technical assistance to help States improve their claims submission process.....	(78)	(78)
Malpractice insurance: Regulations promulgated in FY 1979 limit Medicaid/Medicare reimbursement to actual levels of malpractices claims filed by program beneficiaries rather than the ratio of Medicare/Medicaid patients to the total patient population in the hospital..	$310	$470

	Outlays in Millions 1980	1981
Section 223 - Limits for inefficient providers: These regulations will tighten existing Medicare payment limits on hospital routine costs by changing from the 80th percentile to 115 percent of group mean. Under these rules, the Department will reduce Medicare and Medicaid payments to inefficient providers of health care services, including high-cost hospitals, skilled nursing facilities and home health agencies.....	$64	$132
Hospital reimbursement reform: Current section 223 regulations will be expanded and revised. This initiative should produce even stronger and more equitable incentives for hospitals to be cost efficient.....	—	$138
Other health care financing.....	$141	$287
PSRO hospital savings: The PSRO program is designed to reduce hospital utilization and the costs of hospital care. Savings are based on a 1.5 percent reduction in the average days of care rendered to each 1,000 Medicare/Medicaid beneficiaries.....	(100)	(173)
Medicare cost report: This initiative will improve the identification of Medicare overpayments resulting from the failure of intermediaries to detect overpayments to providers. This will be accomplished by auditing a selected sample of cost report settlement.....	(16)	(16)
Hospital-based physicians: Regulations in conjunction with proposed legislation will reform Medicare and Medicaid to eliminate existing abuses associated with reimbursement of hospital-based radiologists, anesthesiologists and pathologists 1/.....	(--)	(34)
Collection of Medicare/Medicaid overpayments: Regulations will be issued to improve the ability to collect overpayments to physicians and other providers of health care services and supplies.....	(--)	(6)

1/ Legislation will save an additional $14 million in 1981.

	Outlays in Millions 1980	1981
Medicare reimbursement based on level of care: New regulations will authorize Medicare reimbursement to hospitals based on the cost of skilled nursing care rather than acute care when a patient is awaiting placement in a skilled nursing facility.....	(--)	(20)
End stage renal disease: Savings will result from stricter Federal review of provider requests for exceptions to Medicare reimbursement limits for renal dialysis services.....	(13)	(17)
Medicare/Medicaid provider abuse: Identification of erroneous payments to providers due to fraudulent or abusive practices.....	(—)	(6)
Inhalation therapy costs limits: Savings will result from limiting Medicare reimbursement for the cost of inhalation therapy to the costs that would normally be incurred if the hospital had its own staff to render the service.....	(2)	(3)
Medicare Part B quality assurance: This initiative reduces the over-payment (error) rate for selected Medicare carriers which have been identified as having high error rates.....	(10)	(12)
SSA quality control activities: Savings in AFDC and SSI will result from reduction in error rates as measured through their respective quality control systems. Progress in reducing error rates since the inception of the individual quality control systems is shownbelow:		
AFDC.....	135	190
SSI.....	124	135
Total.....	259	325

Other social security.....	$261	$379
Retirement and Survivors Insurance -- student benefit recontact: This initiative is designed to identify through verification of student enrollment ineligible students receiving benefits under this program.....	(86)	(134)
Child support enforcement: The State will increase its child support collections from absent parents. A portion of these collections are used to reimburse the Federal Government for AFDC costs.....	(117)	(176)
Widows/widower enforcement: The Social Security Administration will monitor Retirement and Survivors Insurance beneficiaries to determine whether beneficiaries have remarried and therefore, are entitled to reduced payments.....	(15)	(26)
Other SSA initiatives: Other management actions taken by SSA will result in savings of $43 million in 1980 and 1981. These include increasing recoveries of erroneous SSI payments and technical reviews of States' AFDC claims.....	(43)	(43)
All Other Activities.....	$144	$124
Indirect costs: Savings estimates in 1980 and 1981 to be achieved primarily through the negotiation of lower, more equitable and reasonable rates for indirect costs of HHS grants.....	(90)	(77)
Inspector General: Savings achieved through increased audits of State and local governents, and expanded criminal investigations in Medicare/ Medicaid and AFDC and state fraud control units.....	(54)	(47)
TOTAL.....	$1,448	$2,173

DEPARTMENT OF EDUCATION INSPECTOR GENERAL

Senator SCHMITT. We put an Inspector General in the new Department of Education, did we not?

Mr. LOWE. Yes.

Senator SCHMITT. When does that Department begin operating?

Mr. BOHEN. Sometime before June 3.

Senator SCHMITT. So your basic position is that we are progressively biting into not only the $7 billion related to medicare and medicaid, but also to other areas of managerial waste within the Department?

Mr. BOHEN. The $7 billion went way beyond medicaid error rates. It included some waste and some procedures that, as the Inspector General himself then said, would require legislative cooperation to clean up. That is, we did not have the authority within the existing laws to go all the way from $7 billion to zero.

Senator SCHMITT. We recognize you won't make zero.

Mr. BOHEN. Moreover, zero would have implied a zero-error rate which in a program of the size and complexity of medicaid is an ambitious target. We have demonstrably reduced the error rates. Our cost containment legislation and other legislative initiatives have sought the participation of the Congress in helping us get at some areas we can't get at through our existing authority, under existing law.

Senator SCHMITT. Those proposals are before the Congress now?

Mr. BOHEN. Yes, sir; we could submit for the record a list of legislative initiatives that have been sent up that relate to that.

Senator SCHMITT. Would you please?

[The information follows:]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Cost-Savings Legislation Included in the 1981 Budget

(Dollars in Millions)

	BA	Outlays	BA	Outlays
Hospital cost containment.....	$--	$--	-$100	-$780
Medicare nursing differential.....	--	--	--	-191
Medicare coverage for working aged.....	--	--	--	-170
Other health care financing.....	--	--	-62	-131
Common audit.....	(--)	(--)	(-28)	(-32)
Civil money penalty.....	(--)	(--)	(-14)	(-24)
Hospital-based physicians.....	(--)	(--)	(-2)	(-14)
Medicare contractors initiative.	(--)	(--)	(--)	(-23)
Competitive bid purchasing.....	(--)	(--)	(-3)	(-12)
SSA wage information.....	(--)	(--)	(-14)	(-14)
Physician reimbursement based on reasonable costs.....	(--)	(--)	(--)	(-6)
Free-standing ambulatory surgery centers.....	(--)	(--)	(--)	(-3)
Abolish PSRO State-wide councils.....	(--)	(--)	(--)	(-2)
Fee schedules for physician services.....	(--)	(--)	(-1)	(-1)
Welfare reform.....	-86	-86	-288	-288
Disability insurance reform, net..	+2	-14	+25	-67
Other social security.....	--	--	--	-43
Apply worker's compensation offset upon date of eligibility.....	(--)	(--)	(--)	(-30)
Extend worker's compensation offset to workers age 62-64...	(--)	(--)	(--)	(-1)
Pension reform reimbursement....	(--)	(--)	(--)	(-4)
Round monthly benefits to nearest dime.....	(--)	(--)	(--)	(-8)
TOTAL.....	-$84	-$100	-$425	-$1,670

MANAGEMENT SAVINGS

Senator SCHMITT. Does the present budget assume the passage of some of these?

Mr. BOHEN. In some cases. The President's budget assumes the passage of a modified cost containment proposal. Our management savings plan focuses on things we can do within the existing authority.

Senator SCHMITT. Chairman Magnuson will be happy about that.

Mr. BOHEN. Secretary Califano focused on management savings and

Secretary Harris is continuing to focus on that, recognizing that it could not by any means clean up the entire problem earlier identified by the Inspector General.

Senator SCHMITT. Do you feel there is anything in addition to what you would submit for the record that the Congress should consider doing to, one, increase the ability to get at managerial waste; and two, to make it less worthwhile to defraud or abuse the medicaid and medicare system, and other systems?

Mr. BOHEN. I defer to the Inspector General, particularly in the area of fraud which is a direct functional responsibility of his office.

MEDICARE AND MEDICAID FRAUD DISINCENTIVES

Senator SCHMITT. The reason I asked that—and it may relate to other provisions of the law, relating to criminal activity in general—is unless the person who considers defrauding the Government feels that they are going to get caught and be punished commensurate with the crime they have committed, they will probably go ahead and defraud the Government.

Mr. LOWE. Mr. Chairman, I would like to clarify my earlier statement. I did not mean to suggest that vigorous law enforcement efforts would not deter people who would think about efforts to defraud the Government.

I suppose what I am trying to say, is that more immediate results and large savings can result from efforts to improve management and the efficiency of the process. We are dealing in an area which we call white-collar crime. Investigation and prosecution of white-collar crime, unlike street crime, is a long and tedious process. We are dealing with books, records, analyses. The average relatively involved fraud case in this area can take anywhere between 1 to 2 years for fruition.

So the results are so far down the road; and then often there may be procedural errors which allow people to not be sanctioned by the Government.

I am simply saying that I perceive my efforts can bear much more immediate fruit for the Government and for the Department at large if they are directed toward improving the management of the Department of Health and Human Services, as opposed to devoting all efforts—shall we say—to law enforcement.

Senator SCHMITT. What about decreasing the convenience of defrauding the Government? Better management? That moves in that direction. Are there more significant things that can be done to just make it more likely that they are going to get caught?

Mr. LOWE. That's part of it. When I say improving the management and administration of programs, I refer to looking at the programs themselves.

INSPECTOR GENERAL'S OFFICE FUNCTIONS

Let me give you an example of how we function in the office. I have three main components in the Inspector General's office: Investigations, which deals with criminal investigations; the audit staff; and what we call our health care and systems review staff.

The systems people look at the results of all audits and the results of criminal investigations. They examine the process to determine how the system can be improved to prevent that particular case from occurring again or prevent loopholes in the audits which were revealed.

That also includes looking at whether the process enables a doctor, a provider, a recipient to take advantage of the system? If the soft spots in the system were improved, then that person would not—presumably—be able to utilize that technique in the future.

UNRESOLVED AUDIT REPORTS

Senator SCHMITT. You mentioned the audits. In the Inspector General's report of November 30, 1979, it also stated that the number of unresolved audit reports continues to be a serious management problem. As reported by the Inspector General, there were 47 reports as of September 30, 1979 that were over 6 months old, involving dollar questions of $200,000 or more. The total amount of dollars in question was $96 million which represented an increase over June 30, 1979—which had been 46 reports with $83 million questionable.

The most recent report of February 18 lists 41 unresolved reports totaling $85.6 million.

Mr. LOWE. That's correct.

Senator SCHMITT. What is your prognosis for the future? Are you getting control of this now?

Mr. LOWE. This is a serious problem and has been for a while in the Department of Health, Education, and Welfare. The Secretary is very much committed to attacking this problem. Indeed, I think as little as 3 weeks ago, Mr. Chairman, the Secretary had put together an oversight committee which will review all of the outstanding audit reports, especially those which are over 6 months old and have a dollar value of significance. We have chosen the amount of $250,000 as a significant dollar figure?

The review committee is being chaired by the Under Secretary of the Department, and we expect to have tremendous results in the area of audit resolution in the very near future.

The Inspector General's Office has reported consistently on the problem of unresolved audits. I believe that the Secretary's commitment to resolving this problem is very strong; and I think the appointment of the Under Secretary to take personal charge of this is an indication of the commitment by Secretary Harris.

RESOURCES FOR RESOLVING AUDIT BACKLOG

Senator SCHMITT. Do you have the resources in this fiscal year 1981 budget to handle the increased emphasis? Dollars and personnel?

Mr. LOWE. I'm sorry.

Senator SCHMITT. Are the resources of your office adequate to get control of this? The Secretary may be very interested, but if you do not have the resources——

Mr. LOWE. The resources in that area would be from the Office of the Secretary; Mr. Bohen's office specifically.

Mr. BOHEN. It should be clear, Mr. Chairman, that the Inspector General's responsibility ends with the accomplishment of an audit plan for the Department and the accomplishment of as many audits as his resources permit.

The problem of resolving audit findings rests in the program agencies; and obviously, it's a Secretarial responsibility in the Department. We believe that the problem of audit resolution, to which you have alluded, is predominantly a problem of organizational visibility. It is a problem of incentives within the Department for better performance and incentives on grantees not to delay the process of negotiation through which one resolves an outstanding audit.

We deal with State and local governments, and with universities. We deal with 51,000 different grantees, large and small organizations generating a volume of approximately 7,500 audits a year. So it is both a huge management problem and one of great diversity. I think HHS's problem in this area is probably greater than any other department due to the diversity of the programs.

To answer your question directly, we are going to devote such resources as the Congress provides us both within the Office of the Secretary and program agencies to take care of this backlog. Mr. Lowe has alluded to the recommendations still pending before the Secretary for the creation of a high level committee to deal with big outstanding audits of a dollar value of more than $250,000 within 6 months.

AUDIT BACKLOG COMMITTEE

Senator SCHMITT. Is this in some way related to the way HUD operates their audit system?

Mr. BOHEN. HUD created an under secretary's committee. They had a problem not quite of the same scale as ours. They have clearly improved their record.

The existence of an under secretary's committee is both a resolving device, and a deterrent device to force others to take reponsibility down the line. We hope to create the same psychology within HEW.

REQUEST FOR ADDITIONAL RESOURCES

Senator SCHMITT. Did OMB cause any cuts to be made over your request that would affect this kind of activity? Personnel? Dollar?

Mr. BOHEN. No, sir; in general, with respect to personnel resources that are pending before the committee, the Department's highest priorities had OMB support.

Senator SCHMITT. Could you provide the committee with a list of those areas where you requested more personnel and resources related to these kind of things and the activities OMB cut—if they did—so we know what your original request was?

Mr. BOHEN. I am not sure what the rules are governing the privileged communications.

Senator SCHMITT. I think if we ask for it, you have to give it to us. I think the rules are rather open-ended.

[The information follows:]

NEW POSITIONS FOR REDUCING FRAUD, ABUSE, AND WASTE

The only reduction of fiscal year 1981 requests for new positions and related resources to be used within the Department for reducing fraud, abuse, and waste was in the Office of the Inspector General where requests for 36 positions and $1,084,000 were cut.

The Department's request was for 61 new fiscal year 1981 positions and $1,666,000 within the office of the Inspector General to be used for reducing fraud, abuse, and waste; the request approved by OMB was for 25 positions and $582,000.

Mr. BOHEN. In the pending budget requests, the areas we emphasized—are talking about today—for more auditing staff, the request for 100 new positions, the accent which would be on improved financial management, and some others which I can identify for the record, they have supported us. We hope you will too.

CIVIL RIGHTS COMPLIANCE RESPONSIBILITY

Senator SCHMITT. This is in the Office of Civil Rights. Now that there's a separate Department of Education, the job of monitoring compliance with civil rights laws as they apply to our schools and universities affected by Federal programs generally have fallen upon the Office for Civil Rights in that new department.

In the Department of Health and Human Services, the scope of the review is carried on by the Office for Civil Rights and will be presumably reduced, at least in type. What kinds of institutions will OCR focus upon? Or how will you divert presumably that interest?

Ms. STEWART. The area of health and human services has been traditionally and historically neglected by the Office for Civil Rights, simply because of the tremendous pressure from numerous lawsuits in the education area. Accordingly, we have a great deal of work to be done in this area.

The types of organizations and recipients which we will focus on in the years ahead include nursing homes, various medical and health care providers, hospitals, child referral services, and social service agencies.

Recipients in this area number 43,000 and our beneficiaries are 164 million individuals, so the task remaining before us is not insignificant.

TRANSFERRED POSITIONS

Senator SCHMITT. Did you lose personnel to the Department of Education out of the Office of Civil Rights?

Ms. STEWART. Yes, indeed.

Senator SCHMITT. Actual slots were transferred?

Ms. STEWART. We will lose two-thirds of our staff to the new Department. That is why we are requesting an additional 100 positions for fiscal 1981.

USE OF POSITIONS

Senator SCHMITT. Are you ready to use those 100 people right now, or do you need a year to sort of get your feet on the ground, to move out into this new area?

Ms. STEWART. We will be able to use them as soon as the positions are approved. All of these individuals will have to be trained. We plan to use approximately 75 of them as investigators conducting compliance reviews and the additional 25 as support staff.

That includes attorneys and secretaries. They will all have to be trained. We expect it will be some time before we are able to achieve maximum utilization from these individuals.

CIVIL RIGHTS VIOLATIONS

Senator SCHMITT. Have you been able to document a pattern of abuse in these health services with respect to civil rights?

Ms. STEWART. In the health services areas we have had few complaints but several compliance reviews have been conducted. We have identified serious problems of segregation and discrimination.

For example, in some hospital and clinic waiting rooms, we have found that the patients have been segregated by race. We find serious problems in child referral and placement services in identification of children according to need. Many minority children, for example, are considered to be handicapped when they are not in fact handicapped.

So we have overlapping jurisdiction in the handicapped and in the title VI areas where these children are put into homes for the retarded or severely handicapped as a disservice to the child.

ILLEGAL ALIENS

Senator SCHMITT. What rights do illegal aliens have? Any in this area?

Ms. STEWART. We don't differentiate between the illegal aliens and legal aliens. The problems we would have with persons who are new to this country would be basically in the language area. This would include, for example, where schools and health facilities and welfare facilities must be available to persons who do not speak English as a primary language.

Senator SCHMITT. Within some limits, of course? If somebody walks in speaking Mandarin Chinese and there is nobody in the community that speaks Mandarin Chinese, what do you do? You can't consider that a civil rights violation, can you?

Ms. STEWART. That's right, Mr. Chairman. There is a trigger formula for indicating whether or not a recipient must have persons who can speak a foreign language available.

What we are trying to avoid is the situation where there are large numbers of population who do not speak English; who cannot be served in a hospital, for example, unless there is someone available who can communicate with them in their own language.

Senator SCHMITT. Would you supply for the record anything that would be beneficial to your activities if, say, migrant workers in Mexico were here temporarily, but legally here instead of illegally here as most of them are. Independent of the H–2 program which you can have, they can't be here legally.

Would you think about that; and if there are any advantages or disadvantages to your activities in having their status legal—namely a

card that says I am legally here for this period of time—would that assist your activities in any way in the provision of services?

Ms. STEWART. Yes; we will submit such a statement.

[The information follows:]

ILLEGAL ALIENS

Illegal aliens have the same rights as legal aliens to protection from discrimination on the basis of race, sex, religion, national origin, and handicap in programs assisted by the Department. Title VI protects any "person in the United States" from discrimination on the basis of "race, color, or national origin" under any program or activity receiving Federal financial assitance. 42 U.S.C. S 2000d. The phrase "person in the United States" would appear to encompass any person geographically present in the United States, and hence would include both legal and illegal aliens within its ambit. Thus it would be a violation of title VI to exclude any person whether they are a citizen, a legal alien, or an illegal alien from the benefits of a Federal program on the basis of race or on the basis of national origin.

It is important to note, however, that discrimination on the basis of alienage, legal or illegal, is not included in the prohibition of discrimination on the basis of national origin. Cf., *Espinoza* v. *Farah Manufacturing Company, Inc.*, 414 U.S. 86 (1973). Such distinctions thus would not violate the civil rights statutes administered in part by the Department, but they could raise questions under the due process and equal protection clauses of the 14th amendment. E.g., *Nyquist* v. *Mauclet*, 432 U.S. 1 (1972). Accordingly, identifying and distinguishing between legal and illegal aliens would not assist the Department in administering the civil rights statutes for which it has responsibility.

Ms. STEWART. Basically in health care services, one of the issues is the protection of persons within the United States from disease; and disease does not know the boundaries of legal classifications of individuals.

Senator SCHMITT. So you are implying that if people felt more comfortable in seeking treatment for health problems because they were legally in the country, then you would have better control over the disease that might have entered the country through Mexico or some other area?

Ms. STEWART. I think disease is an area where I am not qualified to testify.

Senator SCHMITT. I will let you think about it. I must go. We have the full statements of your office, as well as those on policy research and general departmental management. They will be in our record. We will have further questions for the record.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

SPECIAL PROJECTS STAFF

Question: When was the Special Project Staff established in the Office of the Inspector General?

Answer: By memorandum signed July 14, 1978, the Secretary of the Department of HEW approved the establishment of the Division of Special Assignments (DSA) within the Office of the Inspector General.

Question: What is its role?

Answer: As it appeared in the October 30, 1978 edition of the Federal Register, the duties and responsibilities of the Division of Special Assignments are as follows:

> Is responsible for conducting criminal investigations of unusual complexity or which have multiregion or national implications and highly sensitive noncriminal investigations involving Department personnel, contractors, and grantees; for pursuing the civil and administrative aspects of criminal cases after resolution of criminal charges; and for developing strategies, priorities and tactics for the investigation of criminal cases that cross regional lines or are national in scope;
>
> Develops methods and techniques for the investigation and identification of the more sophisticated and complex fraud cases in the white collar crime area;
>
> Assists the Assistant Inspector General for Investigations and the Special Agents-in-Charge in establishing and maintaining effective liaison and coordination of investigative and prosecutive efforts with all Federal prosecutive and investigative offices in connection with law enforcement planning in the areas of program fraud and other forms of white collar crime and which have national or multiregion implications;
>
> Advises the Assistant Inspector General for Investigations in the identification of and formulation of proposed solutions of management problems identified during multiregion or national investigations;
>
> Participates in the investigation of allegations involving the more complex conflict of interest and employee misconduct cases;
>
> Assists in the design and implementation of programs to train personnel of the Office of Investigations and other offices in the Department that have investigative responsibility (these programs will relate principally to the criminal law and procedures relative to investigations); and

Provides legal advice and assistance relating to criminal law to the Assistant Inspector General for Investigations in connection with the investigations which are assigned to the Division.

Question: Is this duplicative of other IG staff?

Answer: The Division of Special Assignments does not duplicate or supplant Office of Investigations efforts. Rather, the DSA is intended as a complement to regular OI activity. The talents of the personnel of OI and DSA often combine in joint efforts. Because of the nature of its assignments, DSA inquiries and investigations need to be attorney-directed. Investigative efforts are undertaken by a team comprised of the attorney, the investigator and another professional, usually an auditor.

Likewise, the DSA works with the other component parts of the Office of the Inspector General. Audit reports are studied and analyzed to see where DSA inquries would prove fruitful and beneficial. The DSA also works in close harmony with Health Care and Systems Review in an effort to properly channel its efforts into areas where systems abuse exists.

Question: How many cases has it processed in the last year?

Answer: Because of the unique mission of the Division of Special Assignments, one cannot speak of its labors being measured exclusively in "cases". It is more meaningful, in terms of measuring DSA success, to speak of the significant activity currently underway:

An examination of the home health industry in Florida. These efforts are in conjunction with other investigations and the United States Attorney. The findings uncovered will serve as a model for future investigations.

The unification of various Federal agencies for the purpose of conducting an audit of an Indian reservation after preliminary audit work had disclosed substantial irregularities in the handling of Federal monies. A single, coordinated audit was the most economical method to untangle the intricate web of financial transactions. The DSA, with OI help, took the lead in an effort to make the project a reality.

Other areas of significant activity include:

fraud within various student aid programs;

conflict of interest by Department personnel;

irregularities involving grant and contracting procedures.

Question: How many people serve on the "Special Projects" staff?

Answer: DSA is currently staffed by five attorneys and five investigators.

Question: How many of these are political appointees and how many are career civil servants?

Answer: None of the DSA personnel are political appointees. All are career civil servants.

TRANSFER OF PERSONNEL TO DEPARTMENT OF EDUCATION

Question: What will be the impact on your operations of the transfer of slots to the Department of Education?

Answer: There will be, of course, the normal impact on our efficiency caused by the transfer and some relocation of our people and their uncertainties associated therewith. This we can handle and overcome by hard work. The more serious impact is on the reduced staff years we will be able to devote to programs of Health and Human Services.

Based on our data the work load associated with programs being transferred to the Department of Education range from 185 to 205. We are transferring 275 positions to Education. Thus, there will be a shortfall of between 70 - 90 staff years of audit and investigative efforts which we would have expected to devote to Health and Human Services programs.

When you couple this shortfall with the historical shortage of auditors and investigators that my predecessor has previously testified about, you can understand why I believe the situation is less than desirable. To do an optimum job we would need to double our audit staff and the number of field investigators.

The 70 to 90 staff years of shortfall will be divided about 75 percent to audit effort and 25 percent to investigations, i.e., about 60 audit staff years and 20 investigative staff years. What it means is that we must reduce the priority we can assign to audits and investigations--i.e., work that we regard as priority work and had proposed to accomplish, we will not be able to do. A measurable impact, of course, would be dollars recovered--for audit we estimate that we will fail to recover at a minimum $60 million. It is not practical to make an estimate for investigative recoveries but they will certainly decrease.

SINGLE AUDIT SYSTEM

Question: We are sure that you're aware of some problems that HEW has had in grant expenditures to community-based organizations.

Have you started to get some idea as to how much HEW funding goes into community organizations?

There has been some Congressional discussion regarding the "workability" of a single audit system regarding the government funds in a community service organization. As I understand the single audit system, we'd have one audit firm review all the

Federal accounts in a community agency and make that report available to all the funding agencies.

Answer: The Inspector General's office is very concerned about the serious financial management problems which our own reviews, as well as those of others, have brought to light at community action agencies. As we have testified, the Department has begun to upgrade accountability over HEW funds flowing to community action agencies.

The single, organization-wide audit represents our major contribution to the Department's effort. The audit concept, which is called for by OMB Circulars A-102 and A-110, essentially envisions a comprehensive examination of an organization which will serve the needs of all funding sources for audited financial and compliance information. We have testified in support of the concept.

Single, organization-wide audits at community action agencies would provide more meaningful information that the current program-by-program, "piece-meal" audits because these agencies receive funds from many Federal agencies and programs. We are aware that large amounts of HEW funds go to community action agencies, but we are unable to develop very reliable figures because a generally-accepted definition does not exist for the organizations, and in many cases the funds flow through other organizations, such as a State agency, to a community action agency.

The Inspector General's office has worked cooperatively with other Federal agencies in arranging with a CPA firm to perform a comprehensive audit of the Economic Opportunity Council of Greater Cleveland (OH) discussed at earlier hearings. A similar audit is being planned for the Community Economic Development Association of Cook County (IL).

The audit approach worked out cooperatively for the Cleveland agency represents an ad hoc effort to implement the concept of the single, organization-wide audit. Before the concept can be effectively implemented, however, several important steps need to be taken. Assignment of audit cognizance for community action agencies by OMB would be a significant step. In this regard, the Community Services Administration has requested audit cognizance.

Nevertheless, the Inspector General's office is moving, within its existing authority, to implement the single, organization-wide audit concept for community action agencies. The Audit Agency's staff has arranged with CSA to conduct joint or combined audits at four additional agencies and are currently working out technical difficulties before extending these arrangements to at least 20 more organizations. Our objective is to make the joint or combined audits standard at community action agencies. Joint audits of HEW and CSA funds would cover a large percentage of funds at these organizations, but not all funds. While other Federal agencies may join in this approach, assignment of audit cognizance would be necessary to make the concept of the single, organization-wide audit fully operational.

MISMANAGEMENT IN HOME HEALTH CARE AGENCIES

Question: I also have some concern regarding the curbing of abuse and fraud or mismanagement in Home Health Care Agencies.

What are you doing in that area and are we making progress with our reform efforts? How are your efforts related to what the Health Care Financing Administration (HCFA) is doing?

Answer: There have been some constructive, regulatory actions toward stemming abuse and rapidly rising costs in Medicare home health benefits in 1979. Fiscal and utilization audits of providers by HCFA, and an audit overview of intermediaries' performance by the OIG Audit Agency have begun and will continue in 1980. The results of these intensified field audits should aid us to assess what long-term actions should be undertaken to improve the administration, and possibly legislation, of the Medicare home health benefits.

One of the most important of these regulatory actions is setting limits on costs. Upper limits on home health costs reimbursable by Medicare were established effective July 1, 1979. Section 223 of the 1972 Social Security Amendments authorizes the Secretary to set prospective limits on costs incurred by a provider that will be reimbursed under Medicare, based on estimates of the costs necessary for efficient delivery of needed health services. Cost limits have previously been applied to hospitals and skilled nursing facilities.

The application of the cost limits in the aggregate will produce a projected savings to the Medicare program of $20 million in FY 80 and $30 million in FY 81. Application of the cost limits by type of service will produce an additional $4 million in savings in FY 81.

The uniform cost findings and apportionment coupled with the application of cost limits by type of service will make the determination of costs more precise. Comparison of costs among Home Health Agencies (HHAs) will be facilitated, and identification of agencies with excessive costs will be enhanced, as auditing cost reports will be made easier.

An intensification of fiscal and utilization audits of Home Health agencies has been initiated in 1979. Funds for field audits of all "100 percenters" (those servicing Medicare patients exclusively) were allocated in the FY 80 HCFA budget, and the auditing is already in progress. The preponderance of 100 percenters are located in the State of Florida. Utilization auditing has also been recently initiated in Florida. Nurses are making home visits to verify that patients are homebound and that the service billed for was medically required. Validation reviews of a sampling of agencies in select States are being conducted to assess how pervasive the abuses are in the home health industry, especially those abuses highlighted by recent Congressional hearings conducted by Senator Lawton Chiles concerning Florida Home Health Agencies. Significant resources of the OIG have been deployed on three cases in Florida. Two of the cases are currently before Federal Grand Juries, and the third is in an active investigation stage.

The work plan for 1980 for the OIG Audit Agency was reprogrammed to give Home Health Agencies priority attention. A special projects audit guide has been completed, and the field work began in March 1980.

Plans call for selecting five Medicare intermediaries/Medicaid fiscal agents that handle HHAs to evaluate their procedures for settling HHA cost reports. This will entail an appraisal of desk review procedures and the process for determining which cost reports should be audited and the scope of field audit required. The auditors will select up to five HHAs at each intermediary/ fiscal agent, and test the allowability of claimed costs, or reaudit to test the quality of intermediary/fiscal agent review. Special attention will be given to claimed costs associated with salaries/fringe benefits, consultants, accounting and computer services, space, and management agreements.

Emphasis will be given to proprietary and private non-profit HHAs where problem areas are known to exist. Also, the auditors will assess the adequacy of HCFA's cost reimbursement procedures.

Current indications are that substantial waste and abuse will be found by these special field audit initiatives of OIG and HCFA. The instances of waste and abuse that have already been brought to light seem to be attributable to the combined result of the Home Health Agencies taking advantage of the system, HCFA not having had sufficient definitive policy or guidelines articulated, and the intermediaries not having focused much audit attention to home health reimbursement.

The rapid growth in the medical home health benefit, the ease with which HHAs can be established, and the evidence of abuse suggest that any significant expansion of the present benefit should be accompanied by continued efforts to provide for more efficient and uniform reimbursement policies, the tightening of conditions of participation for HHAs, and improvements in administration by Medicare intermediaries.

MEDICARE/MEDICAID FRAUD

Question: What impact have the activities of the Office of the Inspector General had on the identification and prosecution of fraudulent activities by unscrupulous health providers under Medicare and Medicaid?

Answer: Prior to establishment of the Office of the Inspector General in 1977, there were significantly fewer convictions of unscrupulous health care providers under Medicare and Medicaid. Since this office was established three years ago, well over 500 providers have been convicted. Our figures for these three calendar years total 541 convictions, almost all of which are providers. This figure is in excess of the number of convictions reported for the previous ten years before the Office of the Inspector General.

As you know, the States have traditionally had the responsibility for the investigation of Medicaid fraud because Medicaid is a State program. They have averaged over 125 convictions per year for the past three years. Much of the training, guidance, and technical assistance they receive come

from our office. Since State resources currently outnumber the Federal resources in this area by more than four to one, we plan to continue relying upon the States for primary law enforcement in the Medicaid Program.

Two and one-half years ago Project Integrity, our largest national Medicaid initiative, identified nearly 2,500 physicians and pharmacists as having practices that blatantly deviated from the norm. Since then, twenty percent of these cases were closed as either non-criminal (abuse) or criminal (fraud) cases. To date there have been 62 indictments, 42 convictions and 4 acquittals as a result of Project Integrity prosecutions, and approximately six million dollars were identified for recovery. The majority of these cases were investigated by State agencies and monitored, by HEW. With respect to Non-Project Integrity health care cases, OIs workload has grown from approximately 100 cases at the beginning of 1977 to 292 now. In addition, some 300-400 other Health Care matters are under preliminary investigation.

During the course of our investigations we have seen some trends that we attribute to the results of recent vigorous enforcement efforts. Providers are starting to shy away from the simple frauds like billing for services not rendered and are indulging in the more subtle frauds such as kickbacks and other complex schemes. Chains in the area of Nursing Homes, Home Health Agencies, and Laboratories are growing, and we are finding that their activities are more sophisticated than the independents. We feel that we are making inroads on crimes like billing for services not rendered and with sufficient resources we could drastically reduce this problem within the Medicare program. It appears that with the advent of the State Fraud Control Units the Medicaid program is starting to come under control.

IMPACT OF STATE MEDICAID FRAUD CONTROL UNITS

Question: What impact have State Medicaid Fraud Control Units had on both the identification of and incidence of fraudulent activities under Medicaid?

Answer: Twenty-eight states have established and are operating Medicaid Fraud Control Units. Many of the units are new and are essentially still in the "start-up" process of training staff, gaining expertise, establishing procedures for investigation and firming up or establishing meaningful cooperative relationships with State Medicaid agencies and various prosecutive authorities. The record of accomplishment and deterrence is especially noteworthy: approximately 900 cases of fraud are under active investigation, over 2,300 cases of alleged fraud are pending investigation, and over 2,000 cases have been referred to administrative agencies for action or closed as inappropriate for fraud investigation.

Providers have recognized that a fraud investigative capacity exists and a number of questionable providers have voluntarily withdrawn from participation in Medicaid and Medicare programs. As the newer units become more proficient and additional states form units, the unit impact on actual and potential fraudulent providers will become more dramatic. To date, the units have recovered dollar amounts which approximate 70 percent of their start-up and operational costs; and have had a deterrent effect which has

resulted in fraud avoidance and immense (but difficult to quantify) dollar program savings. The departure of questionable providers from these programs also results in improved health care for the program recipients.

FUNDING FOR STATE MEDICAID FRAUD CONTROL UNITS

In a recent report to the Congress the Inspector General of HHS pointed out that a fundamentally important problem for the Medicaid Fraud Control Units has been the uncertainty of future funding. The IG recommended strongly that a bill be proposed and passed that would guarantee Federal funding of the units at 90 percent for at least three years from the date of certification. At the present time the 90 percent Federal share will cease as of September 30, 1980. The report specifically pointed out that you estimated Medicaid fraud and abuse was costing at least $653 million annually and that these losses were threatening the integrity of Medicaid. You viewed enactment of the Fraud Control Unit legislation as a major step to bring losses under control.

Question: What specific actions has the Department taken to place funding for the Medicaid Fraud Control Units on a basis that will insure their continued pursuit of Medicaid fraud and abuse?

Answer: The Department recommended and supports H.R. 934 which extends the termination date of 90 percent FFP to September 1982 to allow for 12 full quarters of operation under this funding support ratio. However, projected extension date of September 1982 is not adequate to meet the needs of recently established units (Utah, Montana, West Virginia, Washington, D. C.) or units currently pending establishment (Delaware, Kentucky, Florida). The House is considering a bill which will allow for 12 full quarters of unit operation at the 90 percent FFP rate and permanent funding at the rate of 75 percent FFP. This measure, if passed, would resolve the present funding uncertainties and assure effective long-term operation, and have a major beneficial impact on deterring fraudulent and/or questionable Medicaid providers.

Question: Has the Department agressively supported legislation being submitted to the Congress that would solve the problem associated with Federal share for these units?

Answer: We have consistently supported legislation to extend funding for the units both in our Quarterly and Annual Reports to Congress, and in testimony before Congressional Committees. We also requested the necessary funds in our FY 1981 budget.

UNRESOLVED AUDIT REPORTS

The IG's report of November 30, 1979 also stated that the number of unresolved audit reports continues to be a "serious management problem." As reported by the IG there were 47 reports as of September 30, 1979, that were over six months old having dollar questions of $250,000 or more. The dollars in question amounted to $96 million. This represented an increase over the June 30, 1979 position--which had been 46 reports with $83 million in question. The most recent IG report of February 15, 1980 lists 41 unresolved reports totaling $85.6 million.

As a result of the strong concern over timely resolution of audit reports, the Assistant Secretary for Management and Budget and the Inspector General sent a memorandum on September 28, 1979, recommending specific changes necessary to improve the Department's performance in this area. I will place this memorandum in the record, for it appeared in the IG report that was submitted to Congress on November 30, 1979.

The memorandum states, "We concluded that HEW should seriously consider replication of HUD's audit resolutions committee chaired by the Under Secretary to critically review all reports over 180 days old."

Question: What is the Department's position on the establishment of such an audit resolutions committee?

Answer: We have concluded that such a committee should be tried in this department and hence, we will provide for it in our audit resolution policy.

The memorandum states that "HEW program officials aren't all that aggressive in resolving audit findings." It goes on to point out that HEW has not had clear cut Department-wide guidelines for timely resolutions of audits.

Question: What specific actions have been taken to provide incentives for HEW officials to resolve audit findings?

Answer: The establishment of the audit resolutions committee is one step that we will take. We will also make the timely resolution of audit findings a major factor in the personnel performance ratings of those individuals who are responsible for this function and we will institute a greater degree of monitoring at the department level.

There are two basic issues surrounding ways to resolve audit findings more rapidly. One concerns future funding sanctions and the other concerns interest charges on past money that had erroneously been paid by the Federal Government. It is our understanding that a draft set of procedures, issued on May 31, 1979, included both of these issues as a part. At the present time there is a considerable degree of uncertainty on how the two major issues will be resolved.

The first issue concerns future sanctions. In this issue the IG recommended that future contractual awards to institutions, for a specified period of time, be reduced by a stipulated percentage of the cost element that was unsupported in the past.

The second issue concerns charging of interest on money that has been improperly spent by the grantees. The IG recommended that interest be charged on monies borrowed by the Federal Government. This would serve to deter grantees from extending the time period by making appeals to the HEW Grant Appeals Board and would also insure that if a final determination were made that funds had been improperly disbursed, that the grantee would pay for the cost of using those improperly disbursed funds.

Question: Mr. Bohen, I understand you have presented the Secretary with a "5 point program" to clean up audit reports, which

is now on Secretary Harris' desk. Please discuss these five points and the decision deadline on your recommendations.

Answer: The five recommendations that we have recommended for the Secretary's consideration are as follows:

(1) The establishment of an audit resolution council to be chaired by the Under Secretary.

(2) Higher approval levels for the settlement of audit findings:

(a) approval by the Principal Operating Component (POC) head or his/her first line deputy for operations of any proposed resolution of an audit exception that exceeds $100,000 and is less than 85% of the auditor's recommended disallowance;

(b) approval of all other proposed regulations by the POC bureau chief or senior program manager (who could be the POC's top regional commissioner or administrator) ultimately accountable to the Secretary and the Congress for the operational management of the program to which the audit applies.

(3) The establishment of a departmental goal by which each POC shall reduce its backlog of audit reports which are more than six months old as follows: by December 31, 1980 reduction to a dollar amount not to exceed 1/3 of the amount existing at December 31, 1979 and by September 30, 1981 reduction to zero. We have recommended that the POCs be required to submit detailed plans to achieve these goals to the audit resolution council and ensure that improved audit resolution performance is an important element of the Civil Service Performance Plan for line managers whose programs have significant unresolved audit findings.

(4) That responsibility for resolving audit findings involving systems deficiencies or monetary disallowances that affect the awards of two or more Federal departments/agencies, or POCs be assigned to the Assistant Secretary for Management and Budget as surrogate for the Secretary.

(5) That the Assistant Secretary for Management and Budget expedite the final issuance of departmental instructions providing more detailed guidance on the resolution of audit reports.

The Secretary has distributed these recommendations to the POCs and other involved offices for their comments and I believe a decision will be made as soon as the Secretary has had an opportunity to assess those comments.

LEAD-IN FOR SPECIFIC AUDIT REPORT DISCUSSION

Let's look at some of these specific audit reports which are over 6 months old and over $250,000. This way we can get a better idea of what you are doing to close these reports and recover some of the funds involved.

AUDIT REPORT OVER 180 DAYS OLD-PUBLIC ASSISTANCE ADMINISTRATIVE COSTS IN ILLINOIS

An audit dated July 11, 1977, states as follows (page 3): "Our audit disclosed that the amount of $330.1 million received by the State agency for its Federal share of administrative costs under the public assistance programs included $8.3 million to which it was not entitled. We have recommended the amount for financial adjustment." The audit goes on to explain the reasons why the funds should be recovered; however, it is our understanding that the money has not been recovered by the Federal Government.

Question: What actions are you taking to recover this $8.3 million overspending?

Answer: This report originally questioned $8.3 million in administrative costs, $5.4 million of which was recouped in 1977, leaving $2.9 million outstanding. The State objected to $2.3 million contending that the auditor's position was not in keeping with the approved Cost Allocation Plan. The Audit Agency's Regional Audit Director reviewed his position and agreed with the State, thus, rescinding the recommendation for disallowance. The remaining $.6 million was recouped in 1979.

ADMINISTRATIVE COSTS FOR MEDICAID AND MEDICARE IN THE STATE OF NEW YORK

An audit report dated November 29, 1978, disclosed that administrative costs claimed by the New York Department of hospitals totaling $36.7 million included $4,580,000 which were not allowable for reimbursement. The audit goes on to recommend adjustments in both Title 18 (Medicare) and Title 19 (Medicaid) to collect the $4.6 million. In addition to the recommendation for collection of administrative costs that were overpaid to the State, the audit recommends improvements in the Department of Hospital's budget request procedures so that the Health Care Financing Administration can more effectively evaluate annual requests for program funds.

Question: This audit is over 1 year old and involves a sizeable recoupment of Federal funds that have been erroneously paid to the State. What are your plans on collecting these funds?

Answer: A disallowance letter has been issued to the State for $683,954 representing Title XVIII funds. A second disallowance letter representing Title XIX funds will be issued shortly. This disallowance letter will uphold the remaining amount identified in the audit report. The State will be instructed to make a decreasing adjustment in the amount of $3,896,350 on line 10A of the next quarterly expenditure report (HCFA-64).

As part of the findings and recommendations in this audit report, the IG noted that the utilization of Federal financing participation rates in excess of 50 percent overstated the medicaid program costs claimed from the Federal government.

Question: Is this utilization of FFP rates in excess of 50 percent endemic to the entire Medicaid Program or is it unique to the New York Medicaid Program?

Answer: Although this type of audit finding is found throughout the Medicaid Program, it is not as prominent and widespread as it appears.

Question: If it is a common problem, what specific actions are you taking to reduce erroneous claims for indirect FFP cost claims?

Answer: The appropriate regional office of the Health Care Financing Administration periodically reviews the records of State agencies and also provides guidance to the Audit Agency regarding interpretation of regulations and related instructions.

KAISER FOUNDATION HEALTH PLAN ADMINISTRATIVE COSTS UNDER PART A OF MEDICARE

An audit report dated February 6, 1976, pointed out that during the period January 1, 1970 through December 31, 1973 eleven northern California Kaiser Hospitals included private health plan costs under medicare cost claims which were not allowable under medicare regulations. According to the report Kaiser charged the medicare program approximately $1 million as its share of these costs, but the audit determined that medicare should not have participated in any portion of the costs since they were for the administration of private health plan programs and were therefore not allowable under medicare program regulations.

Question: This audit is now almost 4 years old and involves collection of $1 million from a private as opposed to a public or State entity. Why has the Department failed to make this collection?

Answer: Kaiser has taken issue with the audit findings contending that they were not representative and that the disallowances were incorrect. The Audit Agency has extended its review and is in the process of preparing a draft report of its more comprehensive assessment of Kaiser operations. We will give priority to settling this long outstanding report.

Question: Are there other audit findings which show that private health care plans have been misclaiming costs for administration under Part A of Medicare when in fact they are not allowable and unallocable costs?

Answer: No, the Kaiser Foundation Health Plan, Inc. is unique in that it has entered into a contract with the Department to serve as a fiscal intermediary for the administration of the Medicare Program. As an intermediary, it has responsibilities involving the hospital and related post-hospital services furnished Medicare beneficiaries by the Kaiser-Permanente Medical Care Program.

Question: If so, what is the total amount of the findings by the Office of the Inspector General on payments of this sort and how much have been cited for collection by the Federal Government?

Answer: Kaiser is unique and no other funds have been identified.

Question: Of the amounts cited for collection by the Federal Government, how much has actually been collected?

Answer: Because the Kaiser Foundation Health Plan Inc. is unique, no collections will be made until a followup audit occurs, and the issues are litigated.

TRAINING AND STAFF DEVELOPMENT COSTS UNDER AFDC IN THE NEW YORK STATE DEPARTMENT OF SOCIAL SERVICES

The Social Security Act authorizes reimbursement to States for costs of training State and local public assistance staff to improve their efficiency and effectiveness and to help insure that an adequate supply of qualified persons is available for employment in public assistance. An audit of the New York State Department of Social Services concluded on March 6, 1978, included a finding that Federal financial participation claimed by New York State in the amount of $47.9 million for the period April 1, 1971 to December 31, 1975 was overstated by $12 million. Of this amount $7.5 million resulted from including as training expenditures, costs that either did not meet the Federal criteria of staff development costs or were improperly allocated to this function. The balance of Federal funds overclaimed of $4.5 million was caused by the State agency not allocating statewide training and staff development costs to State programs as required by the Code of Federal Regulations. Instead of allocating training and staff developments costs between Federally funded and non-Federally funded programs, New York State charged these costs solely to Federal programs during the 1971-1975 period. Although the State agency generally concurred with your report, these funds have not been collected.

Question: What actions have you taken to collect this $12 million overpayment?

Answer: As a result of Regional Office review of State material responding to the audit findings the $12 million audit exception has been or will be resolved or disposed of as follows: (a) $4.4 million disposed of by reversing audit findings in favor of the State because the approved State cost allocation plan was, in fact, followed; (b) $6.4 million was forgiven by P.L. 95-291 which disposed, in favor of the State, of all outstanding social services paid claims prior to title XX; and (c) $1.2 million audit findings sustained and the Regional Office is in the process of issuing a disallowance letter.

Question: Are other States likely to have overclaimed Federal financial participation in training for public assistance workers?

Answer: Yes. There are some instances of overclaims because some States refuse to accept regulatory provisions related to training. Where these have been discovered prompt disallowances have been issued.

Question: What has been your experience to date with these types of funds?

Answer: Because there are separate matching provisions for training in the law, States are generally doing a commendable job in documenting their training expenses. However, difficulties do arise when the States refuse to follow regulatory requirements for documenting their training expenses. For example, the regulations deny matching for per diem and travel allowances as a training expense for short-term training sessions (less than one-week).

Question: Why is it that such a large dollar amount, which the State admits it owes to the Federal Government, has not been collected since this audit was concluded in March of 1978, a period of almost 20 months?

Answer: We are not aware that New York ever admitted that it owed the $12 million. The lengthy delay in resolving this audit is attributable to the difficulty encountered in identifying which parts of the audit exception were covered by P.L. 95-291.

Maternal and Child Health Program, State of Indiana

On August 28, 1978, an audit was completed on maternal and child health programs in the State of Indiana during the period July 1, 1970 through June 30, 1976. The audit disclosed that the State agency's administration of financial and program areas needed to be improved. The audit pointed out that of the $12.7 million in Federal funds made available to the State agency during the period audited, $7.5 million was spent on items that were not matched with eligible non-Federal funds, were not related to the maternal and child health program, were not used in the fiscal year for which the funds were allotted or were otherwise unallowable under applicable regulations. As a result, the State agency received $7.5 million in Federal funds to which it was not entitled. The audit further points out that the State agency needed to improve administration of its State plan in local communities and to provide more effective supervision over the operations of projects conducted by local public and private agencies.

Although this report was made available about a year and a half ago, the $7.5 million in overpayments of Federal funds has never been collected.

Question: What actions have you taken to recover these monies?

Answer: The action agency for resolving this audit report is the Health Services Administration (HSA). Before taking action to recover monetary amounts cited by audit, audit organizations may submit additional information for consideration in determining the amount of funds to be disallowed.

Although the audit report was issued about a year and a half ago, many of the issues are complex and some have been contested by the state. This requires extensive fact finding and negotiation, a time-consuming process. While proposing and implementing corrective actions to many of the management findings, the State Board of Health has taken exception to a number of issues contained in the audit report. For example, the Board of Health has contested the amount

of funds questioned, the Audit Agency's interpretation of the statute and program regulations, and the nature and extent of supervision needed to be exercised by the state over local communities.

In attempting to adequately resolve this matter, there has been extensive exchanges of correspondence, telephone discussions, on-site reviews, and assistance involving the Chicago regional office and HSA headquarters. As a result of these negotiations, the state requested, and was afforded, time to search their archives in an effort to locate additional documentation to satisfy the HSA program and grant officials as to the acceptability of many of the questioned costs. A large amount of documentation has been provided to us and it is presently under review. Further, the state requested some of the detailed audit work papers in order to clarify some of the issues noted in the audit report. This material has been provided to the state for its review.

A critical aspect of the state's efforts relate to satisfying the matching requirements of the Maternal and Child Health (MCH) program. In reviewing some of the documentation already provided by the state, there are indications that the amount of questioned costs may well be significantly reduced. On the other hand, we have determined that some of the state's arguments are not acceptable and we have reached a tentative agreement that recovery will have to be made, and have had discussion on repayment options. We are continuing these efforts with all due speed, given the complexity of the issues and the fact that the period audited, July 1, 1970 through June 30, 1976, makes retrieval of records a difficult and time-consuming process.

With reference to the five specific recommendations on page 71 of the report, our preliminary indications are that the methods used by the State Board of Health to obligate MCH A and B funds, i.e., encumbering requisitions; a signed contract agreement; and a Document Control Register are appropriate and in accordance with procedures acceptable to the Indiana State Board of Accounts, which has approved the Board of Health's accounting system. This conclusion is based on the fact that MCH funds are obligated against the state's major objective account #7, "Grant Subsidies Refunds Awards" and, according to the Office of State Board of Accounts, purchase orders are not issued for obligations against this major objective account, but that a Document Control Register be available disclosing any valid obligations which are chargeable to existing allotments. Consequently, we have tentatively determined that the $1.8 million of MCH A & B funds obligated by the State Board of Health in fiscal years 1975 and 1976 were valid obligations against the MCH grant program and were expended in accordance with the requirements of Title 42, Code of Federal Regulations.

It is anticipated that final resolution will be complete by mid April.

Question: Is state agency supervision of the state plan in local communities and the operation of projects in MCH conducted by local public and private agencies a matter that is likely to be in need of improvement in states other than Indiana? And if so, what is the Department doing about it?

Answer: The supervision of the State Plan and the operation of projects in local areas is a matter in need of improvement in states other than in Indiana.

Consequently, indepth State Title V Programs Reviews are being conducted in all states. This effort began in March 1978, in part, because of increased concern about the accountability and effectiveness of Federal health programs. To date, 20 state programs have been comprehensively reviewed and six reports have been published. By the end of this calendar year, reviews of 27 state programs will have been completed.

Question: Why did the Department of Health, Education, and Welfare permit a large MCH program such as that run by the State of Indiana to adopt such poor financial procedures?

Answer: Regarding Indiana's financial procedures for managing the MCH program, the state has provided us with corrective actions implementing the Audit Agency's recommendations to assure that the MCH program is operated in accordance with the statute and its regulations. However, it should be recognized that states develop their financial accounting procedures in accordance with their own needs. In that regard, states are provided with the Federal reporting requirements as stated in the regulations, and the states are responsible for meeting those requirements.

The major discrepancies in this instance appear to stem from erroneous interpretations of regulations by the state officials in regard to the eligibility of some of their health programs for support with Federal funds. In those instances where basic program eligibility has been questioned, the impact is compounded in that matching funds provided by the state are also ineligible. Through our discussion, it has been determined that some eligible state operated programs may be substituted to satisfy, at least in part, the matching requirements. This experience has had the effect of causing the state officials to restructure their program and to initiate better management controls to avoid future problems of this kind and to comply with the recommendations contained in the report.

FOSTER CARE PROGRAM IN SUFFOLK COUNTY, NEW YORK
TITLE IV-A OF THE SOCIAL SECURITY ACT

An audit report completed on August 17, 1978 revealed that the Suffolk County Department of Social Services claimed Federal financial participation under the AFDC foster care program for children that did not meet Federal and sometimes State eligibility requirements. The State agency had claimed payments made in behalf of ineligible children totaling at least $5.5 million ($2.7 million Federal share) of which $4.6 million had already been disallowed involving $2.3 million in Federal share. The report was highly critical of the agency and stated that it needed to improve its administration of the AFDC foster care program to insure that:

--its claim for Federal financial participation include only those children eligible to participate and that its practices and procedures for development, implementation and documentation of foster child care plans are adequate to assure that the foster care children are receiving care and services they need and to assist them in returning to their parents' or other relatives' homes.

--various financial adjustments were recommended in the audit report, but it is our understanding that none have been collected.

Question: Why has the Department been unable to collect on an audit report that is now approximately 17 months old?

Answer: The net amount which the audit report recommended be disallowed was some $420,000. The State refunded $80,514 on its expenditure statement for the quarter ended March 31, 1979. On March 11, 1980, the State was notified that the remaining amount had been disallowed. If enacted, H.R. 3434 would relieve the State of the obligation to repay this balance.

AUDIT OF NEW YORK CITY DEPARTMENT OF SOCIAL SERVICES FOSTER CARE PROGRAM UNDER TITLE IV-A, SOCIAL SECURITY ACT

An audit completed on September 19, 1978 disclosed serious weaknesses in the administration of the New York City AFDC Foster Care program involving some of the same kind of abuses mentioned for the Suffolk County Department of Social Services.

Question: What actions has the Department taken to collect overpayments of Federal funds and what has it done to improve the AFDC Foster Care program in New York and other States where similar findings of inadequate management have been made?

Answer: The audit report recommended that $361,200 be disallowed. Of that amount $152,379 has been refunded by the State. On January 10, 1980, the State was notified that the balance of the amount has been disallowed. With respect to that balance, H.R. 3434 would if enacted relieve the State of the obligation to repay it.

Our Office of Family Assistance has initiated a series of administrative reviews of AFDC Foster Care in the States. The reviews are designed to identify problems and follow-up on their resolution. The first cycle of reviews is nearly complete and those remaining will be done within the year. This initiative calls for a complete cycle of AFDC Foster Care reviews every four years. Where serious problems have been identified, HEW staffs have provided on-site technical assistance to the States to assure that faulty procedures and failures to comply with the law and regulations are corrected.

GAO IDENTIFIED MEDICAID OVERPAYMENTS

A May 4, 1979 letter from the General Accounting Office to the Administrator of the Health Care Financing Administration identified five cash accounts in four States "in which recovered Medicaid funds are deposited and often held for several months or even years before the Federal Government receives credit for its share of the money even though HCFA reporting instructions indicate that all collections should be reported during the quarter received by the State." These accounts contained about $11.2 million in addition to a $4.1 million account identified in an earlier (October 27, 1978) letter.

The GAO letter went on to say "the problem is obviously significant as evidenced by the results of our limited analysis of the flow of the recovered funds through these five accounts."

Question: Is this just the "tip of the iceberg" as GAO indicates?

Answer: Federal policy requires that overpayments to providers be adjusted timely and not remain outstanding while the State engages

in lengthy appeals. In view of the fact that last year an audit in one State identified some $44 million in this category, the problem appears to be significant.

Question: Will the "5 Point Plan" clean up this problem?

Answer: The "5 Point Plan" is not aimed directly at this type of circumstance. However, the greater attention to the settlement of audits which the "Plan" will require will likely make Department staff more alert and sensitive to these types of situations as well.

Question: What other efforts are you making?

Answer: The Health Care Financing Administration has directed their regional staffs to review State operations with respect to overpayment identification, recovery, and reporting procedures. We, in turn, plan to review the adequacy and effectiveness of the regions' oversight role.

Question: Have you set up any special audit teams or instituted any audit procedures which would identify these unreported accounts?

Answer: Yes, we have. In view of the apparent significance of the problem, we plan to audit six additional States this fiscal year to determine whether the Federal share of identified overpayments is being appropriately and promptly credited.

FOSTER CARE PROGRAM, AFDC IN THE STATE OF WISCONSIN

An audit report dated March 6, 1978, disclosed that the State claimed Federal financial participation in the cost of foster care provided to children who did not meet Federal eligibility requirements for participation in the Title IVA program, payments for foster care that exceeded State-wide AFDC assistance standards and other unallowable costs. As a result the audit estimated that the State agency received $2.7 million in Federal funds to which it was not entitled. Further, the audit noted that the Madison Regional Office of the State agency was not redetermining eligibility of foster care children at least every six months and that the agency understated the total number of children receiving foster care by about 40 percent in its December 1975 and March 1976 quarterly reports.

Once again, an audit report which is approximately 21 months old has gone unresolved in the Department.

Question: Why have you been unable to collect the $2.7 million in Federal funds to which the State agency was not entitled?

Answer: The auditor's estimates of the amount due from the State were based on very small samples of the foster care caseload. Projections of these small samples resulted in wide variations between the upper and lower limits of the estimates; the $2.7 million figure was the mid-point. To bring the upper and lower limits closer together would require a significantly larger sample of cases, and the audit resources needed to examine that sample would be prohibitive.

The Social Security Administration has been working with the Audit Agency on ways to apply the statistical projections so that they are equitable and fair to both the State and the Federal Government. As soon as these ways are decided upon, we will complete the resolution of this audit report.

Question: The report points out weaknesses in the State agency's management practices including failing to furnish county agencies with pertinent sections of Federal eligibility criteria, failing to implement a system of uniform maximum State-wide allowances, failing to consider where children are living currently when determining foster care eligibility, and other serious problems.

What actions is the Department taking to prevent this type of recurrence in the furture?

Answer: The State has developed and implemented State-wide uniform rates. HEW regional office and central office staffs have provided technical assistance to the State in revising their manual so that initial and redetermination criteria of eligibility are known to both the eligibility case worker and the child care case worker in the local offices.

AUDIT OF THE WORK INCENTIVE PROGRAM (WIN) IN THE STATE OF ILLINOIS

A January 29, 1979 audit on the WIN program in Illinois disclosed that the State agency disbursed $13.4 million for AFDC assistance payments to recipients who should have been, but were not registered with the WIN program. Such payments are not eligible for financing with Federal funds. Additional overpayments totaling almost $400,000 were made after the WIN sponsor notified the State agency that changes in recipients WIN status made them ineligible for such payments. The Audit Agency recommended that a financial adjustment be made for the improper payments. With respect to the $13.4 million, the Audit Agency recommended the establishment and implementation of more effective controls and procedures as well as a financial adjustment of $13.4 million, of which the Federal share would be $6.7 million. This audit is now over one year old, and yet the Department has been unable to collect.

Question: What actions are being taken in this area?

Answer: The amounts which the Audit Agency recommended be disallowed are based on a statistical sample. Of 190,675 families receiving AFDC payment in February 1977, the auditor examined the files of 350, which included 451 individual recipients; 116 of those individuals were deemed to be "non-exempt" or subject to registration and the auditor concluded that 32 of them were not actually registered. Projecting that figure, the auditor then estimated that 17,433 non-exempt AFDC recipients were not registered with WIN in February 1977 and that some $13.4 million ($6.7 million Federal share) had been paid to them from April 1976 through June 1977. The State agency disagrees with the auditor's interpretation of the regulations and the sampling methods used. After reviewing the State's position, the HEW regional office asked the auditor to expand the sample to achieve a higher level of reliability. However, this expansion of sample cases would have required considerable audit staff resources, which the Audit Agency felt it could not

afford. We are now reviewing the situation and looking into possible alternative solutions.

Question: Is this problem associated with the WIN program in the State of Illinois something that can be expected to be found in other States conducting similar programs? What has been your experience in this area?

Answer: WIN-related errors in the Aid to Families with Dependent Children (AFDC) program are a significant percentage of the total rate of all Quality Control errors in AFDC nationwide. During the reporting period of April-September 1979, WIN errors amounted to 8 percent of the total AFDC errors in Illinois; and some other States' error rates are as high. However, there are States in which the error rate with respect to WIN registration is relatively low. For instance, Oregon and other States are dealing effectively with this eligibility requirement by efficiently using management controls such as recipient rolls matched with employment rolls and detecting inconsistencies between the two. This cross match reduces errors by action taken to resolve the discrepancies before the recipient receives the assistance check. Our Office of Family Assistance has provided technical assistance to States in this area of corrective action to reduce WIN errors. The Office's Welfare Management Institute is currently identifying exemplary practices by States in this area so that these practices can be shared with other States.

Question: The report points out severe management problems in the State agency's administration of the WIN program. For example, it states "The ineligible payments occurred because controls established by the State agency were ot adequate to insure that all non-exempt AFDC recipients were registered with WIN as required".

What actions has the Department taken to improve State administration of the WIN program?

Answer: The Office of Family Assistance has initiated contacts with State and local staffs through the HEW Regional Offices to increase effective communication between the WIN and AFDC programs. The areas included the transmittal of referrals to WIN for registration as well as the communication back to the AFDC agency as to the status of the WIN registration. Additionally, OFA coordinates information on employment opportunities through WIN and CETA to further AFDC client participation in employment and training programs.

In March 1978 the State of Illinois established a special category listing on their ADP Integrated Criteria List, which controls redetermination activities. The special category was to identify WIN status change due to the youngest child in a recipient family reaching age six. This was found to be the biggest cause of case error in the WIN quality control sample in Illinois. In January 1978, the State began tape matches to identify adult recipients not currently registered in WIN. The ongoing effort is expected to fulfill the recommendations in this audit.

AUDIT OF CONTRACT WITH CONTEMPORARY ASSOCIATES, INC. (CAI)

The following questions for the record were submitted by Senator Dennis DeConcini.

Question: Mr. Lowe, on January 24, 1980, the Chairman of this Subcommittee, Senator Magnuson, wrote to you asking for a list of both audits and investigations concerning contracts awarded by the Bureau of Education for the Handicapped during the fiscal years 1976, 1977,1978 and 1979. The Chairman indicated that information should include a synopsis of the audit or investigation and be available by February 4. Although it was generally agreed, to my understanding, that although you might not be able to make the February 4 date, the information would be needed before the Subcommittee hearings involving the Bureau of Education for the Handicapped, which were held on February 21. However, your letter, with attached data, was dated February 22 and received by the Subcommittee on February 26.

Also, although the Chairman had asked for a list of all audits and investigations you mentioned that you identified only nine audits and sent copies of six. You stated that you conducted no investigations involving BEH contracts during those four fiscal years.

Because I had the privilege of chairing the BEH hearings, I find the information you sent to the Committee interesting. What puzzles me is that there is no mention of the contract awarded by BEH to Contemporary Associates, Inc., in FY 77, (Contract No. 300-77-0322). I believe we are referring to Audit Control Number 03-91452.

Is there any reason why this particular audit was not included in the information sent to the subcommittee?

Answer: It was an omission on our part. When audit reports are completed, they are coded into our computerized audit information system by program for ready identification. Considering the volume of reports processed -- about 7,000 a year -- some coding errors do occur. That's what happened in the case of Contemporary Associates, Inc. Even though this omission occurred, I am pleased to note that the Committee had been previously advised on the results of this audit in that members of our audit staff briefed Mr. Don Gray, Chief of the Senate Appropriations Committee Investigations Staff and Mr. Jim Magner of your staff on June 8, 1979. Also, a copy of the audit report was sent to Mr. Gray on June 27, 1979.

With respect to the discrepancy in report numbers, nine identified and only six sent, three reports dealt with contracts and had no audit findings. It was mutually agreed by members of our respective staffs that sending copies of these three reports wasn't necessary.

Question: Would you say that this is the only omission or could there be other audits omitted for similar reasons?

Answer: Considering the volume of reports processed, it's possible but not likely.

POSSIBLE NEED FOR FURTHER INVESTIGATION OF CAI CONTRACT

Question: Would you say that the findings of this audit were worthy of further investigations?

Answer: This audit was initiated based upon concerns by BEH-OE Personnel regarding the lack of an accounting system and internal controls in use by CAI. It should be noted that responsibility for internal controls and adequate accounting systems involving grants and contracts is a primary responsibility of programmatic and contracting officials in various operating components of the Department. However, when a deficiency of this type is referred to the Office of the Inspector General, it is our responsibility to conduct an audit of any and all entities of concern to the programmatic and contracting officials within operating components of the Department.

While an audit was certainly appropriate concerning this matter, it does not necessarily follow that an investigation conducted by the Office of Investigations, Office of the Inspector General was also necessary. The Office of Investigations, established under the Office of the Inspector General by Public Law 94-505, is responsible for the conduct of inquiries and investigations which are thought to be criminal in nature.

There is an established procedure in the Office of the Inspector General, DHHS, whereby audit personnel refer matters for review by personnel of the Office of Investigations if the audit personnel, for whatever reason, believe that some criminality could exist in a particular audit situation. Such referral does not necessarily mean, however, that criminality does in fact exist. It does ensure, however, that the investigators will meet with and discuss the concerns of interest to the auditors. It further ensures that the auditors will be instructed to look for and concentrate on items which would be of value to criminal investigators in determining whether or not criminality exists.

Therefore, concerning this matter, although it was necessary to conduct an audit of CAI, I cannot subscribe to the use of the word "investigations". The necessity for an investigation would necessarily be dependent upon information developed by the audit.

PRELIMINARY FINDINGS OF AUDIT OF CAI CONTRACT

Apparently the auditors believe their preliminary findings were deserving of further investigation.

In October of 1978, about two months after the audit began, a supervisory auditor of the Audit Agency notified the Director of Investigations, OI, of the preliminary findings of the audit. A Special Agent from the Washington Field Office, OI, was assigned. That Special Agent conferred with Mr. Michael Walsh, Supervisory Auditor, HEW Audit Agency, and determined that OI's involvement at that stage would be premature, and requested a final audit report. He received the final audit report on July 2, 1979.

Mr. Lowe, in your recent letter of February 22, 1980, you state that your office conducted no investigation involving BEH contracts during Fiscal Years 1976-1979.

The Special Agent-in-Charge (WFO) issued a memorandum to Assistant Inspector General for Investigations, OIG, on September 1979. The report relates the actions of other offices but says nothing about the actions of the Washington Field Office. It states simply:

> "Inquiry into this matter did not disclose any indications of fraud or abuse. Accordingly, WFO, OI, is terminating its monitoring activity of this matter and is closing its inquiry in the files of WFO."

This two-sentence conclusion raises some questions.

ACTIONS RESULTING FROM FINAL AUDIT OF CAI CONTRACT

Question: Exactly what actions did the Washington Field Office take after receiving the final audit report?

Answer: After the receipt of the final audit report, Special Agent Joseph Prioleau met with Mr. Michael Walsh to review his audit findings and to discuss with him the role, if any, which he felt the Office of Investigations should play. Other matters concerning the possibility of the existence of fraud were discussed by Mr. Prioleau and Mr. Walsh. The only conclusion that could be reached predicated upon the audit findings was that record keeping was virtually nonexistent regarding CAI.

No evidence was produced by the auditors indicating false certification or unauthorized expenditures by contractors; misuse of contract funds for purposes other than were intended; or any other matter constituting the elements of the crime of fraud which would warrant further investigation of, and/or presentment of such information to the U.S. Attorney for the District of Columbia for a prosecutive opinion or guidance concerning further investigative activities.

Another appointment was set up by Special Agent Prioleau with Mr. Walsh. SA Prioleau went to Baltimore, Maryland, where he met with Mr. Walsh and took a copy of the audit report and compared it with the auditor's work papers. SA Prioleau's background is that of an accountant/auditor who was previously employed by the firm of Ernst and Ernst, Certified Public Accountants. He is also a journeyman criminal investigator who holds a law degree. Therefore, SA Prioleau is skilled in both audit and investigative disciplines and eminently qualified to ascertain whether or not the concerns of an auditor and the work performed by the auditor are indicative of the elements of crime.

At the conclusion of that review, SA Prioleau determined that no evidence of criminality existed. Failure to adhere to the regulations requiring internal controls and proper accounting systems, while they are deplorable, do not constitute violations of Title 18, U.S.C.

In fact, during the next three months, from July to September 1979, Mr. Prioleau attended a series of meetings and had numerous telephone discussions with Mr. Walsh and Micheline Conn, Audit Resolution Specialist, GPMD-OE. These meetings resulted in the resolution of all problems brought to light by HEW-AA except for $9,287.00, which could not be resolved through a review of the

documentation furnished by CAI. At no time was any evidence uncovered to indicate criminal activity. It was decided that GPMD-OE would move to dispute the claims of the contractor to protect those Federal funds in the amount of $9,287.00, which CAI could not substantiate. Such action is routine and is invoked on fairly regular basis under the provisions of the Federal Procurement Regulations concerning such matters.

Question: Did the WFO attempt to identify or examine other contracts the Department may have had with CAI?

Answer: Yes, such attempt was made with CAI with negative results. Furthermore, if such contracts had existed but for some reason had not shown up in the Support Operations Branch computer, SA Prioleau would have been apprised of this fact by Mr. Walsh, who was conducting the audit. SA Prioleau did determine that other Departments of the Federal Government funded CAI but not that CAI had any other contracts with DHHS.

BASIS FOR CONCLUSION OF NO ABUSE OF CAI CONTRACT

Question: What was the conclusion that there was no indication of abuse based on?

Answer: That conclusion is based upon numerous conversations with Mr. Walsh and Ms. Micheline Conn and review of Mr. Walsh's work papers and a review of the "records" furnished by CAI. "Abuse," as used here would include over-payment by the contractor for services rendered, procurement of more supplies than was needed to perform the task authorized in the contract, and similar matters of a less than criminal nature.

Question: Just what evidence of abuse would be necessary to initiate investigative action?

Answer: As outlined above, indications of over-payment for services rendered, procurement of unnecessary supplies and equipment, or matters such as entertainment of Office of Education officials, which might be indicative of payment of kickbacks. Normally, the Office of Investigations would focus on incidents of abuse to develop indications of criminal activity since the mission of OI and the trained criminal investigative resources available to it, are not used to document "program abuse" per se.

Audit reports, programmatic reviews, oversight by the contracting offices, and referral to the OE Program Compliance personnel are the proper channels by which abuse is normally investigated and reported. Further, when abuse situations are reported to OIG, the resources of the Audit Agency and personnel of the Health Care and Systems Review staff would normally be used to identify and report on program abuse to the head of the principal operating component.

INSPECTOR GENERAL ACTIONS UPON DISCOVERY OF FRAUD

Question: What course of action would the Inspector General contemplate if he decided there was some indication of fraud or abuse in this case?

Answer: In addition to the discussion above concerning an abuse situation, if there were any prima facie evidence of fraud, this matter would immediately be referred to the U.S. Attorney for the District of Columbia for a prosecutive opinion and the development of an investigative plan jointly by the prosecutor and the criminal investigator assigned to this matter.

Question: During the Subcommittee Hearings involving the Bureau of Education for the Handicapped, a number of serious questions were raised concerning the relationship of key personnel in that Bureau with Contemporary Associates and concerning the actions of individuals relating to this contract. Would the Inspector General contemplate a review or investigation of the actions and responsibilities of BEH relating to this contract?

Answer: The Office of the Inspector General has not received any allegations concerning the relationship of key personnel of BEH-OE with Contemporary Associates. We would appreciate the opportunity to review testimony which the Committee has received, wherein conflicts of interest or other violations of Title 18, U.S.C., might be involved, should you desire to make that information available to us or to the U.S. Department of Justice. I should like to add, however, that such relationships were not brought to the attention of the Office of Investigations when this matter was referred to OI and during the time that the Washington Field Office was monitoring the audit and the audit resolution process previously referred to.

The question concerns whether or not the Inspector General would contemplate a review and an investigation of the actions and responsibilities of BEH relating to this contract because the audit report repeatedly points out that no internal controls or adequate accounting system was in effect at CAI during the time that BEH and GPMD-OE were responsible for administering the subject contract. It is clear that further investigation or audit activity to establish the fact would be redundant. At this time the resolution of the problem would seemingly rest with administrative action available to the management structure of the Department of Education.

It is my belief, however, that the programmatic and contracting personnel representing BEH-OE did not discharge their responsibilities by ensuring that CAI had sufficient internal controls and accounting systems prior to and during the time that Contract No. 300-77-0322 was in effect.

The Office of Investigations conducts different types of investigations and inquiries. An inquiry is conducted when a non-specific allegation is received, i.e., "There is possibly something wrong," "There might be fraud involved in the program," etc. The purpose of an inquiry is to establish if prima facie evidence of a crime or criminal activity is present. An investigation is initiated upon receipt or development of evidence indicating that criminality exists. That evidence may be documentary or testimonial in nature and would be brought to the attention of the United States Attorney. If it is decided that evidence of criminality does not exist, the inquiry would be reported by memorandum and filed as a closed case. Any inquiry which has been closed because of lack of evidence may be reopened immediately upon receipt of further information indicating that

criminality exists. One document or one knowledgeable witness with additional information can result in a previously closed inquiry being reopened and referred to prosecutors for their review and the initiation of a full field investigation.

POSITION INCREASE JUSTIFICATION

Question: You are asking for an increase of 100 staff positions, largely in the area of compliance review. In a very tight fiscal year, why should this increase be granted?

Answer: The Department of Health and Human Services is the major agency affected by the civil rights laws in terms of the amount of financial assistance under Federal grant and loan programs. Also, more than 43,000 of the Department's recipients are subject to the laws, which protect 164 million beneficiaries. In the past, civil rights enforcement in health and human services has been neglected relative to education. In part, this was because of court order requirements related to eliminating discrimination and racial segregation in education.

There is a critical need to reverse this pattern and develop an effective enforcement program to address discrimination in access and delivery of health and human services programs. These programs are intended to provide essential services to a large number of the nation's most vulnerable groups -- the poor, the disabled and aged, dependent children, and non-English speaking persons. Many of these persons are excluded from assistance and services or receive inferior treatment and services despite meeting all the conditions of eligibility.

Question: What pressing problems will these 100 additional staff address or resolve?

Answer: Most of the additional positions - 75 - will be allocated to conduct compliance reviews. These are in-depth evaluations of an individual program or group of programs and are the most effective means of enforcing the laws. Together with the 180 positions currently assigned to this function, the additional 75 positions will help OCR initiate 217 new compliance reviews in fiscal year 1981. These reviews will focus on civil rights problems that appear to be serious and national in scope. Many reviews will focus on the availability and accessibility of facilities and services to minorities and handicapped persons. The other 25 positions will be allocated for legal services and development of compliance policies and standards to support civil rights enforcement.

Question: Since the workload of the Department of Education OCR is considerably heavier than yours, why should you, rather than they, receive this staffing increase?

Answer: The civil rights enforcement responsibilities of the new Department of Education are not more extensive than those of the Department of Health and Human Services although there has been substantially more compliance activity in the education field over the course of years. More recently this imbalance has been due to court order requirements that mandate strict time frames to investigate discrimination complaints, conduct compliance reviews, and when necessary, to institute enforcement action.

The budget request for the Department of Education represents 67 percent of currently authorized resources for civil rights enforcement conducted by the Department of Health, Education, and Welfare. In order to ensure adequate enforcement in health and human services programs, 100 new positions are requested in addition to the staff that would remain -- 33 percent of current positions -- in the Department of Health and Human Services.

COMPLAINT INVESTIGATIONS

Question: You stated that in fiscal year 1979 OCR received 1405 complaints alleging civil rights violations. In fiscal year 1980, you estimate you will have 1563 complaints, and 1822 in fiscal year 1981. This is a 30 percent increase in two years. In fiscal year 1979, how many instances of noncompliance with civil rights laws and regulations were uncovered as a result of investigating these complaints?

Answer: In fiscal year 1979, the Office resolved 1817 complaints, including a number of complaints received in previous years. Of that number, 833 were closed due to lack of jurisdiction and 371 were closed for other administrative reasons. In 347 cases, we found no violations of the laws and implementing regulations. In 266 cases, complaints were resolved to the benefit of the complainant. In summary, of all substantive complaints resolved, 43 percent led to corrective changes undertaken by recipients.

It should be emphasized that the regulations implementing the civil rights laws require that the Department address each and every complaint of discrimination promptly. Unless the Department is equipped to follow through on this commitment, a backlog will develop which opens up the potential of litigation against the Department.

Question: Describe what steps OCR takes when it finds that a complaint is justified and noncompliance with Federal law exists.

Answer: When a complaint results in a finding of discrimination, we first seek voluntary compliance through negotiation as required under all the statutes the Office enforces. This includes offering the recipient technical assistance in achieving compliance. Voluntary compliance is obtained in about 98 percent of the cases. In the remaining cases, where voluntary compliance is not possible, the statutes require the Office either to initiate administrative proceedings, which can lead to the termination of Federal financial assistance, or to refer the matter to the Department of Justice for litigation. Even when enforcement action is undertaken, the Office will continue negotiations or provide whatever assistance is necessary should a recipient wish to pursue means toward voluntary compliance.

COMPLIANCE REVIEWS

Question: The Department of Health and Human Services has contracts and grants with many thousands of institutions in the country. It would be extremely difficult to monitor compliance with civil rights laws of all of these. How does HHS choose where to perform compliance reviews?

Answer: For many years, institutions were selected for review so as to reach a broad spectrum of recipients. We are refining this selection process. On the basis of survey results and research

findings, OCR first determines the compliance issues that appear to be serious and national in scope. Then recipients are selected for review to the extent their services or programs appear to reflect these problems. In addition, complaints that raise complex issues may require extensive investigation that borders on a full-scale compliance review of a regional or municipal health care system.

This year new reviews are focusing on issues such as: admission practices and accessibility of hospitals, nursing homes and extended care facilities; delivery of services under Medicare and Medicaid; bilingual services in delivery of program benefits; referral and placement practices of child welfare agencies; and activities of health planning agencies to ensure access and quality health care for minorities and handicapped persons.

The actual selection of review sites is a collaborative headquarters-regional office effort. The objective is to select recipients for review where information from a variety of sources - complaints, compliance reports, community sources - indicates serious potential violations.

Question: When noncompliance is discovered, what steps does OCR take to deal with this situation?

Answer: The procedures are the same as described above regarding complaint investigations. However, because of the more comprehensive nature of a compliance review, negotiating sessions may be more extensive. These sessions afford the recipient a full opportunity to rebut information on which compliance findings are based and offer new or additional evidentiary matter. They also provide a forum for discussing acceptable remedies under the statute and regulations. Also, the need for technical assistance may arise after compliance review findings are made. Again, the Office provides technical assistance in the formulation of a remedial plan and also may refer the recipient to other available assistance. However, if a recipient refuses to voluntarily comply by adopting corrective measures, the Department is obligated to take enforcement action - either institution of administrative proceedings or referral to the Department of Justice.

DEPARTMENT-WIDE PLANNING FOR SOCIAL RESEARCH

Question: We have tried to support funding for Policy Research, because we think it produces a lot of the data on costs and benefits which we need to assess what we are getting out of the billions of dollars we spend on service and benefit programs.

We are pleased to see that you have come in asking for the same $24 million you have now, and that you have funded some of your new initiatives, like "retirement, work, and the aged," out of decreases in other areas.

However, we have been concerned that there does not seem to be a Department-wide strategy for Policy Research in either health or welfare. The $13 million you spend for welfare research is only a tenth of the total $122 million in the Department's welfare research mission. The Social Security Administration is asking for $18 million and Human Development (OHDS) wants $92 Million. In chairing the hearings for those two agencies, it became clear to me that neither one knew of the other's research, or how they related to a whole picture.

I would think your role in the Secretary's Office would be to develop Department-wide strategies for research. For example, I find it hard to see why, as a total Department, you can't find out what you need to know about welfare with the $109 million you spend now, instead of going up to $122 million. Why don't you have a Department-wide plan?

Answer: The $122 million figure for welfare research in the mission budget is somewhat misleading. Well over 90 percent of that total is earmarked, by law and past practice, for particular program or problem areas which are agency specific. For example, $38 million is appropriated to the Administration on Children, Youth, and Families. The overwhelming proportion of that money is spent on demonstration projects related to the Head Start program. Similarly, the Administration of Aging (AOA's) $40 million is earmarked for projects related solely to serving the elderly. It is true that the Social Security Administration's $7.5 million for social services research is legally available for a broad range of subjects related to welfare programs, but in practice that money is focused on projects related primarily to improving the administration of the current Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), and Child Support Enforcement programs.

The Policy Research program complements rather than duplicates these more narrowly focused research programs of the operating agencies. The Policy Research program is the only social science research program in the Department consciously focused on policy issues of emerging significance, issues which either cut across agency lines or transcend current program operations. In most cases, it would be legally and administratively impossible to fund or manage projects such as our Income Maintenance Experiments out of AOA or other HHS agency-specific research and demonstration appropriations.

HHS does not prepare a Department-wide research plan as a written document, but we do have a Department-wide planning process for social research. Each Health and Human Services (HHS) agency, including my own, is required to circulate to the other agencies a plan covering all ongoing and planned projects, grouping projects into priority areas. Each project is reviewed by staff from other agencies who have expertise or responsibilities for similar projects. Finally, as a general practice, agency staff sit on grant and contract review panels for each others projects, both to assure high quality and to prevent duplication.

We are aware of the Congress' concern about possible duplication or other inefficiencies in research programs. We are currently examining ways to improve our research oversight role in order to further insure that scarce research funds are used in the most efficient way.

Finally, none of the $13 million increase for "welfare research" requested for 1981 is in the Policy Research program. The increase is split roughly equally between SSA and OHDS.

NON-MEDICAL HEALTH RESEARCH PLANNING

Question: Let's turn next to applied research in Health Delivery Systems. Here we find separate research budgets in five dif-

ferent parts of the Department. I can't find any clear strategy pulling these parts together. Health Services Administration (HSA) seems to define its research around mothers and children; Alcohol and Drug Abuse (ADAMHA) focuses on the nature of clients problems; the National Center for Health Services Research has a broadly defined scope which cuts across the others; HCFA (Health Care Financing Administration) seems to be researching the same kinds of financing issues that your Office and the National Center are concerned with. Again, we put all the little requests together and we find you asking for an 18 percent increase ($21 million) in a tight budget year. Where is your plan for Health Research?

Answer: As you point out, the problem is even more complex in the health service delivery area, with an even greater number of related research areas. The actual increases proposed are primarily in HCFA and in ADAMHA.

In addition to the departmental research planning system discussed above, we have several planning initiatives underway aimed specifically at developing better health research strategies. The Assistant Secretary for Health developed last year a Health Services Delivery Research Plan cutting across all the Public Health Service (PHS) agencies by specific topic areas. In addition, we have a health data planning function of some years standing through which the Department develops a health statistics plan, including not only statistical activities classified as such in the mission budget, but also statistical data generated through applied research. Finally, HCFA and the PHS have developed an agreement specifying the particular kinds of research in which each will specialize, the ways in which they will collaborate in particular areas, and methods of project-by-project review. My staff are involved in these joint planning activities, and will continue to work to improve coordination of research efforts in the health areas.

WELFARE ADMINISTRATION EXPERIMENTS

Question: What are you planning to do in the Welfare Administration Experiments?

Answer: Improving State and local administration of welfare programs is a major HEW goal, and also a key concern of the Department of Agriculture's Food and Nutrition Service and, the Congress. With the increasing federal pressure for better administrative performance, State welfare officials are also more intensely concerned with administrative matters.

A body of objective information on the performance and cost characteristics of various combinations of administrative methods is needed in order to determine which methods of administration will best aid States in improving administrative performance and in meeting federal performance standards. Except for the Monthly Reporting Experiments' test of several versions of a case maintenance method that involves periodic reporting by clients, there is no source of objective information about the administrative performance and cost characteristics of different methods of welfare administration. This makes it very difficult, if not impossible, for States to react rationally to federal incentives and pressures for better administration.

The Welfare Administration Experiment will accumulate objective information on the cost and performance characteristics of numerous administrative methods and new combinations of methods in order to determine which methods or combinations will provide the most efficient administration in different situations.

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During FY 1980, an administrative performance evaluation survey is being developed which can be used to estimate the performance and cost characteristics of administrative methods currently used in local welfare offices, or new combinations of methods being tested in experimental demonstration projects. The survey will be used to estimate administrative cost and performance characteristics of methods employed in AFDC and Food Stamp offices.

As a second step, a dynamic microsimulation model of local welfare offices operations will be developed. Ultimately, this model will utilize data generated from the administrative performance evaluation surveys to identify administrative methods and new combinations of methods that seem to have promising performance and cost characteristics.

The final step in the Welfare Administration Experiments will be a series of experimental demonstration projects that will evaluate more accurately the performance and cost characteristics, and demonstrate in the field the feasibility of new combinations of promising welfare administration methods.

LONG-TERM CARE

Question: In last year's Committee Report, we requested a report on your specific plans for achieving policy direction and coordination on long-term care policy. We will place in the record a copy of our November 27, 1979 letter to Secretary Harris and her reply. We understand your report is forthcoming.

Can you supply us a copy of the report or a summary for the record?

Answer: As Secretary Harris has described to Senator Magnuson in her letter of November 27, 1979, the Office of the Assistant Secretary for Planning and Evaluation has been given lead responsibility for long-term care policy development within the Department as well as responsibility for coordinating and managing the Department's Channeling Demonstration program.

We will keep the Committee informed as our plans develop for the channeling projects. You already have our initial Notice of Intent published in the Federal Register December 21, 1979, which describes in detail our plans for developing and funding these projects. Revisions to the notice are being prepared and will be sent to the Committee. Our current schedule is to forward the solicitations for project applications and contractors to the Committee in mid-April. Awards for the various activities are scheduled to occur between July and September. The notice and pending solicitations, taken together with Secretary Harris' letter of November 27, and the materials already supplied to the Committee constitute our development plans. We hope to have continuing staff discussions and consultations with the Committee to further refine our plans, and answer any questions which may arise.

Question: What will you be doing in the long-term care area under Policy Research? How does this relate to the Long-Term Care Demonstration program managed by your Office?

Answer: As part of our overall responsibility to develop policy in the area of long-term care, we have included several research

projects in the Policy Research budget for FY 1981. These include: The feasibility of the Health Maintenance Organization (HMO) concept for organizing and delivering long-term care services; the impact of alternative methods of reimbursement for long-term care services including the use of cash supplements to individuals; direct payments to families caring for disabled relatives and tax credits; alternative methods for screening individuals applying for nursing home placement; and examination of existing research and data bases to call information relevant to new policy directions.

The findings from these studies and the channeling demonstration must be integrated to yield policy relevant information on which to base future decisions. Nevertheless, the two efforts are conceptually distinct. The Channeling Initiative is designed to develop in communities a client assessment and case management system and to test the effects of this system on client outcomes, long-term care costs, and service utilization. The money allocated to HCFA and AOA to support the channeling program will be used to develop 15 to 20 community based projects, evaluate them, and provide necessary technical assistance. Although an important part of the research agenda, the Channeling Agency Initiative clearly cannot address all of the important questions in long-term care. We intend to address many of the remaining ones through the Policy Research program as well as the research programs of HCFA and NCHSR. The Long-Term Care Steering Committee is presently working on developing a joint research and developing plan.

Question: One way of getting the kind of coordination in research which we have been discussing is to give the Office of the Secretary a coordinating role over funds appropriated to different agencies. We tried this last year with the Long-Term Care Demonstration Projects. How have you carried this out; has the inter-agency competition for a pot of research funds really worked?

Answer: In order to increase the coordination of long-term care policy within the Department, Secretary Harris has taken several steps as described in her letter of November 27 to Senator Magnuson. Specifically, the Department has established a Task Force chaired by the Under Secretary to conduct a thorough review of the Department's policies affecting long-term care, and to provide a continuing focal point for long-term care within the Department; named the Assistant Secretary for Planning and Evaluation as the chief official within this framework for long-term care policy development; and created within ASPE a Division of Long-Term Care Policy to provide the staff capacity to support this effort.

Rather than establish an internal competition for the use of the 1980 Initiative funds, an intra-departmental Steering Committee has been created under the chairmanship of ASPE with policy representatives of the Health Care Financing Administration, the Administration on Aging, the Human Development Services, and the Public Health Service as members. The Steering Committee is responsible for overseeing and managing a unified process for selecting, funding, operating, and evaluating channeling projects and related activities. The management structure and a five-year budget for the initiative will be outlined in a Memorandum of Understanding to be executed soon by the funding agencies and the Assistant Secretary for Planning and Evaluation. A copy will be submitted to the Committee when it is signed.

Question: What stage are you at in getting the projects underway?

Answer: Under the guidance of the Steering Committee, the Department has published a Notice of Intent in the Federal Register describing our plans for the Channeling program, and preparing the way for a site solicitation this spring. A revised notice will be published soon. We developed a unified structure through the Under Secretary's Task Force to consider agency FY 1982 legislative and budget requests in the area of Long-Term Care; developed a draft plan for the collection of nationally valid long-term care data that will provide increased information on the populations in need of long-term care, the utilization of services, the cost of services, and the informal supports available from family and friends; and begun discussions with HUD to coordinate the Channeling Demonstration program with HUD's Congregate Housing Services program.

FINDINGS FROM THE SEATTLE-DENVER INCOME MAINTENANCE EXPERIMENTS

Question: What exactly did the analysis of the SIME/DIME Experiments show, and how are you planning to use these findings?

Answer: Participants reduced their work effort by leaving employment for concentrated periods of time rather than by reducing the number of hours they worked a week. Husbands reduced their weeks of employment by about 4 to 7 percent, although more than half of the weeks they spent out of employment were used to look for other jobs.

Wives and female heads reduced their weeks of employment by larger percentage amounts than husbands. There was very little change among women in the number of weeks spent searching for employment. Women are likely to quit the labor force altogether if their financial circumstances permit. The additional time is sometimes spent in family care.

Young adults (aged 18-23) reduced their work effort by significant amounts (24% for males and 18% for females). Work reduction was somewhat smaller among whites than among blacks or Hispanics.

The rate of marital dissolution was significantly higher in experimental than in control group families. However, new results from recent investigations cast some doubt on the explanatory power of the previous findings, suggesting that the impact of income maintenance on marital stability is a complex phenomenon that continues to be poorly understood. Final results of most of the analyses will not be available until late in 1980.

(Several types of further analytic activities on this question were undertaken in FY 1979, including a formal model for statistically estimating interrelationships between labor supply responses and marital status changes, which is being refined and completed in 1980.)

Research on the amount of change in housing expenditures and housing quality among families who are eligible to receive experimental payments found that rental payments rose by about $8 for every $100 in monthly payments and the quality of the rental unit also increased. The experimental grants had a significant effect on recipients' reported satisfaction with their dwelling units.

The payments resulted in a increase in the probability of home ownership among black and Chicano households, and a statistically significant increase in the probability of moving, although the

amount of racial segregation in the destination neighborhood was not affected.

Special manpower subsidies had positive effects on time spent in manpower training programs although payments not specifically earmarked for this use had little or not effect. However, increases in training had no effect on wage rates.

These results have already played and continue to play an important role in welfare reform. They give the only current source of detailed month to month changes in income, program participation, and family composition over several years, which are extensively used for analysis of alternative accounting periods. Estimates of labor supply responses have been computed in a form applicable to simulations of alternative welfare reform proposals, and have been utilized by HEW, the Congressional Budget Office, and DOL for recent cost estimates of the Administration's proposal. The results have permitted us to predict that the jobs component of the proposal would more than offset the work reduction resulting from increased cash assistance. Also, cash assistance options were simulated without a jobs component to assess the implications of different benefit levels and benefit reduction rates.

In this way we more accurately assessed how much different proposals would cost and what potentially negative effect, like reduced work effort, might accrue from different alternatives, so that both the Administration and the Congress can make more informed choices throughout the current welfare reform debate and in future debates on welfare policy issues.

SURVEY OF INCOME AND PROGRAM PARTICIPATION (SIPP)

Question: Why are you transferring the Survey of Income and Program Participation, and how are you going to insure that the survey maintains its unique cross-cutting characteristics after it has been moved to the Social Security Administration?

Answer: ASPE has developed the Survey of Income and Program Participation through its Income Survey Development Program (ISDP). The survey development is now virtually complete, and we have begun taking steps to transfer the continuing operation of the survey to the Social Security Administration, Office of Research and Statistics. The survey will provide improved, updated and detailed information on individual and family income, assets, and categorical eligibility criteria, the impacts of Federal tax, transfer, and service programs, future program costs and coverage and the effects of proposed policy changes; characteristics of recipients and the impacts of programs on them; rates of program participation; and how family changes and movements in and out of the labor force relate to program assistance. These data will be particularly helpful to the Social Security Administration in the management of its programs such as Old-Age, Survivors, Disability Insurance (OASDI), Supplemental Security Income (SSI), and Aid to Families with Dependent Children (AFDC). In addition, SIPP will provide valuable information to the other Departments represented on the Advisory Committee, such as information on Food Stamps, veterans' benefits, unemployment compensation, Medicaid coverage and utilization, economic hardship, and Federal Income and Social Security Earnings taxes.

ASPE will continue to act as the HHS representative on the Interdepartmental SIPP Advisory Committee which is composed of representatives from HHS, Agriculture, Commerce, Education, Energy, Labor, and Treasury. ASPE will also continue chairing the departmental SIPP Steering Committee which provides policy guidance for the survey and which insures proper attention to cross-cutting issues.

Question: When are you going to have the first solid information from SIPP, which you promised us in last year's hearings for 80 or 81?

Answer: The 1979 Research Panel, the largest of the three experiments in the Income Survey Development Program directed by ASPE, will produce useful data this year. For example, we will receive improved data on the distributions of joint participation in several major programs (OASDI, SSI, Unemployment Insurance, Food Stamps) and their cumulative impact, as well as their interrelations with private pensions and wage, salary, and property income. These data will be used by the Food and Nutrition Service, Department of Agriculture, for a congressionally mandated study of Food Stamp recipients. Once SIPP is operational, in 1981, the SIPP panels will produce initial data for analysis within 6 to 12 months after the interviews are conducted.

SURVEY OF INCOME AND PROGRAM PARTICIPATION BUDGET

Question: I notice your request for policy research is $24 million, the same as last year, but you are transferring SIPP to the Social Security budget. Isn't this just a way to increase your budget without it showing up here?

Answer: SIPP support from ASPE has declined from a maximum of $3.3 million at the high point of the development phase, to $1.3 million in FY 81. The decrease in funding represents the transition of the survey to the operational phase. This was a planned reduction appropriate to ASPE's developmental role and to the planned transfer of SIPP to a statistical agency for operation. The gradual decrease in SIPP funding in Policy Research has been balanced by the need to initiate high priority research in other critical areas, such as long-term care and welfare administration, and by planned continuations in such areas as retirement, work, and the aged, disability and alternatives to institutionalization.

HEALTH INSURANCE STUDY

Question: Your office has received funding for the Health Insurance Study for five years. When will you show results and what sort of results are you expecting?

Answer: Preliminary results based on data collected in Dayton, Seattle and the two Massachusetts sites have recently become available. It should be emphasized that these results are quite preliminary and may change in the future as the final claims are filed, as reporting errors are corrected and as additional data become available. Major findings thus far indicate the following: The use of hospital and physician services is very sensitive to the coinsurance rate; the use of dental services is even more sensitive to the rate of coinsurance than the use of hospital and physician services, especially in the first year of dental coverage; blacks receive less ambulatory care than whites, even when characteristics such as income and welfare status are accounted for (Dayton results only); preventive care is more sensitive to price than other medical care (Dayton results only).

Reports forthcoming in 1980 are: An analysis of the effects of coinsurance; analysis of effects of multiphasic examinations on the

use of service; effects of insurance on the choice of providers; and utilization of prenatal and maternity care by plan.

The other issues that the Health Insurance Study will address as more data are collected include: The administrative difficulties posed by income related cost sharing plans; the effect of different health plans (i.e., coinsurance rates) on the health status of participants; the differences in the effects of health insurance variations in insurance coverage on the quantity, quality, and cost of care provided by physicians and other health care providers; the differences in utilization of medical services, quality of care, and health status of participants in prepaid group practices (i.e., HMOs) compared to those in the traditional fee-for-service system; the differences in the quality of care given by graduates of foreign medical schools and U.S. medical school graduates; the differences in the costs and quality of care provided by general practitioners and specialists to patients with similar problems.

The field experiment is scheduled to end in 1982 and after the enrollees have completed their participation in the study, the results can be analyzed. Thus, finalized results should begin to become available in 1982.

Non-experimental data from the study has been used to develop and refine the national health insurance proposal. The experimental data will be used to develop cost and utilization models to simulate variations in health insurance proposals. The study will also permit evaluation of many other health care issues, including the quality of care provided by HMO's and the fee-for-service delivery system, and the value of preventive care.

Question: Now that the Administration has a National Health Insurance Bill, is it still necessary to continue this Health Insurance Experiment? If so, why?

Answer: It is important and necessary that the Health Insurance Study be completed. The results of the study will be an invaluable contribution to the implementation of any national health plan and will augment significantly our capability to generate reliable cost estimates for major health programs in the future.In addition, it will generate valuable information on issues independent of current national health insurance proposals, such as health manpower, the advantages of pre-paid practices over fee-for-service, and utilization of preventive care for children.

The study is addressing issues that require observation over a long period of time. Changes in status that result from different types of health insurance coverage are gradual responses which do not occur rapidly. This study is the most extensive effort to date to study behavioral responses to changes in the cost of medical care which is critical for projecting the costs of major health programs. Results from the three year enrollees are just becoming available for analysis and results from the five year enrollees, whose participation will end in 1982, will be particularly important in the determination of changes in health status over time.

The study will also indicate the administrative difficulties associated with an income related cost sharing plan and will generate the development of an effective administrative mechanism designed to deal with such difficulties. The development of such a mechanism can be expected to be completed prior to implementation of the national health plan if passed by Congress.

The study has been funded since 1973 and will be completed by 1982. Discontinuing the study would have a serious negative effect

both on the usefulness of the data already collected and on the ability to analyze the longer range issues addressed such as changes in health status.

EVALUATION OVERSIGHT

Question: The Committee's report on the FY 1980 Budget Proposal (Senate Report 96-247) indicated that evaluation efforts should be centralized, to the maximum extent possible, within the Office of the Assistant Secretary for Planning and Evaluation. The purpose of this centralization would be to encourage an oversight function which would reduce duplication and marginally-effective contract awards. What efforts have been made to encourage this oversight function in the Assistant Secretary's Office?

Answer: In September 1978, the Secretary created a new Office of Evaluation and Technical Analysis in the Office of the Assistant Secretary for Planning and Evaluation. The Office represented a recognition by HEW that oversight of evaluation should be given higher priority and additional resources. Since that time, the following steps have been taken to improve oversight, coordination of HEW's evaluation activities:

Continued issuance of an annual Departmental Guidance that sets forth departmental policies and standards regarding proposed evaluation projects; technical assistance to the agencies with improved evaluation techniques; efforts to document the utilization of completed evaluation studies; operation of a centralized Evaluation Documentation Center which houses all completed evaluation studies and published the Compendium of HEW Evaluation Studies; and ASPE approval for each evaluation project before a contract can be issued. This function includes an in-depth review of each project for relevance to departmental decision making and program management, adequacy of proposed methodology, and analysis of whether the expected value of the outcome will justify the costs.

Question: How does this Office keep informed on contracts let by the agencies? What is the process for discovering duplication in contracts?

Answer: A strong oversight role has been mandated for ASPE through the Under Secretary's FY 1981 Guidance.

The Under Secretary's Guidance requires that each agency in HEW prepare a detailed evaluation plan, containing project descriptions for all proposed new evaluation contracts. This plan is reviewed thoroughly by the Office of the Assistant Secretary for Planning and Evaluation. Meetings, chaired by the Deputy Assistant Secretary for Evaluation and Technical Analysis, are held throughout the summer. Through this planning process, ASPE is kept informed on all contracts proposed in the Department.

ASPE approval is required for each project before a contract can be issued. The HEW contracts offices will not issue an evaluation contract without this approval by ASPE in writing. Through this review process, duplicative projects and weak projects are discovered and eliminated. 40% of all proposed projects are either disapproved by ASPE or dropped by the proposing agency. The remaining projects are usually substantially revised to reflect ASPE's comments before they are approved.

SOCIAL WELFARE TRAINING

I would like to focus your attention on the mission of training personnel for social welfare. I discussed this mission at length in the Social Security Administration and Office of Human Development Services hearings, and was dismayed by what I found. The Department has requested $192 million of training funds in six different places, despite this Committee's report instruction to develop a consolidated training program. What is worse, there has clearly been no Department-wide assessment of what the training needs are, whether trainees have appropriate skills and whether we need to develop new directions.

Question: The Department and outside researchers have done such studies in the area of health personnel, and we have drastically redirected our health profe.sions training funds over the last few years. Why haven't you undertaken this kind of assessment in the social welfare area?

Answer: While it is true that we have not yet developed a consolidated training program for the social work training activities of the Department, we are looking at several specific training programs that eventually could lead us to develop such a program. In summary, our existing information on training needs of social welfare programs is quite uneven: some programs have detailed information about the needs and skills of social workers while other programs do not. Before we consider developing a consolidated training program, we must close some of these knowledge gaps--and we are now trying to do just that with some of the $192 million proposed in the 1981 budget.

In addition, we are beginning a training initiative that could help us better understand social welfare training needs and target funds to areas of greatest need. I am referring specifically to our training proposal for child day care staffs under the Title XX, Child Welfare Services and Work Incentives programs. As you know, in the past year we have issued new regulations that set standards governing the provision of day care services under those programs. To ensure that quality services are provided efficiently and effectively, our new regulations also require training of child care workers. Day Care staff must receive training within six months after they being work, and regularly thereafter. Our regulations avoid imposing very specific training requirements on the States in order to allow States flexibility to develop a training program that meets their own peculiar needs and priorities. To help States meet the cost of the new training requirements, our 1981 budget proposes an increase of $27 million under the Title XX State and Local Training program. However, the States themselves will decide how much of the $27 million is actually needed to meet the new requirements and, in doing so, will likely assess the competing training needs of aging, foster care, protective service and other social work staff who deliver services through Title XX program. Through this State needs assessment process, we would hope that we could obtain better information about training needs of social workers.

We believe that when we do fill some of the knowledge gaps in social work training needs and we have some experience with States' response to the new direction provided through the child day care training requirements, we will be in a better position to respond to some of your specific questions.

CONSULTANTS

The Committee has been concerned about the use of consultant services by the Department. The Committee's concern includes the large expenditures for consultants; the large number of contracts let out in the final days of the fiscal year without sufficient justification; the expanded role that consultants are playing in the operational and decision-making processes of the Department; and the lack of significant program improvements as a result of evaluation contracts with consultant organizations.

Question: In a recent letter to the Committee, which I will place in the record, you indicated that the Department has been able to reduce its expenditures and reliance on consultant services by $28 million. How has this been accomplished? In what ways has in-house expertise been strengthened?

Answer: The reductions to which your question refers represent allocations brought about in response to the Department's reduced ceiling on consultant services contracts.

DHEW has taken some rather drastic actions to address the concerns voiced by Congress in reference to consultant services.

I. In response to Congressional concerns, the Office of the Assistant Secretary for Management and Budget is reviewing all non-evaluation consultant services contracts in excess of $100,000 before they are issued. This review concentrates on the following areas:

   A. Is the proposed consultant services contract prohibited under current regulations (e.g., Does it establish an employer-employee relationship)?

   B. Does the job need doing in the first place, whether in-house or under contract?

   C. Can or should HEW do all or part of the job with its own or other government employees?

   D. If a non-competitive contract, is the avoidance of competition justified? If the proposed contract contains a provision for non-competitive renewal, is this provision justified?

   E. Is the cost of the contract reasonable related to its benefits?

   To date, only 54% of the contracts reviewed have been approved as submitted. The centralization of this review process has resulted in recommendations for conducting manpower allocation reviews, A-76 cost comparisons reviews and a variety of ideas for reducing contracting costs.

II. In response to Congressional concerns about excessive fourth quarter spending, the Department has issued new procedures designed to distribute expenditures more evenly through the entire year. These procedures include:

A. Procedures designed to limit fourth quarter spending and to require a systematic procurement planning and development program. At the present time, no component within HEW will be permitted to obligate more than 30 percent of its total FY 80 procurement budget for new contracts and modifications during the period July 1, 1980--September 30, 1980. No component will be permitted to obligate more than 12 percent of its total FY 80 procurement budget during any month during the final quarter.

B. A requirement that each operating agency be required to develop a quarter-by-quarter procurement plan. These agencies are beginning now to develop and process procurements which will be awarded during the first quarter of FY 81.

This combination of efforts should result in addressing the concerns expressed by Congress and increasing the effectiveness and efficiency of DHEW's activities.

POLICY CHANGES DUE TO EVALUATIONS

Question: Give us some examples of program changes that will be made in FY 1981 as a result of evaluations performed by consultant organizations in previous years.

Answer: It is not possible to state at this time precisely what program changes will be made in FY 1981 as a result of completed or current evaluations of HEW programs. However, it is possible to state what program changes have taken place in FY 1979 and what changes are taking place in FY 1980 as a result of evaluations performed by consultant organizations. Examples of some of those changes are described below:

Additional examples will be included in a report on utilization of evaluation in HEW that the Office of the Assistant Secretary for Planning and Evaluation will transmit shortly to the HEW-Labor Appropriations Committees. That report is intended to be the first in a series of annual reports to Congress on utilization of evaluation activities. Subsequent reports will give specific examples of program changes implemented in FY 1981 as a result of evaluations of HHS programs.

We expect an increasing number of HHS evaluation studies will lead to program changes. These program performance evaluations are intended to result in definition of realistic, agreed-upon, measurable program objectives and performance indicators for the Department's programs; and evidence of the extent to which HHS programs are operating as planned and producing the results intended by the legislation, as further defined by the agreed-upon measurable objectives and performance indicators for that program.

The objectives of program performance evaluations are to inject greater accountability for results into the management of the Department and to produce evidence on the extent to which the Department's programs are achieving intended results. An excellent example of such a program performance evaluation is the Head Start Performance Indicators Initiative, a summary of which is included in this document.

Among studies currently underway, some that are likely to result in program changes in late FY 1980 or FY 1981 are the following: Evaluation of Civil Service Reform in HHS; Head Start Performance Indicators Initiative; Evaluation of the General Internal Medicine and Pediatrics Residency Programs; Evaluation of the Community Mental Health Centers Program; Evaluation of the Administration on Aging.

Examples of evaluation projects and their immediate policy impact follow:

(1) EVALUATION OF THE CHILDHOOD LEAD-BASED PAINT POISONING PREVENTION PROGRAM (Public Health Services, Center for Disease Control)

In 1978, and evaluation of the childhood lead-based paint prevention program was completed. Screening of children at risk for lead poisoning, together with appropriate medical follow-up for those children detected with elevated blood lead levels, are central activities of the program and were the two principal foci of the study.

It was found that children needing pediatric or environmental follow-up services should be grouped into priority categories, thereby permitting programs to evaluate usefully the results of the services they deliver, and that a minimum data set to be maintained for each child should be defined. Program changes included the following: The Center for Disease Control published a major revision of its March 1975 Statement regarding the prevention of lead poisoning in young children. The revised statement includes new diagnostic categories that describe the degree and stage of poisoning. The statement also includes recommendations for the provision of pediatric and environmental follow-up services to children who are identified in "urgent", "high", or "moderate" risk categories. In addition, the format of the Lead Program Quarterly Activity Report was revised to provide information regarding the services and follow-up status of children by risk category, and was put into operation.

The Director of the Environmental Health Services Division requested that the lead poisoning prevention programs increase cooperative activities with other federal programs such as the Early and Periodic Screening, Diagnosis, and Treatment Program that also serve high risk children.

A minimum data set to be taken for each child treated, containing personal, environmental, medical, and follow-up information has been developed. It is being implemented in one Childhood Lead Poisoning Prevention Program which is used as a model for other programs. New program managers attend a bimonthly workshop at the model program site. At the workshop, program managers become familiar with the program's information system and records management techniques.

(2) EVALUATION OF FUNDING ADEQUACY AND STAFFING NEEDS IN HEALTH SYSTEMS AGENCIES (Public Health Service, Health Resources Administration)

This evaluation examined the adequacy of funding and staffing in Health Systems Agencies. The project examined the funding

experiences of 33 Health Systems Agencies (HSAs) during their second year of conditional designation.

It was found that 30 small population area HSAs with minimum grants of $175,000 were found to be seriously impaired in their ability to become fully operational since the grants were too small to establish staffs sufficiently large to perform Health Systems Agencies functions. An average professional staff of Health Systems Agencies is 1.17 per 100,000 population. The Health Systems Agencies had estimated that they needed 1.86 staff per 100,000 population to function effectively. There were a number of technical flaws in the original legislation having to do with Federal matching of locally-raised funds. Health Systems Agencies needed some discretionary funding for expenses such as travel for large service areas or between States.

Policy impact could be seen in the Health Planning Amendments of 1979. They established: Increased minimum grants to HSAs, enabling small population area HSAs with funding problems to hire the necessary personnel to be effective; increased average per capita funding for HSAs by 28 percent, thus allowing HSAs to hire adequate staff; correction of technical flaws in the original legislation having to do with federal matching of locally-raised funds; authorization of discretionary funds for HSAs.

(3) HEAD START PROGRAM - PERFORMANCE INDICATOR DEVELOPMENT (Office of Human Development Services, Administration for Children, Youth, and Families)

In the Fall of 1978, the Administration of Children, Youth, and Families, (ACYF), working in collaboration with the Office of Evaluation and Technical Analysis, ASPE, launched a major evaluation initiative to develop and implement Head Start Performance Indicators. Performance indicators provide specific objective and periodic measures of local program performance and service quality and will be used to improve the management of Head Start.

Individual performance profiles of 1900 local programs have been produced and are being distributed directly to local Head Start grantees and ACYF Regional Offices. These profiles provide a quanitative assessment of individual program performance in comparison with others in each region on eleven performance indicators and provide each local program with quantifiable benchmarks and objectives for self-improvement.

Baseline results on two other indicators relating to enrollment of and provision of services to handicapped children were collected. They are being used to establish performance targets for Head Start programs.

Over the last 3-6 months, ACYF Headquarters and Regional Offices have been reviewing Performance Indicator results to identify areas requiring management attention. For example, results documenting the extent of local use of USDA food reimbursements and Medicaid are being used at ACYF Headquarters to pinpoint and follow-up with non-participating programs.

During the spring of 1980, ACYF will establish performance targets for select performance indicators, and reach agreement with Regional Offices on alternative program improvement strategies for achieving targets during the 1980-81 program year.

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(4) EVALUATION OF FEDERAL INTER-AGENCY DAY CARE REQUIREMENTS (FIDCR Office of Human Development Services)

The evaluation of Federal Inter-Agency Day Care Requirements (FIDCR) imposed by Title XX of the Social Security Act was initiated in response to the congressional mandate that HEW evaluate the appropriateness of federal regulation of the Day Care Centers and the appropriateness of the regulations themselves.

The evaluation determined: Licensing requirements in some States do not meet standards found by research to be necessary for improving the condition of low-income children. Federal regulation of federally funded day care is appropriate. Group size is as important to the development of young children as the ratio of children to adults. Adult-to-child ratios for children three years old and up could be increased beyond past regulatory levels without damaging the quality of day care programs. Regulations should cover program activities for health and safety, physical environment, staff training, group ratio and size, parent involvement, social services, and nutrition. Successful enforcement of the regulations depended on specific implementation strategy.

The Department developed new regulations which reflect the evaluation findings. Major changes in the FIDCR regulations included: Allowing larger numbers of children to be supervised by a single adult, thus resulting in cost savings without lowering the quality of care; more clearly defining States' responsibilities for purchasing and providing training of day care staff; developing additional regulations covering health and safety, physical environment, parent involvement, social services, and nutrition.

An HEW task force composed of staff from the Administration for Children, Youth, and Families, and the Administration for Public Services was established to enforce the regulations and facilitate technical assistance to States in implementing the regulations. Information and analysis obtained in the evaluation effort also provided a basis for the required regulatory analysis of new, proposed regulations which revealed that insufficient Title XX training money was allowed for day care training needs, and which resulted in a request to Congress to raise the proposed cap on Title XX training money from 3 percent to 4 percent.

REGULATIONS

HEW is now almost halfway through "Operation Common Sense", a five year effort to review, and, where necessary, revise all of the Department's regulations.

Question: What were your goals under this program for FY 1980, and how many of these goals were completed?

Answer: Operation Common Sense began in September, 1977, and goals were set for review and revision of 6,500 pages of existing HEW regulations over a five year period.

The goal for September 30, 1980, is to complete review and revision of 4,200 pages of HEW regulations in the Code of Federal Regulations.

The most recent status reports include the period ending September 30, 1979. In summary, since the initiation of Operation Common Sense, HEW has:

- o deleted 830 pages of obsolete or unnecessary regulations.
- o reviewed 1,700 pages of regulations and determined that further revisions were not necessary.
- o rewritten and published in the Federal Register 1,500 pages of proposed or final regulations.

Thus, as of September 30, 1979, the Department has taken action on about 4,000 pages of regulations under Operation Common Sense.

Question: What are your goals for this program for FY 1980, and how many of these goals were completed?

Answer: See above answer.

There were problems in the past with the timeliness in issuing new regulations.

Question: Could you give us some examples of new regulations issued in FY 1980 and what their deadlines were for issuance?

Answer: Most of the regulations issued by the Department are not subject to statutory, court-ordered, or other binding deadlines. Thus, in most cases, the only applicable "deadlines" are actually targets set for internal Department management purposes. The examples below include both regulations with binding deadlines and those with internal management target dates.

(a) Fiscal Sanctions Against States for Failure to Reduce Error Rates in AFDC and Medicaid to Specified Levels

The Michel Amendment to the Department's Appropriation Act for FY 1980 directed the Secretary to issue regulations by November 30, 1979 providing for fiscal sanctions against states that fail to reduce error rates in AFDC and Medicaid to specified levels. Although the Appropriations Act has not been enacted, the Department has issued the fiscal sanctions regulations under the provisions of the Continuing Resolution (P.L. 96-123) passed on November 20, 1979.

The Department issued a Notice of Proposed Rulemaking on the subject regulations on September 25, 1979 in order to give the public an opportunity to comment on them. Final regulations were published on January 25, 1980.

(b) Medicaid Management Information System Regulations

Final regulations concerning the Medicaid Management Information System requirements in the Medicaid program were published in February, 1980. The regulation gives the Department necessary flexibility to add new requirements for mechanized claims processing and information retrieval systems in the Medicaid program.

The Department had set an internal management "deadline" for issuing these regulations in the second quarter of FY 1980.

Question: Are there any regulations yet to be issued under this program in FY 1980 which have not yet come out? What are their deadlines?

Answer: The Department has a large, on-going agenda of regulations to be issued throughout FY 1980 and thereafter. The following are only two examples.

(a) Time Limits for Holding Hearings, Issuing Decisions and Appeals Council Review

The federal district court in Blankenship v. Secretary of Health, Education, and Welfare has ordered the Department to publish regulations that would establish time limits for holding hearings, issuing hearing decisions, and taking Appeals Council action on social security claims.

A Notice of Proposed Rulemaking on time limits for deciding social security claims (and certain medicare eligibility claims) was approved by the district court and published by the Department on February 27, 1980. The court has ordered the Department to file a final regulation with the court by August 26, 1980.

(b) Medicare Reimbursement of Special Care Units

The Department is preparing a regulation that would refine the definition of hospital special care units and clarify the requirements for their reimbursement under the Medicare program. A Notice of Proposed Rulemaking was issued in May, 1979.

The Department has established an internal management target date for publishing a Final Regulation in the third quarter of FY 1980.

Question: Would you give us some samples of regulations to be issued in FY 1981 and their target dates?

Answer: The Department plans to issue regulations on the confidentiality and disclosure of information in the Professional Standards Review Organization program. The Department has established an internal management target date for publishing final regulations in the first quarter of FY 1981.

MICHEL AMENDMENT

Question: Please summarize for us the fiscal 1980 supplemental action. You recommend to modify section 201 of the fiscal year 1980 conference agreement.

Answer: We are not proposing any supplemental action.

Question: Why can't you make the additional $500 million reduction? Have you saved any amount of this additional reduction?

Answer: Yes, the 1981 budget reflects a savings of $50 million in AFDC. In order to comply with the requirements of section 201 of the FY 1980 Labor-HEW Appropriations Bill, commonly referred to as the Michel Amendment, the FY 1980 budget authority for AFDC and Medicaid has been reduced by $350 million and $150 million respectively. To offset these reductions, the Department intends to

exercise its authority, approved by the General Accounting Office and the Department of Justice, to borrow from the 1981 appropriation. The 1981 budget request includes only $300 million of the $350 million withdrawn from AFDC to restore this borrowing, reflecting a savings of $50 million. However, the entire $150 million for Medicaid is included in 1981.

We are unable to absorb any further cuts within the 1980 appropriation. The 1980 column of the 1981 budget already assumes a total of $1.5 billion in savings. This is an ambitious goal, but one the Department is committed to achieve.

The Michel Amendment, however, does not credit any of the actions in our management savings plan and requires the $500 million reduction over and above the savings already factored into the budget. This an arbitrary cut with strict limitations as to where reductions can be made. Specifically, to be credited toward the Michel Amendment, new savings must be realized in programs included in the Labor-HEW appropriations bill. Any savings we might achieve in our $150 + billion trust fund budget do not count against the Michel reduction.

Moreover, only items mentioned in the Inspector General's report can be cut under the terms of the amendment. These are primarily the entitlement programs where we are already doing everything we can think of to bring down error rates. To fully achieve the savings now States would have to achieve a 4 percent error rate in AFDC and Medicaid in 1980 rather than in 1982.

In addition, the amendment specifically states that no authorizing legislation can be overriden to carry out the budget authority reduction. The Conference Report even says that no legitimate entitlements should be cut because of the amendment.

Finally, to be applicable to the Michel amendment actions must produce immediate savings in appropriations. Actions that result in cost avoidance, savings that can be retargeted on legitimate needs and beneficiaries, or major future efficiencies do not help the Department absorb the Michel amendment.

GAO REPORT ON REDUCTION OF HEALTH COSTS

In the recent hearing with Secretary Harris we asked her about a November 13, 1979 GAO report titled "Health Costs Can be Reduced by Millions of Dollars If Federal Agencies Fully Carry Out GAO Recommendations." The report pointed out that during the years 1974 through 1978 GAO issued 84 reports containing 262 cost control recommendations related to government health programs. Less than half, 98 to be exact, have been fully or substantially put into effect by the Congress or the administering agency saving millions of dollars. There were 164 recommendations that have been carried out only in part or not at all, and GAO believes that additional savings of millions of dollars can be realized if these recommendations are implemented. Let's discuss a few examples from this report.

GONORRHEA CONTROL PROGRAMS

Question: In 1972 HEW initiated a nationwide gonorrhea control program which essentially had two components: screening programs to identify females with gonorrhea and interviewing males reported to

have gonorrhea to identify and treat their contacts. GAO believes that HEW has insufficient data for assessing its program's effectiveness and it recommended that HEW periodically review whether the gonorrhea control projects are cost effective. HEW has not accepted this recommendation, and the report points out that until such efforts are undertaken, HEW may be incurring costs without maximizing results. What has happened on this issue?

Answer: The Center for Disease Control has been monitoring the results being achieved through the gonorrhea control projects on a continuing basis. This monitoring has allowed CDC to evaluate the methodologies being used and enabled CDC to help grantees adjust methods in the most cost effective manner. In addition, by April 1980, CDC plans to have a study conducted on the elements involved in the design and development of a methodology to assess the effectiveness and costs of the gonorrhea control programs.

MEDICAID EXPENDITURES FOR INEFFECTIVE DRUGS

Question: In a 1974 report GAO estimated that California, Ohio, and Texas were spending $8.3 million a year for drugs which the Food and Drug Administration had classified as ineffective or possibly effective. GAO recommended that publication of regulations prohibiting the use of Federal funds for the purchase of ineffective or possibly effective drugs under Medicaid be expedited and procedures be established for providing the States and drug providers lists of drugs classified as ineffective or possibly effective and lists of all identical related and similar drugs. Although HEW agreed with the recommendation, it has taken no action to implement it. With a savings of $8.3 million available in only three States, it appears that there could be a substantial nationwide benefit if more vigorous action were taken on the part of the Department. What are your plans in this area?

Answer: We are completing a proposed regulation which would prohibit the use of Federal funds to pay for certain drugs under both the Medicare and Medicaid programs. This proposed regulation will reflect considerations of the GAO recommendations, as well as the recommendations of public interest groups which expressed similar concerns.

The proposed regulation would prohibit the expenditure of Federal funds under the Medicare or Medicaid programs for drugs that the Food and Drug Administration has determined to be less than effective for any indicated use. The prohibition would also apply to any identical related, or similar drug -- so-called "me-too" products -- that may have been marketed under different names by different firms without having gone through FDA's new drug review procedure. The proposed regulation would also prohibit payments for drugs that have not been approved by the FDA for use in interstate commerce. When the regulation is published as a final rule, the Department will disseminate lists of drugs classified in the prohibited categories.

NEIGHBORHOOD HEALTH CENTERS

Question: In a 1978 report GAO found that the neighborhood health centers are overstaffed for the number of patients being treated. The underuse of physicians, dentists, support personnel and services was costing the six centers they reviewed more than $1 mil-

lion annually. HEW records indicated that many other centers have similar costly inefficiencies. GAO reports that the recommendations to solve these problems have only been partially implemented. For example, one recommendation was to develop criteria for measuring productivity of dentists, and although HEW concurred in this recommendation, it has not completed testing new criteria for productivity of dentists.

Another recommendation was to better enforce compliance with existing productivity and staff size criteria, which GAO stated was a recommendation with which HEW concurred. However, the failure to take action in this area, according to GAO, has resulted in excess staffing levels and excess operating costs which are continuing. GAO identified unnecessary staffing costs that could total as much as $4.2 million. What actions are being taken in this area?

Answer: The Department has established new criteria to evaluate the productivity of dentists. A study to test the criteria and to assess the effectiveness of the dental programs will be initiated on about March 31, 1980.

In addition, uniform standards are now being used to monitor supported health care programs, program indicators are reviewed before and during each budget period, and analyses of program indicators for project compliance are conducted to determine the appropriate level of grant support for general service costs.

Question: In addition to using cost criteria to control supporting and general service costs, GAO recommended assuring close evaluation of the reasonableness of such costs at each center in relation to the level of services provided. GAO pointed out that although HEW concurred in this recommendation, excess administrative, housekeeping, and maintenance costs continue because of HEW's failure to take appropriate administrative actions. These involve compilation and maintenance of records that would enable the number of center registrants who live in medically underserved areas to be identified and stop funding centers which serve only or primarily people who do not live in medically underserved areas, particularly where the residents have access to other health care providers. What do you plan to do to improve this record-keeping?

Answer: The Department notified GAO of our non-concurrence with their recommendation to compile and maintain records of center registrants following issuance of the original GAO report in 1978. The Department's position was and is currently that it would not be cost beneficial to promulgate a series of data gathering and maintenance requirements to verify that the centers serve medically underserved areas. We believe the neighborhood health center program does serve the population that the Congress intended it to serve. Whether a person lives in an area designated as a medically underserved area or one immediately adjunt to it does not mean they have better access to health care services.

DEINSTITUTIONALIZING MENTALLY DISABLED

Question: GAO reported that HEW's approach to deinstitutionalizing the mentally disabled was disorganized, plans for community placement had not been made, no instructions had been issued to component agencies, and no organization had been assigned responsibility for overseeing deinstitutionalization. The reason this is

significant is that deinstitutionalization is normally less expensive than caring for patients in institutions. A variety of recommendations were made in a January 1977 report, and in many cases implementing the recommendations could cut costs, according to GAO. While HEW has initiated some efforts, it is clear that they could do more to develop appropriate less costly facilities and effectively implement utilization controls to insure care is provided at the lowest cost level of appropriate care. What is not understandable is why HEW has failed to assign responsibility for overseeing the deinstitutionalization program, one of the key recommendations. What has happened on this issue?

Answer: Overseeing the deinstitutionalization program has been the responsibility of ASPE--Assistant Secretary for Planning and Evaluation--since October 1977. ASPE has been providing the leadership and direction on this issue. A departmentwide task force directed by ASPE addressed the problems identified and the recommendations made in the January 1977 GAO report. An interim report was completed in September 1978. Many of the recommendations made in the report are being implemented and evaluated by the various work groups addressing this issue. Several actions have been or are now being accomplished on the deinstitutionalization issue.

° The Community Support Program was introduced to stimulate States and communities in developing appropriate mental health and support services for deinstitutionalization of mental patients.

° Task groups are reviewing a broad range of related issues that affect the financial support and quality of services for persons who are disabled by chronic illness. This will result in the development of a National Plan for the Chronically Mentally Ill.

° A HUD-HEW demonstration program for deinstitutionalization of chronically mentally ill persons is directed toward development of appropriate community living arrangements for mentally disabled persons who need housing, income maintenance, some supervision and support services, but not necessarily medical care. Direct loans and rental subsidies have reached $80 million dollars and will provide 1900 housing units for nearly 3500 chronically mentally ill persons in 39 States.

° A work group is reviewing and evaluating the services and financing alternatives for the mentally retarded.

° A work group is reviewing the relationship of National Institute of Mental Health programs to nursing homes.

° A work group is reviewing and evaluating boarding homes. This could result in development of policy and legislative proposals to protect the mentally disabled and aged populations if placed in boarding homes upon deinstitutionalization.

[The following additional information was submitted by the Department for inclusion in the record.]

APR 7 1980

The Honorable Warren G. Magnuson
Chairman, Labor/Health, Education, and
Welfare Subcommittee
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In response to questions raised at the overview hearing on appropriations for the Department of Health and Human Services, I am enclosing a detailed report on the status of cost-savings recommendations related to Federal health programs highlighted in the GAO's study of November 13, 1979.

In general, I find Appendix VII of the report, which lists approximately 100 separate savings recommendations that the Department purportedly has failed to implement, to be misleading and out of date. Our analysis shows that fully half of these proposals either have already been adopted, overlap with existing Departmental reporting and evaluation practices, or, in a few instances, should not be implemented.

For example, one recommendation which has been accomplished is #22(a), to require a full exchange of Medicare and Medicaid audit information. The common audit integration project, providing for a free exchange of provider cost-report data between the Medicare and Medicaid programs, became effective on October 1, 1979.

The remaining 50 or so GAO recommendations are either well on the way to being fully implemented or are under active consideration. The proposals in this category generally require substantial lead time to develop regulations or conduct analyses and evaluations. A number of these items under way are directly based on the GAO's suggestions. For instance, copies of GAO's guidelines for identification and recovery of Medicaid overpayments were furnished to Regional Medicaid Directors last year for use in conjunction with their efforts to insure that overpayments are detected and collections properly credited to the Federal Government.

In general, I would characterize the GAO cost-savings recommendations as useful, but of limited practical effect. The few items with significant cost-savings potential have already been incorporated into the Department's FY 1980 and FY 1981 program initiatives. These include the legislative proposal to permit the Secretary to engage in competitive purchasing agreements with suppliers of durable medical equipment, as well as the legislative amendment to augment existing Medicare coverage of outpatient mental health services.

The fact is that the Department's own FY 1981 strategy to reduce health care costs is on a much larger scale than the GAO's. We have included approximately $2.6 billion in savings in our FY 1981 budget from a host of legislative administrative and regulatory proposals in this area. The major elements of our cost-cutting offensive include:

1) Hospital Cost Containment legislation (savings of $780 million);

2) Elimination of routine nursing salary cost differential (savings of $191 million); and

3) The amendment to make Medicare the secondary payor of health insurance benefits for employees over 65 (savings of $170 million).

Let me assure you of my firm commitment to promoting savings through the more efficient delivery and reimbursement of health care services. Toward that end, I look forward to continued cooperation with the Committee in its deliberations on the FY 1981 budget.

Sincerely yours,

Patricia Roberts Harris

Department of Health, Education and Welfare
Status on Comptroller General's Final Report Titled,
"Health Costs can be Reduced by Millions of Dollars if
Federal Agencies Fully Carry Out GAO Recommendations"

Recommendation references are those listed in Appendix VII of the GAO report.

Recommendations 1(a),(b),(c) and (d)
The Secretaries of Defense and HEW and the Administrator of VA should

(a) jointly develop uniform Federal guidelines for the planning and use of Federal cardiac catheterization laboratories which associate the number of catheterization procedures to be performed with the number of physicians that should perform them,

(b) consider variances from those guidelines,

(c) jointly analyze the use levels at cardiac catheterization laboratories and adjust the manner in which this diagnostic service is provided so that it is in harmony with the established Federal guidelines and on a joint shared basis in a single Federal facility.

(d) discontinue providing cardiac catheterization in Federal facilities in geographic areas where the Federal guidelines cannot be met, and obtain this service from nearby civilian hospitals.

Status
The subcommittee chartered to address cardiac catheterization capacity among and between DOD, VA, and HEW is expected to have its final report completed and submitted to the Federal Health Resources Sharing Committee (FHRSC) by May 1980. Findings and recommendations emanating from the report will be transmitted to agency heads for implementation upon approval by FHRSC.

Recommendation 2(a)
The Secretaries of Defense and HEW and the Administrator of Veterans Affairs should develop a coordinated Federal approach for planning and using computed tomography scanners.

Status
Because of difficulties encountered by participating agencies in interpretations of the subcommittee report, including the lack of specificity in the scanner purchase criteria, the subcommittee report was revised and was subsequently provided to appropriate agencies at the FHRSC meeting of December 1979 for their review and comment.

Presently, the report is under review by the participating agencies. The final report is being deferred pending receipt of all the agencies' comments. Final implementation of this recommendation remains outstanding until the agencies have completed their review and their comments are incorporated in the final report as appropriate.

Recommendation 3(a)
The Secretaries of Defense and HEW and the Administrator of Veterans Affairs direct the Federal Health Resources Sharing Committee to expeditiously seek solutions to the administrative obstacles within each agency which impede sharing.

Status
The Federal Health Resources Sharing Committee (FHRSC) was established in January 1978 to provide a forum in which discussions could be held among and between the Department of Defense, the Veterans Administration, and the Department of Health, Education and Welfare to identify areas in which mutual cooperation might be pursued. As a result, several working subcommittees have been established to investigate areas of high cost technology. Because of internal reorganization of the FHRSC, the Legislation subcommittee was not formally established until February 1980. The subcommittee will examine the legislation and regulations governing interagency sharing and subsequently recommend specific changes which would facilitate the achievement of this recommendation. Due to the recent establishment of the subcommittee, a date has not been set for the completion of the subcommittee's draft report.

Recommendation 9(b)
Establish interagency agreements to permit VA's and HEWs dental patients to be treated routinely in all military dental facilities in Hawaii when such treatments would be advantageous to the Government and the individuals involved.

Status
This recommendation was not directed to HEW but to DOD in the basic GAO report. However, no interagency agreements have taken place as of February 1980. The Federal Health Resources Sharing Committee's Dental Subcommittee established in March 1979, was to have submitted a report to the Federal Health Resources Sharing Committee in January 1980. We understand the Dental Subcommittee's report has not been issued.

Recommendation 10(a)
The Secretary, HEW, should provide adequate justification to the Congress explaining why expansion of existing underused facilities is necessary and, at a minimum, recognize the trend in the use of inpatient services.

Status
In November 1978, HEW submitted a bed planning methodology and bed need estimates for several high-priority Indian Health Service (IHS) hospitals to the Congress. The bed estimates reflected the methodology formulae, data, and assumptions on such factors as acute alcoholism and mental health bed needs and the growth rate of the service population.

A General Accounting Office (GAO) review of the methodology document stated that the methodology itself was acceptable, but that assumptions used with it in predicting bed needs for the several new hospitals seemed

high based on available data. As a result of the GAO observations, HEW agreed to reevaluate and revise, as necessary, the assumptions used in predicting bed needs for new hospitals. The HEW reevaluation should be completed by October 1980. Any new IHS hospital projects proposed for funding in the FY 1982 budget request and thereafter will include data on how the number of inpatient beds were calculated and details on the assumptions used in the calculations.

Recommendation 11(a)
Develop a more effective and integrated management system (for St. Elizabeths Hospital) which allows optimum utilization of resouces to meet clinical needs.

Status
A contract completed in September 1978 resulted in the design of a Management Information/Reporting System (MI/RS). The system's purpose is to improve hospital management as it relates to available resources, program goals and objectives, manpower, performance standards, and services needs. A second contract was let in September 1978 to implement this system and to integrate several existing and planned information systems. The work under this contract has been substantially completed, and it is anticipated that full implementation of MI/RS will be achieved by September 1980.

Recommendation 11(b)
Reassess division functions (at St. Elizabeths Hospital) and reassign those which could be better performed centrally and require more central monitoring of division administrative and clinical activities to determine which activities are effective and should be considered for use by other divisions and those which are ineffective and should be discontinued.

Status
Saint Elizabeths Hospital is continuously reviewing its division functions to determine the need for potential centralization of administrative and clinical activities. A reorganization study to look into the potential centralization of several divisions is in progress including maintenance, facilities and materials, clinical support programs, forensic programs, training programs, administrative services, financial management, management analysis, and information systems. A final determination on this study is expected by September 1980. Centralization of the alcoholism programs has been completed.

Reorganization of the housekeeping activities is in progress. It was decided that the services would be more efficient as a decentralized unit within each operating division. However, supervision and support staff for training, education, and coordination will remain centralized.

Recommendation 11(c)
Establish a system (at St. Elizabeths Hospital) for accumulating maintenance cost and performance information and transforming the data into a work measurement and evaluation system, develop a facilities preventive maintenance system, and determine which functions could be performed less expensively if contracted to the private section.

Status
Development of a system for accumulating maintenance cost and performance information was completed in January 1978. The requested proposal for a contract to develop a facilities preventive maintenance system is presently being reviewed by the Alcohol, Drug Abuse, and Mental Health Administration. The contract is targeted for award in March 1980.

A study is scheduled to begin March 1980 of the dietary, laundry, and housekeeping activities to determine whether it would be more efficient to contract the work to the private sector or to retain it in-house. A similar study completed on refuse collections determined that in-house performance was more efficient.

Recommendation 21(a)
Encourage the States to establish payment rates for home health care at a level that will stimulate greater utilization of Medicaid home health care.

Status
Our regional offices (ROs) are encouraging the States to take the recommended action, and progress in this area will be monitored centrally.

The Department, in its Home Health Report to Congress (November 1979), suggested legislation to authorize the Secretary to establish minimums on reimbursement for home health benefits under Medicaid. Such legislation could be similar to that of Section 1902(a) (13) (E) of the Social Security Act which would require that a State Medicaid Plan provide for home health services on a reasonable cost related basis as determined in accordance with methods and standards which shall be developed by the State and approved and verified by the Secretary.

Recommendation 22(a)
Require a full exchange of Medicare and Medicaid audit information when no common audit agreement has been reached between a Medicare intermediary and a Medicaid State agency or its fiscal agent.

Status
The common audit integration project, providing for a free exchange of provider cost report settlement data between the Medicare and Medicaid programs, became effective on October 1, 1979. The following instructions for implementation of the project have been released: Information Memorandum 79-32 (August 8, 1979) to the State Medicaid Directors, Intermediary Letter 79-37 (September 1979) to all Medicare intermediaries and HCFA Regional Letter 79-43 (November 1979). State agencies and Medicare intermediaries are currently negotiating new agreements detailing the material to be exchanged and how this material will be made available. In those States in which a common audit agreement cannot be reached, all Medicare hospital cost report settlement information will be provided to the State agency without charge.

In addition, in FY 1980 a legislative proposal encouraging the use of common audits was submitted to the Congress, but has not yet been enacted.

Recommendation 22(b)
The Health Care Financing Administration (HCFA) should catalog and make available on request to intermediaries, Medicaid State agencies, providers, and the Provider Reimbursement Review Board, all HCFA decisions or specific interpretations affecting the determination of Medicare's share of hospital or skilled nursing facility (SNF) costs.

Status
The position was taken and still stands that the best way to give national effect to reimbursement policy decisions having broad applications is to adapt them for publication in intermediary and provider manuals and other appropriate instructional media as promptly as priorities allow. We would also reiterate that the reason we have not established a general policy of distributing advisory letters is that in most instances the questions raised relate to a specific case, which contains neither the full set of particulars, nor the substantial factual recitation necessary to make them useful as precedents in the future. It is primarily for this reason that we do not agree with GAO's recommendation that it would be useful to catalog or make available to the intermediaries and other interested parties the decisions or interpretations to all questions or issues that may be raised. Nevertheless, we recognize that there are situations, including several of those cited in the GAO report, where there is a need for wider distribution of some decisions and interpretations. As indicated above, we think that this can best be done by incorporating them in existing instructional issuances.

Recommendation 24(a)
Establish regulations identifying those situations where Medicaid payment for administratively necessary days is authorized, although acute hospital care is not medically necessary.

Status
HCFA will have developed by March 1980 a Notice of Proposed Rulemaking (NPRM) entitled "Without Fault" implementing section 1158 of the Social Security Act and providing for the circumstances under which care reviewed by a Professional Standards Review Organization (PSRO) may be paid for under the Act.

The regulation will, among other provisions, authorize PSROs to consider the lack of available lower level care in making medical necessity determinations for Medicaid patients. Currently, individual State plans may provide for such coverage and PSROs may be authorized to take unavailability of alternate care facilities into consideration when making medical necessity determinations. This proposed regulation will apply to all Medicaid patients irrespective of the individual State plans. Under Medicare, the PSRO must now consider the need and availability of the next lower level of covered care in making its medical necessity determinations.

Recommendation 24(b)
Require the States and fiscal intermediaries to identify payments for all administratively necessary days and report the reasons for these days.

Status
Current PSRO reporting instructions provide for the identification of days certified by the PSRO as medically necessary when a patient is awaiting a lower level of covered care. It should be noted, however, that PSROs can only identify days certified; actual payment information must come from the Medicaid State agency or Medicare fiscal intermediary. In addition, the FY 1981 budget proposes legislation to reduce payments for patients awaiting placement in a skilled nursing facility.

Recommendation 24(c)
Evaluate data collected on administratively necessary days to determine ways to reduce the delay between the time acute hospital care ends and the time a patient is placed in an available lower cost facility.

Status
PSROs have been reporting this data since January 1979. The data we have received for Medicare patients awaiting placement in a Skilled Nursing Facility (SNF) indicates that approximately 2.5 percent of all Medicare hospital days were used awaiting placement in an SNF. There were disparities in days awaiting placement between various regions of the country, with the Northeast reporting many more days than for the West. The New York State Health Planning Commission expressed an interest in evaluating this data, and in the summer of 1979, it was shared with them. The data which we have received concerning Medicaid patients awaiting placement has been inconclusive.

We will continue to monitor the data which PSROs report. We are encouraging PSROs to share this data with State planning agencies and local health systems agencies (HSAs), who are in a position to use it to address specific problems it identifies at the local level. We anticipate that PSRO experience with the new Federal Reports Manual and the revised instructions which we are preparing will improve the data on days awaiting placement, particularly for Medicaid. Finally, we are considering an expansion of the PSROs role in discharge planning to allow them greater freedom working with hospitals to locate available beds.

Recommendation 24(d)
Provide data on administratively necessary days to appropriate HSAs or other health planning groups in geographic areas where a large number of these days might indicate a lack of beds in certain lower cost facilities.

Status
PSROs are required by law to disclose aggregate statistical data on a geographic, institutional or other basis that reflect the volume and frequency of services furnished unless the information explicitly or implicitly identifies an individual. Aggregate administratively necessary days are, therefore, disclosable to health planning agencies by geographic area or institution.

In order to facilitate working relationships and data exchange between HSAs and PSROs, the health planning and PSRO programs published a joint policy statement in December 1977 requiring HSAs and PSROs to enter into a Memorandum of Agreement describing how they would coordinate their activities. One of the provisions to be included in the agreement is data and information exchange. Under this provision it is expected that HSAs and PSROs will clarify their data and information needs and that data requests, as long as the data is disclosable, will be honored. The majority of PSROs now have such agreements with their counterpart HSAs. Administratively necessary days, therefore, can be and should be regularly provided by HSAs based on these agreements. A survey taken in August 1979 by the PSRO program found that while agreements exist and data is being exchanged, much of the activity was pro-forma, and no substantive outcome resulted from this interaction. However, in some areas, data exchange such as that cited in response to GAO Recommendation 24(c) has been productive.

In order to encourage more productive interaction between the two agencies, the PSRO program and health planning program plan to undertake a number of initiatives. One of these initiatives is to provide guidance to HSAs and PSROs in terms of types of projects they could undertake together. In addition, we are making additional funds available to assist selected PSROs in funding joint projects. One of the projects emphasized is the reduction of administratively necessary days in those areas where a large number of these days indicate a lack of beds in appropriate lower cost facilities.

Recommendation 25(a)
Work with Missouri Medicaid officials to establish a more active program for investigating Medicaid fraud and abuse.

Status
The State assessment report for Missouri for the period ending September 30, 1978, shows that the Medicaid regional office is encouraging the State agency to more actively pursue program fraud and abuse. Recommendations in the report include:

— additional staffing needs and specialized training of the present staff in the detection of fraud and abuse;

— designation of individuals centrally and in local offices as focal points for fraud and abuse;

— expansion of postpayment claims review;

— informing providers that presently disallowed costs will be considered fraud or abuse if claimed in the future, and;

— development of legislation to strengthen current laws for prosecuting fraud and abuse cases.

Extensive changes have been undertaken in the Missouri State agency to respond to the need for improved administration of its program. The State agency, including top management, has been extensively reorganized. A computerized management information system has been installed and the claims process has been taken over by a new fiscal agent. The Department's Kansas City Regional Office is optimistic that these major changes will enable the State to more effectively deal with significant problems, including fraud and abuse, in the Missouri Medicaid program.

Recommendation 25(b)
Establish statistical sampling procedures that will better detect fraudulent billing practices.

Status
The GAO considered our sample size (10 beneficiaries) for establishing physician fraud too small because fraud would not be detected unless a high percentage of the physician's bills were fraudulent. We responded that we did not concur with this recommendation because the beneficiary sample size was not intended as a universal procedure for all cases. This reason for nonconcurrence is still valid.

Recommendation 26(a)
Assist Ohio in improving its reimbursement system for skilled nursing services in order to increase their availability after assuring an adequate utilization review program for SNFs is in place.

Status
The per diem reimbursement rate for skilled nursing services in Ohio was recently raised from $31.00 to $35.50 retroactive to April 1, 1979. The State now computes its SNF reimbursement ceiling based on the 90th percentile of SNF per diem costs as opposed to the 75th percentile. It is anticipated that the increase will encourage construction and/or increase the number of skilled nursing beds available.

A proposal is before the Ohio State legislature which, if passed, would provide reimbursement for SNFs under a patient assessment system. This system more closely relates reimbursement to the level of services provided. We will continue to monitor Ohio's reimbursement of SNF services.

Recommendation 26(b)
Determine if other States' reimbursement systems for skilled nursing care are resulting in problems like those in Ohio, and assist any State with these problems in improving their skilled nursing services program.

Status
Medicaid reimbursement levels for skilled nursing services in some States have led to problems transferring recipients from hospitals to SNFs. This problem is often linked to an overall shortage of SNF beds in the area. Our ROs are working with individual States to overcome these problems. However, solutions are difficult to obtain since reimbursement rates are dependent upon appropriations of State legislatures. The ROs will continue to review all States for problems related to nonavailability of services because of inadequate reimbursement through the Annual State Assessment program and will take constructive steps to assist the States as appropriate.

In addition to providing consultations and assistance to Ohio in its ongoing effort to transfer elements of the West Virginia long-term care reimbursement methodology, we held a workshop program in September 1979 for eastern States, on Cost-Related Reimbursement for Long-Term Care, which highlighted the West Virginia and Ohio experiences. This type of workshop was repeated for the western States on March 3-5, 1980.

Recommendation 27(a)
Identify organization areas where administrative staff and functions can be combined, paying particular attention to situations where nonperforming PSROs are replaced and encourage the sharing of support services.

Status
The best candidates for functional consolidation are those PSROs whose small workloads, combined with high fixed administrative costs, make cost effectiveness most difficult. One measure of a PSRO's cost effectiveness is administrative costs per discharge. Rankings based on this measure indicate that PSROs reviewing less than 50,000 discharges

per year generally compare unfavorably with larger PSROs. Other conditions which may indicate consolidation potential include geographic proximity of PSRO offices, lack of political boundary areas, and similar socioeconomic patterns.

Area consolidations are also being considered where a PSRO's voluntary withdrawal results in a vacant area. Consolidations under these circumstances are now in progress or anticipated in both California and Maryland.

PSRO terminations in Tennessee, Indiana, and New York have resulted in vacant PSRO areas where consolidation with an adjacent PSRO area appears the best solution.

Recommendation 27(b)
Rescind the Executive Director salary levels published by the Health Standards and Quality Bureau in November 1977, and establish new salary levels based on salaries paid comparable positions in nonprofit organizations.

Status
The salary level data base was revised, and PSRO Executive Director salaries were compared with those of hospital administrators and/or management positions in associations or service-related institutions rather than American business. The resulting salary ranges were adjusted to restrict the salary level of the Executive Director. An adjusted salary schedule is in effect from October 1, 1979, to September 30, 1980. In addition, salary increases to individual directors will be limited to eight percent during this period and will not exceed the maximum Senior Executive Service salary (i.e., currently $52,750 per year).

Recommendation 29(a)
Expedite publication of regulations prohibiting the use of Federal funds for the purchase of ineffective and possibly effective drugs under Medicaid and establish procedures for providing the States and drug providers lists of drugs classified as ineffective or possibly effective and lists of all identical, related, or similar drugs.

Status
We expect to establish a new Medicaid Manual Issuance System by late summer and to include the recommended drug information as an appendix to the medical manual. The regulations have been prepared and are currently under departmental clearance procedures.

HCFA is completing a proposed regulation which would prohibit the use of Federal funds to pay for certain drugs under both the Medicare and Medicaid programs. This proposed regulation will reflect considerations of the GAO recommendations as well as the recommendations of various public interest groups which expressed similar concerns.

Specifically, the regulation would bar the expenditure of Federal funds under these programs for drugs that the Food and Drug Administration (FDA) has determined are less than effective for any indicated use. The prohibition would also apply to any identical, related, or similar drug (so-called - "me-too" products) that may have been marketed under different names by different firms without having gone through FDA's new drug review procedure. The proposed regulation would also bar payment for drugs that have not been approved by the FDA for use in interstate commerce. When the regulation is published as a final rule, HCFA will work with FDA to obtain and disseminate lists of drugs classified in the prohibited categories.

Recommendation 30(a)
Insure, before approving Medicaid Management Information Systems (MMIS), that State proposals for such systems provide data needed to

perform effective utilization reviews and provide for an efficient system for paying claims under Medicaid.

Status
Before approving MMISs, we now insure through special central office examination that State proposals for such systems both (1) provide data needed to perform effective utilization reviews, and (2) provide for an efficient system for paying Medicaid claims. To effect better followup in these respects, we expect early in 1980 to complete a substantial revision of our onsite "Medicaid Management Information Systems Review Guide."

Recommendations 31(a),(b), and (c)
More closely monitor State activities regarding reimbursement for inpatient hospital services by insuring that tentative and final settlements are made with hospitals as required by Federal regulations, and, where appropriate, retroactive adjustments are made.

Take action to recover amounts due the Federal Government because of State's failure to reduce Medicaid claims to consider the nursing salary cost differential.

Insure that outstanding overpayments and underpayments discussed in this report are collected or paid.

Status
On May 7, 1979, copies of GAO's review guideline (for identification and recovery of Medicaid overpayments and return of the Federal share) were furnished to the Regional Medicaid Directors (RMDs) for regional use in conjunction with their continuing efforts to review the administrative aspects and accounting of overpayments, and for RMD use to assure that collections are properly credited to the Federal Government.

RMDs were requested to submit by June 15, 1979, a schedule for evaluating the respective States with respect to overpayment identification, recovery, and reporting procedures. In their responses, RMDs confirmed their scheduled State reviews and projected dates for corresponding reports.

As a followup to the June submittals, we asked on November 14, 1979, that the Regional Administrators furnish status reports on the scheduled reviews. Status reports have been received from the regions, and are being reviewed to confirm that the above recommendations are being fully met.

Additionally, the FY 1981 budget includes an administrative proposal which would facilitate the collection of overpayments to Medicare and Medicaid providers. Regulations to implement this proposal will be issued in FY 1981.

Recommendation 32(a)
Recoup from California the Federal share of payments made to the Foundation Community Health Plan which exceeded those allowable under the State's normal payment procedures.

Status
The State appeal of our $802,388 disallowance is still pending with the Departmental Grant Appeals Board.

Recommendation 32(b)
Determine the amount of duplicate payments to prepaid health plans and fee-for-service providers made by California and recover the Federal share of such duplicate payments.

Status
On December 4, 1979, we issued our final audit report on the California Department of Health Services (DHS). This report covered excess capitation payments made to the Foundation Community Health Plan —these payments are based on estimates of per capita fee-for-service costs in the service area covered by the plan under the Title XIX Medicaid program.

We determined that during the period July 1, 1972 through June 30, 1975, DHS overclaimed about $3.9 million ($1.95 million Federal share) under the Medicaid program. The overclaimed amount consists of $5,296,117 in payments to the Foundation Community Health Plan that exceeded comparable fee-for-service costs less $1,395,589 in allowable administrative costs. We recommended that DHS refund $1,950,264. As GAO noted on page 87 of their subject report, we issued a disallowance letter for $802,388—this disallowance has been appealed by the State and is still before the HEW Grants Appeals Board as of February 1980. We are currently preparing a second disallowance letter for the balance ($1,147,876) which should be issued to California in April 1980.

Recommendation 33(a)
Require HEW ROs to review the internal controls over States' Medicaid automated claims processing systems.

Status
In developing our State assessment system, we have placed responsibility for review of controls of States' Medicaid claims processing systems in the regional offices. HCFA personnel in the regional offices are to schedule and conduct the review periodically throughout designated review periods.

Recommendations 34(a) and (b)
Assess periodically whether each State identifies and reports promptly Medicaid overpayments to nursing homes as required.

Deny Federal participation in Medicaid overpayments when States do not establish an effective recoupment program promptly.

Status
Refer to our response to Recommendations 31(a),(b) and (c), above.

Recommendations 35(a),(b), and (c)
Assure that the Federal Government does not reimburse New York and Illinois for amounts that are not eligible for Federal financial participation (FFP) under Medicaid.

Evaluate the procedures of the other States and jurisdictions for billing for services provided to the medically needy and, where necessary, take actions to assure that the Federal Government does not reimburse States for amounts that are not eligible for FFP.

Compute the amount of FFP claimed which should have been paid by medically needy recipients in Illinois, New York, and other States and adjust the States' claims for FFP.

Status
Our regional offices reviewed and monitored actions taken by the States to assure correction of deficiencies in claiming for Medicaid recipients with spend-down amounts. Medicaid quality control procedures now provide data to the States to correct spend-down problems. Also, the State Medicaid management assessment reviews cover the spend-down program; and problems of this nature are identified in these reviews. The HEW Audit Agency was requested to determine the amount of improper claiming of Federal funds in New York and Illinois.

We have ascertained that the problem of accounting for spend-down amounts has been corrected in New York. The HEW Audit Agency identified

improper claiming of Federal funds in the amount of $11 million through April 1978; this amount was recouped from the State in March 1979. Despite contracting difficulties experienced by Illinois, it is still expected that a MMIS to correct its spend-down will be in place by the end of FY 1980.

Recommendation 36(a)
Make certain that upcoming validation surveys include visits to institutions, including hospitals, on a sample basis as required by law.

Status
This requirement is being implemented. Validation surveys are conducted during a minimum of three quarters in each year - one in the participating State agency and the others in participating institutions. Surveys conducted from 1977 to-date are:

Date	Type of Survey
Dec. 1977	State Agency Review (MR/IPR in all States)
Mar. 1978	Intermediate Care Facilities (10 States)
June 1978	State Agency Review (MR/IPR in all States)
Sept 1978	Skilled Nursing Facilities (10 States)
Dec. 1978	State Agency Review (MR/IPR in all States)
Mar. 1979	No Survey Conducted
June 1979	Mental Hospitals (10 States)
Sept 1979	No Survey Conducted
Dec. 1979	State Agency Review (MR/IPR in all States)

Validation surveys were not conducted in March 1979 and September 1979 due primarily to a reorganization of HCFA. In addition, utilization control validation surveys have not been conducted in hospitals since patients are generally short-term. If long-term care is projected, patients are transferred to a Long Term Care Facility (SNF,ICF, or MH).

Recommendation 36(b)
Revise the Medicaid regulations to require more specific information in medical review reports, independent professional review reports, and plans of care.

Status
The Conditions of Participation, for Skilled Nursing Facilities (SNFs) and Intermediate Care Facilities (ICFs) which will integrate the plan of care as the focal point for all patient care management activities are being revised. The revision will be developed as an NPRM in March 1980 for publication in the Federal Register. MR/IPR requirements are not part of the Conditions of Participation. These requirements will be addressed in future revisions of the utilization review regulation and Federal guidelines for MR/IPR, now referred to as Inspections of Care. Federal guidelines for Inspection of Care are scheduled for completion in calendar year 1980.

GAO Recommendation 37(a)
Ask States having Medicaid eligibility determination agreements with HEW to (1) identify the information they believe is needed from aged, blind, and disabled individuals during the eligibility process and (2) decide whether the information would be compatible with their third-party system and used in administering their programs. HCFA should then provide the necessary information the States agree to use in their third-party systems.

Status
There has been an active HCFA-Social Security Administration (SSA) dialogue toward improving collection and retrieval of data from SSA to States on third-party liability (TPL) benefits available to Medicaid-eligible Supplemental Security Income (SSI) recipients whose eligibility is determined by SSA.

Intensive technical assistance has been provided to various States to upgrade their TPL operations and systems; a TPL liability "how to" guide is near completion for nationwide dissemination, and in 1979 a series of workshops on TPL management were held for all States. Each of these efforts highlighted problems and techniques for TPL data exchanges from SSA to States. We are currently developing an intensive HCFA strategy for reduction of TPL related erroneous payments, which will identify priority actions needed to address the GAO recommendation.

In addition, we are currently developing a Medicaid Eligibility Determination Systems Guide to assist States in establishing such systems. A review of State capabilities (particularly those States having Medicaid Eligibility Determination Systems) is in place to assist us in identifying the data requirements for such systems. Third-party identification and recovery will be included in this effort. HCFA and SSA are working to develop the capability to exchange such information with States.

Recommendation 37(b)
Require California to demonstrate the effectiveness of its health insurance collection policy under Medicaid as compared with States emphasizing cost avoidance. If the effectiveness of California's approach cannot be supported by empirical evidence, it should be abandoned or HEW should decline FFP on the uncollected claims for which third parties are liable.

Status
We have recently awarded a contract study of the relative costs/benefits of the California "pay and chase" approach vis-a-vis third party liability cost avoidance. The study report will be issued in September 1980.

Recommendations 38(a) through (g)
Require prior approval of changes to a Medicaid insurance-type contract and that HEW officials not approve changes which would have the effect of eliminating or reducing the underwriting risk assumed by the contractor under the terms of the initial contract approved by HEW.

Develop procedures which delineate the role and responsibility of HEW Regional Offices in monitoring Medicaid insuring agreements so that the Federal interest is protected.

Require States to develop and submit to the appropriate HEW contract approving authority an acceptable plan for monitoring Medicaid insurance contracts and evaluating contractors' financial performance under the contracts.

Require States to include language in Medicaid insurance contracts which would make the contractor and all subcontractors subject to Federal procurement standards (45 CFR 74.150 et seq.) and Federal cost principles (45 CFR 74.170 et seq.).

Issue regulations prohibiting the use of percentage-of-revenue agreements between Medicaid contractors and their subcontractors.

Issue regulations requiring that all subcontracts assigning substantial portions of the contractor's responsibilities to a subcontractor be submitted along with the contract at the time of request for contract approval.

Revise Medicaid regulations to require (1) State insuring agreements to address interest earned or equivalent benefits to be accrued by contractors on premium payments and accumulated reserves and (2) the consideration of such interest and benefits in establishing premium rates and profit-sharing arrangements.

Status
We are studying these recommendations; we recognize merit in each recommendation. Decisions on implementation of the above recommenda-

tions are pending completion of a basic regulation on HCFA involvement in Medicaid contracting. This regulation (MMB-State Medicaid Contracts) is expected to be issued by November 1980.

Recommendation 39(a)
Publish Medicaid regulations which encourage States to purchase eyeglasses, oxygen, wheelchairs, and other common items of durable equipment through agreements with suppliers (by means of competitive bids or competitive negotiations) to the extent permitted by existing law.

Status
On May 25, 1979, HCFA published proposed regulations in the Federal Register which stated that if a Medicaid State agency provides eyeglasses or hearing aids, it must establish an acquisition cost program, a volume purchase plan, or a combination of the two.

More than 1,200 comments were received and have been analyzed. A position paper has been prepared, and meetings will soon be scheduled within HCFA to resolve the remaining issues.

HCFA plans to have Final Regulations drafted by August 1980.

In addition, HEW has included in the "Medicare-Medicaid Amendments of 1980" a legislative proposal which gives the Secretary the authority to engage in agreements for the other items and services. We believe that the recipient's right to freedom of choice is an impediment to pursuing such economies for laboratory services under present Medicaid law.

Recommendation 39(b)
Expand Medicare's proposed lowest charge regulation to include laboratory tests which are the most commonly ordered under Medicaid.

Status
On January 24, 1979, HCFA published in the Federal Register a proposed notice of additional laboratory tests commonly paid for by Medicaid, but not by Medicare, that would be subject to the lowest charge level criteria. HCFA also published a proposed similar list for Medicare in the Federal Register on March 26, 1979, for laboratory tests and items of durable medical equipment having to do with oxygen and oxygen delivery equipment.

Comments on the proposed notice of laboratory tests commonly paid for by Medicaid have been reviewed and the final notice is being circulated internally within HCFA for necessary clearances. The items on this list will be combined with Medicare items and services for publication in the Federal Register as a joint Medicare-Medicaid formal notice. We are concurrently evaluating the potential cost savings and other impact of the initial list of Medicare-Medicaid items and services subject to the lowest charge level provision published in the Federal Register in July 1978. HCFA plans to have the final notice completed by August 1980.

Recommendation 40(b)
Develop written approval procedures for use by HEW personnel in approving State information systems, including specific criteria for testing the system in operation to assure that minimum standards are met.

Status
A draft document "Guidelines for Federal Approvals and Periodic Reviews of State Medicaid Management Information Systems" was sent to all ROs for their comments and to elicit opinions of States with certified MMIS systems (HCFA Regional Letter Transmittal No. 79-35, April 25, 1979). Taking into account these views, a new document was prepared in December 1979 entitled "Overview of the Federal Approvals Process for State Medicaid Management Information Systems." This document will be issued shortly. Additional specific criteria for testing operating

systems to assure minimum standards are being developed in cooperation with the State Technical Advisory Group (STAG). These standards and criteria will be put into regulations by the end of FY 1980.

Recommendation 40(c)
Update the General Systems Design and the Program regulation guide to reflect system experience to date, with emphasis on greater uniformity and use of proven processing techniques in systems developed by the States.

Status
The Department concurred and stated that updating the General System Design (GSD) was one of the important goals of the MMIS Task Force. The task force also addressed the issue of designing outcome (rather than process) oriented performance standards with the assistance of the National Technical Advisory Group (NTAG).

The HCFA MMIS Task Force Steering Committee and workgroup met frequently during the period from January 1979 to June 1979. On June 20, 1979, a draft report, entitled "Medicaid Management Information Systems Report: Steps for its More Effective Use in the Coming Decade" was published and circulated for comment.

In August 1979 an executive summary was released which incorporated responses to the June draft report. The executive summary of the HCFA MMIS Task Force Report consisted of recommendations centered around three areas: (1) the development of performance standards, (2) the GSD, and (3) Federal management of MMIS.

In response to a perceived need on the part of the task force and the HCFA Administrator, the NTAG, consisting of seven State representatives, one representative from the Information Systems Management (ISM) Association of the American Public Welfare Association (APWA), one representative from the State Medicaid Directors Council, and a Federal co-chairman was formed in January 1979 at the MMIS Benefits to Management- Conference. The NTAG has had 10 meetings, primarily focused on the creation of MMIS performance standards. On June 12, 1979, NTAG sent their "Recommendations for MMIS Performance Standards" to HCFA. In July 1979 they sent a letter to the Administrator containing their comments on the June 20 draft of the HCFA MMIS Task Force report. During October and November 1979, NTAG wrote and submitted to HCFA a paper on options for MMIS certification/assessment, which was used as part of the basis for a revision of the proposed performance standards (Evaluation Criteria for NTAG Performance Standards, December 11, 1979). The NTAG final report, "Proposal and Recommendation for the Certification/Assessment Process of State Medicaid Management Information Systems," was submitted to the Administrator February 11, 1980. Updating of the GSD, per se, is pending Agency level decisions regarding alternatives to MMIS, although revisions to the Program Regulation Guide are underway.

HCFA will also be releasing a draft standards and methodology package, the "MMIS Performance Review", to NTAG and the 10 ROs for comment. The package would establish a detailed systems review to be integrated into the annual State assessment process. The material identifies significant acceptable levels of performance, and provides a process for periodic, uniform, and systematic evaluation of State performance. uation of State performance. The review package will be field tested at NTAG designated sites during FY 1980.

Recommendation 40(d)
Assist the States in developing for use under Medicaid medically acceptable definitions of medical practice which correlate medical diagnosis, procedure, age, and/or sex so that States can use the computer to check billings for consistency among these factors.

Status
Refer to our response to recommendation 40(i) below.

Recommendation 40(e)
Undertake a demonstration project to determine whether the Medicaid information system's review subsystem can be further developed and refined so that it is more effective.

Status
The Department previously stated to GAO that it did not concur in the recommendation. There has been no change in our position on this matter.

The Surveillance and Utilization Review (S/UR) subsystem has been further defined and developed since the GAO study. Several States have enhanced their former subsystems (now identified as S/UR II); many States which are currently in the last stages of designing and installing the MMIS plan to incorporate S/UR II.

In addition, various State approaches to utilization review have been and will continue to be widely publicized through HCFA publications and meetings with State MMIS staff to ensure that the benefits of one State's system are identified to others with similar situations. No further demonstrations are viewed as being beneficial at this time.

Recommendation 40(f)
Continue development and evaluation of alternative utilization review systems for Medicaid, such as the Utah program.

Status
The new Medical Exception Reporting System (MERS) has been operational in New Jersey for about a year, in lieu of the Surveillance and Utilization Review (S/UR) subsystem. An evaluation will be made this year assessing the possible expansion of MERS to serve as a broader utilization review mechanism. In addition to MERS, several other systems of this kind have been developed and found to be a considerable improvement over the basic S/UR system; for example, S/UR II. In addition to development and implementation of S/UR II, now installed in Arkansas and Minnesota, and well accepted by other States, S/UR technology has been advanced another step. The State of Georgia has received HCFA approval for further design refinement of their S/UR. After examination of S/UR II, Georgia has selected in open competition the Advanced S/UR system offered by Consultec of Atlanta. The advanced S/UR technology was perfected recently and is currently being installed in Colorado, Iowa, and Mississippi as part of HCFA-approved MMIS implementation. The HCFA FY 80 workplan includes an indepth review and analysis of these systems to determine the optimum features of each and identification of an ideal operational environment for the most effective use of the improved utilization review system. This activity is part of our overall plan to continue our review and analysis of systems which can be used as alternative utilization review systems. We will continue to exchange among States the various approaches to utilization review and detection of fraud and abuse employing the MMIS S/UR.

Recommendation 40(g)
Clearly define the kinds of information systems' costs that HEW will reimburse at the 75 percent sharing level under Medicaid.

Status
HCFA is continuing to consolidate problems and approaches from the ROs in this reimbursement area and expects to issue clearer definitions by October 1980.

Recommendation 40(h)
Develop and implement a functional cost-reporting system for Medicaid claims processing, similar to that used under Medicare, to facilitate cost comparisons among the States.

Status
HCFA expects to complete a special study of administrative costs in April 1980. The study findings will assist in developing a Medicaid administrative budgeting system for use during FY 1981.

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Recommendation 40(i)
Develop a uniform identification numbering system for providers and recipients and adopt standard coding systems for medical procedures, diagnoses, drugs, and medical supplies for use by the Medicare and Medicaid programs.

Status
HCFA has a project underway which has identified common provider identifiers used by and available to both Medicare and Medicaid operations. Development and staffing of these common provider identifier numbering systems is continuing and will be furnished to the State agencies and Medicare contractors. These systems will facilitate free exchange of fee schedules, reasonable and customary charge data, and area prevailing payment rates. etc. In December 1978 HCFA issued requirements for standard diagnosis codes (ICD-9-CM) for Medicaid institutional services. HCFA now requires use of ICD-9-CM for diagnosis coding for all such services and is developing regulations to require this coding for all HCFA programs. HCFA is simultaneously developing common procedure codes for all services to be used by all

programs and expects to prepare regulations to this effect by the end of calendar year 1980.

Recommendation 40(j)
Provide liaison between States and Medicare carriers to resolve conflicts which preclude free exchange of payment data.

Status
HCFA has taken the following actions in response to this recommendation: (1) exchange of pertinent data collected through RO-conducted surveys among the State agencies and Medicare intermediaries and carriers within the respective regions, and (2) the issuance of a national standardized procedure for the use of all regions in administering the exchange of title XVIII and title XIX information.

Recommendation 40(k)
Enforce the statutory requirement that Medicaid and Medicare information systems be compatible.

Status
Refer to our response to recommendation 40(i) above.

Recommendation 48(a)
Periodically review the results being achieved under gonorrhea control projects to determine whether the projects are being carried out in the most advantageous way and, if not, require grantees to make changes in the projects.

Status
The Center for Disease Control (CDC) has been monitoring the results being achieved through gonorrhea control projects on a continuing basis. In addition, CDC plans, by April 1980, to have a study conducted on the elements involved in the design and development of a methodology to assess the effectiveness and costs of gonorrhea control programs.

Recommendation 49(a)
Provide technical assistance to the (Community Mental Health) centers in developing self-sufficiency financial plans and in improving their billing and collection systems.

Status
Funding to provide technical assistance for program management and for training in program management to Community Mental Health Centers (CMHCs) began in FY 1977. As a result, the Technical Assistance Program is now established to help CMHCs on a continuing basis.

In addition, funds are being utilized to identify and develop methods and procedures to improve the managerial expertise of the centers. These areas are:

--Administrative and fiscal management, including billing and collection systems;

--Development and training of governing and advisory boards; and

--Development and implementation of program evaluation and quality assurance.

A study of the Technical Assistance Program was completed in December 1979. This study recommends a number of specific improvements, particularly in the areas of coordination and monitoring. The study's results will be used in the future direction of the program.

Recommendation 49(b)
Consider, and if deemed appropriate, work toward expanding coverage provided by third-party payment programs for mental health outpatient services and services provided by non-physicians.

Status
Certain actions are planned or have been taken to implement this recommendation.

--A Medicare Mental Health Demonstration Project is being conducted to study cost related reimbursement of ambulatory and partial hospital services in CMHCs. The demonstration project is expected to continue through FY 1982.

--An "Analysis of State Programs which Mandate Mental Health Benefits under Private Health Insurance" was completed in June 1979. The study is in great demand by state health/mental health planners, legislators, providers and consumers; it is being distributed widely.

--A study entitled "The Unit and Episodic Costs of Mental Health Treatment" is nearing completion. This report is designed to help evaluate the cost-effectiveness and utilization of community mental health programs.

--A new research grant program for the collection and analysis of data pertaining to mental health costs, financing, and economics has been established. The first series of grant applications is already under review.

--The Blue Cross and Blue Shield associations have developed a model benefit package for alcoholism treatment and have recommended the adoption of the model by its member plans.

--Evaluation of the Colorado Clinical Psychology/Expanded Mental Health Benefits Experiment is in process. The Health Care Financing Administration is withholding support of provider status for CMHCs and for clinical psychologists pending the outcome of this study. The expected completion date is May 1981.

Recommendation 49(c)
Insure that program evaluation contracts are effectively monitored and that evaluation results are made available to (Community Mental Health) centers.

Status
Effective efforts have been made to insure both the quality and the dissemination of evaluation studies on the CMHCs program. The National Institute of Mental Health has been continually monitoring evaluation contracts.

Dissemination of relevant evaluation studies to CMHCs and others has been adequate. Certain projects are intended specifically to provide assistance to CMHCs. Those reports are sent directly to all federally funded CMHCs in the country, as well as to others. The remaining evaluation studies are intended as input to management, policy-making and legislation at the national level, and dissemination is aimed primarily at participants in the national policy-making process for mental health. Decisions regarding direct dissemination of these studies to CMHCs are made on a case-by-case basis with consultation from CMHC representatives as to the specific study's relevance and usefulness to local CMHCs.

Recommendation 50(a)
HEW should work with the States to develop the necessary legislation to clearly define the role of physician extenders and provide a legal framework enabling them to carry out the duties for which they have been trained.

Status
Collaborative efforts among States, related professional groups, and the Federal Government are considered of an on-going nature. However,

many of the developmental efforts have been completed relating to Physician Assistant (PA) competency assurance, role delineation, generic position classification, certification examination, and certifying body.

While ambiguities remain in issues relating to State PA legislation, the profession has moved from no legislative base to 43 States providing legal sanctions of PAs. In addition, collaborative Federal and private efforts have led to the establishment of the National Commission on Certification of Physician's Assistance. As of September 1979, 6,700 PAs had been certified, and 43 States had provided legal sanctions to PAs.

Recommendation 50(b)
HEW should also work closely with professional organizations and State licensure boards to determine the most appropriate manner of granting official recognition to physician extenders.

Status
The Health Resources Administration (HRA) will continue to monitor licensure laws to determine the extent to which they impede the full use and mobility of PAs. Although it is recognized that licensure laws and regulations are essentially the States' responsibility, HRA promotes legal sanctions which permit PAs to supply the range of services that they have been trained to provide and to receive appropriate reimbursement for these services in various practice settings.

Recommendation 50(c)
To derive maximum benefit from physician extenders by deploying them to areas of health care shortages and to insure the mobility necessary for such deployment, HEW should work closely with the States in developing criteria specifying training and experience qualifications acceptable to all States.

Status
Efforts are continuing to ensure that PAs can practice their skills and help with reducing health care costs. Currently, by statute and program design of the operating grant program to support PA training programs, there is a continuous monitoring and analysis of State licensure laws. In addition, a project is in effect to assess and evaluate the placement mechanisms of PA training programs to determine if PAs are placed in settings to provide the services for which they have been trained. The results of analyses of States' laws and regulations and program placement mechanisms should provide the framework for a proposed model statute with which the professionals and legislators can consider and promote this recommendation to the extent intended by the General Accounting Office.

Recommendation 51(a)
Refer to footnote 1, page 35.

Recommendation 51(b)
Establish criteria for use in monitoring and evaluating the costs and performance of family planning programs; an HEW audit effort should be increased and grantee responsibility for subcontractor operations clarified.

Status
Criteria have been established for monitoring and evaluating the costs and performance of family planning programs. Effective January 1980, the Department has established a 16 percent administrative cost ratio to total operating costs for family planning programs with annual funding in excess of $125,000. This ratio is exclusive of housekeeping and maintenance costs. Programs of $125,000 or less are allowed a 26 percent ratio.

The Department has also established standardized evaluating protocols for required annual performance audits. These audits evaluate grantee

programs and management and are conducted by project officers in the regional offices. Financial audits are required as indicated by the performance audits, but no less frequently than every two years. Subcontractors' records are routinely examined by grantees as part of these audits.

Recommendation 51(c)
Direct (family planning) projects to perform adequate and prompt followup on missed appointments and patient drop outs to assist in patient retention.

Status
The Department has expedited efforts to assess patient flow and to expand efforts in community-wide education. These community-wide education activities include a special effort to expand understanding of family planning services and the role of parents, schools, and churches in educating adolescents. Procedures have also been established for followup on "high risk" patients who have a greater likelihood of experiencing serious problems related to pregnancy, including teenagers, women over 35, and women with a history of miscarriages.

Recommendation 51(d)
Refer to footnote 2, page 35.

Recommendation 51(e)
Require family planning projects to establish procedures aimed at enrolling low income persons, especially welfare recipients.

Status
The Department has established procedures for enrolling low income persons; however, no family planning projects have been required to establish procedures aimed at enrolling welfare recipients. The recommendation to "enroll" welfare recipients could be construed as coercive and intimidating to beneficiaries requiring public assistance. Further, the Department believes that community-based projects and educational activities can achieve the purpose of educating all persons about the importance of family planning.

Recommendations 52(a),(b), (c) and (d)
Determine what changes need to be made in the Medicaid Program or other Federal programs to give States incentive to (1) place mentally disabled and other persons needing housing, income maintenance, some supervision, and support services, but not always medical care, in the most appropriate setting, and (2) avoid unnecessary placements in SNFs and ICFs.

Require HEW agencies to help States develop alternative facilities or provide services to those persons identified by independent medical or professional review teams to be inappropriately placed or not receiving appropriate services.

Monitor and enforce compliance with Medicaid regulations requiring that:
(1) States (document instances in which persons are placed in ICFs because of the unavailability of community alternatives and actively seek alternatives.

(2) Federal Medicaid funds not be used for mentally ill persons under 65 in SNFs and ICFs considered to be institutions for mental disease.

Require States to effectively implement utilization controls and make sure that they accomplish intended results through HEW's validation surveys.

STATUS
The Department established a Task Force on deinstitutionalization to address the recommendations and resolve the problems identified in the GAO report.

While the implementation of these recommendations requires the concerted efforts of all Federal agencies involved, the Public Health Service (PHS), though its National Institute of Mental Health (NIMH), is currently collaborating with the Health Care Financiang Administration in developing a National Plan for the Chronically Mentally Ill. Among others, a broad range of related issues affecting the financial support and quality of services for persons who are disabled by chronic illness is being reviewed.

Medical day care service and rehabilitative services have emerged as means of providing health care services under Medicaid to individuals (including those who are mentally disabled) who, for the most part, would otherwise require institutionalization.

It should be noted, however, that not all recipients would be appropriate candidates for medical day care services or rehabilitative services. Only those individuals who meet the criteria in the corresponding definitions (medical day care and rehabilitative) and whose primary need is for medical services would qualify for these services.

Under title XVIII, there has been increasing interest in outpatient psychiatric partial hospitalization as a less intensive alternative to institutionalization. HCFA is developing guidelines for Medicare intermediaries to explain the extent of coverage for these services as "outpatient hospital services." This involves determining if activity therapies are a "reasonable and necessary" form of treatment--an issue on which the Public Health Service will be providing advice.

Additionally, several NIMH initiatives have been undertaken:

--The Community Support Program (CSP) was introduced to stimulate States and communities in developing appropriate mental health and support services for deinstitutionalization of mental patients. Nineteen States and the District of Columbia were awarded contracts which have clarified responsibility at State and local levels for serving the mentally ill. In this connection, CSP projects are examining the extent to which needed service improvement can be made within the constraints of existing Federal and State legislation. The learning from this pilot effort is reflected in the pending Administration proposal for a new Mental Health Systems Act.

--NIMH is actively participating in the HUD-HEW Demonstration Program for Deinstitutionalization of Chronically Mentally Ill Persons. This demonstration is directed toward developing appropriate community living arrangements for mentally disabled persons who need housing, income maintenance, some supervision, and support services, but not necessarily medical care.

--A work group is reviewing the relationship of NIMH programs to nursing homes. The analysis and recommendations of this group will be considered in the context of the National Plan for the Chronically Mentally Ill.

HCFA has developed a draft regulations proposal to clarify the definition of institutions for mental diseases and provide greater authority for making determinations as to the nature of individual facilities. The proposal is currently under consideration.

States are required to have effective utilization control programs which are validated through facility on-site surveys and State agency reviews. A reduction in a State's FMAP is assessed when they have not complied with the statutory requirements. However, HCFA's success in the application of disallowances for non-compliance

issues has been limited since most of these proposals have been reversed by the Departmental Grant Appeals Board.

Recommendation 53(a)
Develop sufficient manpower and resources to participate in developing and processing health program regulations, as well as fulfilling other responsibilities.

Status
Since initial submission of the GAO draft report, the Public Health Service has installed full time regulations officers in each of its components and subcomponents. In addition, the number of full time staff focused on regulation development and processing in the immediate Office of the Assistant Secretary for Health has doubled since 1977.

As a result of increased staffing and special attention to regulation development and processing the PHS has erased its entire backlog of regulations implementing health manpower and health planning legislation.

Recommendation 53(b)
Refer to footnote 3, page 35.

Recommendation 53(c)
Require that the computerized systems for monitoring processing of regulations within the Office of the Secretary be modified to include both developing and processing. Also, consideration should be given to delegating to responsible officials the authority to take effective measures, when necessary, to avoid delays in promulgating regulations.

Status
The Office of the Secretary's computerized tracking system was modified in 1978 to cover both regulation development and processing.

Considerable attention was applied to developing the size and the responsibility of the regulations staff within the immediate office of the Assistant Secretary for Health. That office has the authority to intervene in the development of regulations within PHS subunits as required to resolve policy issue differences.

Recommendation 53(d)
Highlight revisions made on unresolved issues or questions on program criteria or proposed regulations so that subsequent review can focus on those provisions.

Status
All decision memoranda prepared by the Secretary's Regulations Management Unit highlight revisions from previous policy and/or unresolved issues requiring Secretarial decision.

Similarly, considerable progress has been made in improving the quality of issue discussion contained in issue papers submitted to the Assistant Secretary for Health prior to transmission of proposed regulations to the Secretary for decision.

Recommendation 54(a)
Develop criteria and standard procedures for drafting informed consent forms, and a plan to systematically assure that informed consent procedures and requirements are implemented at projects and clinics.

Status
Criteria for developing informed consent forms were completed in August 1979. These criteria are used for developing forms for all vaccines provided by the Center for Disease Control (CDC) for use in public programs. The criteria govern the procedure for development of these forms, including completeness, accuracy of information, and who they are sent to for comment. The informed consent procedures do not require the Department to respond to each comment or to revise all the forms on the basis of comments from groups outside the agency.

CDC periodically conducts program reviews at the State and local level. Each State is reviewed at least once every two years. These reviews include an evaluation of procedures for warning vaccine recipients of the potential benefits and risks of vaccination. Although CDC does not directly monitor State procedures for administration of the flu information forms, CDC does direct a "National Attitude Study". This study involves the gathering of data through a telephone survey of vaccine recipients about the effectiveness of the flu information forms. CDC uses these data to evaluate the effectiveness of State procedures and to resolve deficiencies resulting from improper instructions.

Recommendation 55(a)
Encourage and support expansion of newborn screening to include treatable metabolic disorders in addition to phenylketonuria.

Status
The Department is now actively encouraging State health departments to expand their screening effort beyond phenylketonuria (PKU). This is being done through meetings, publications, and dissemination of cost data and findings from the existing three Regional Newborn Screening Programs. A number of States with a comparatively small number of live births, for which it would be inefficient to maintain their own screening laboratories, are actively searching for a linkage with a regional program. Large States like New York and California are in the process of developing regional laboratories within the State. Approximately 30 States are now screening for at least one condition in addition to PKU. The target date for complete implementation of this recommendation is the end of fiscal year 1983.

Recommendation 55(b)
Encourage and assist States to cooperate to establish cost-effective regionalized metabolic screening programs.

Status
The Department continues to make progress in encouraging the States to expand their metabolic screening programs. In this connection, the Regional Newborn Screening Laboratory in Colorado began testing samples from newborn infants from Wyoming, Arizona, and New Mexico, in addition to Colorado, in March 1979. During the first eight months of FY 1979, 44,177 samples were processed for six different conditions, at a cost of $2.55 per infant. The three Regional Screening Laboratories (Northwest, Mid-Mountain States, and New England) are serving 15 States. We believe that the Regional Newborn Screening Laboratories facilitate quality control of the screening programs and permit economies of scale. It is anticipated that all 50 States will be on regionalized screening programs by the end of FY 1983.

Recommendation 55(c)
Instruct CDC to determine if the incidence of Rh disease is lower in States having mechanisms for monitoring Rh disease and immunoglobulin use. If such surveillance mechanisms are effective, encourage States to develop comprehensive systems to test all pregnant women for Rh incompatibility and report incidence of Rh hemolytic disease and use of Rh immunoglobulin to CDC, thereby establishing a national program for monitoring the incidence of the disease.

Status
The Center for Disease Control (CDC) has been unable to accurately identify the incidence of Rh disease in States without reporting mechanisms because data maintained are incomplete. As a result, a determination whether Rh disease is lower in States having mechanisms has not been made. However, CDC is working on an approach that would base surveillance on second-parity births and has been helping States analyze data and strengthen programs. In addition, CDC is pursuing the goal of providing administration of immunoglobulin to all Rh negative women (not previously sensitized) who have a known or presumed pregnancy.

Recommendation 55(d)
Require federally funded family planning and other appropriate programs to include rubella susceptibility testing and immunizations, where appropriate, among their routine services.

Status
The Department has and will continue to make special efforts to educate and where possible provide rubella and other immunization agents to family planning clients. However, because of the potential liability to the vaccine manufacturer and the family planning clinic in dealing with minors who have not obtained the required parental consent prior to inoculation, HEW cannot require federally funded family planning programs to provide such services to minors on a routine basis.

Recommendation 55(e)
Require federally supported family planning programs to include Rh blood typing as a routine part of family planning services.

Status
We do not agree with the General Accounting Office (GAO) view that Rh blood typing should be included as a routine service to be provided by federally supported family planning programs. Routine blood tests to ascertain hemoglobin levels are directly related to determination of appropriate medical contraceptive means. These tests can be done with a simple, noninvasive finger puncture sample. By contrast Rh blood typing requires a blood sample which necessitates an invasive vein puncture. This procedure would not be related to a medical determination of an appropriate contraceptive method. It should also be noted that a current laboratory cost figure is approximately $9.50 per Rh typing which in our opinion is not a marginal cost to the program.

Recommendation 55(f)
Direct federally supported family planning programs to routinely include screening for individuals who are "high risk" for genetic disorders and refer such individuals to diagnostic and counseling services.

Status
We do not agree with the GAO position that HEW should include genetic screenings as a routine service to be provided by federally supported family planning programs. Such service may be mandated at a later date once more capacity for effective screening and counseling becomes available. In this regard, family planning clinics provide genetic screenings as an optional service.

Concerning the issue of "high risk" clients with genetic disorders, the training programs for FY 1980 have as a principal focus special efforts regarding the availability of counseling and referral services for such clients.

Recommendation 56(a)
Require that an audit be made of the grants to the Counseling Center, Bangor, Maine, not covered by our review and that the overcharges discussed in our report be recovered.

Status
The Audit Agency has completed about 95 percent of its field work of grants to the Center. With respect to grant costs audited beyond those reviewed by GAO on various grants covering the period from September 1, 1972 through April 30, 1979, we are, on a preliminary basis, questioning costs totaling about $88,000 (the Federal share is $66,000).

Of the $88,000 that we are questioning

--$62,000 (FFP $43,000) represents subcontractor costs claimed by the Center in excess of the amount provided in an alcohol grant. Further, a claimed amount of

$430,952 is about $18,700 more than the amount the Center paid the subcontractor.

--$26,000 (FFP $23,000) represents (1) salary costs claimed in excess of recorded payrolls, (2) a duplicate claim for part of an employees's salary, and (3) use of a provisional indirect cost rate rather than the actual rate used to claim indirect costs.

We intend to formally request repayment from the Center of overcharges discussed in GAO's earlier report when our current report is issued in final. We anticipate that both aspects of GAO's recommendation will be fully implemented by June 30, 1980—this will include issuing a final report and subsequent requests for repayments by the Counseling Center for those claims GAO identified.

Recommendation 57(a)

The Secretary, HEW, should meet with representatives of the Coordinating Council on Medical Education (CCME) and explore the possibility of its engaging in national studies of physician and physician extender manpower supply and requirements under a mutually agreeable contractual arrangement. HEW's Graduate Medical Education National Advisory Committee should (1) play an active role in monitoring their progress and (2) review indepth the Coordinating Council's completed studies and provide the Secretary with its detailed comments and recommendations. At a minimum, these studies should involve the collection and analysis of the following types of data: morbidity and mortality information; number and type of patients seeking physician care in various specialties; number, ages, and geographic location of practicing physicians by specialty and subspeciality; numbers and types of procedures actually performed by physicians in various subspecialties; the ways various specialists interrelate; number of physician extenders and other types of paraprofessionals entering the medical field and the duties they perform; likely imminent changes in the various specialties because of technological breakthroughs; and reimbursement mechanisms, possible changes thereto, and their impact on physician specialty choices.

Status

This recommendation has been implemented, although not in the form suggested by the General Accounting Office (GAO). The Department agreed in principle with the GAO recommendation but felt it was inappropriate to restrict its interaction with the CCME. Further, the CCME specifically refused to accept the responsibility suggested by GAO, thus muting the recommendation. The Department, through its Graduate Medical Education National Advisory Committee (GMENAC) has continued its research and development efforts to develop physician supply and requirements estimates based on epidemiologic data. This effort will result in supply and requirements forecasts through 1990 in the specialties of internal medicine, pediatrics, family practice, dermatology, psychiatry, obstetrics/gynecology, colon and rectal/general surgery, neurosurgery, urology, plastic surgery, thoracic surgery, orthopedic surgery, otolaryngology, and opthalmology in a report to be completed by April 1980.

Other work of GMENAC relating to physician extenders, technological breakthroughs and reimbursement mechanisms will be described in the April 1980 report with a supplemental report relating to the remaining specialties anticipated in September 1980, pending funding of the effort and extension of the GMENAC Charter through that time.

At present, the CCME agreed to observe the GMENAC effort and has reinstituted its Committee on Specialty Distribution to react to the GMENAC recommendations, although CCME does not have an active role in the GMENAC process. Its five constituent organizations separately are monitoring the GMENAC effort and each has provided some assistance in specific areas upon request. The aim of GMENAC is to develop its final recommendations on physician and physician extenders supply and requirements estimates based on the broadest possible understanding of all viewpoints and existing empirical evidence.

Recommendation 58(a)
Develop criteria for measuring the productivity of dentists (Community Health Centers).

Status
The Department has developed and established criteria to evaluate the productivity of dentists through the issuance of the Bureau Common Reporting Requirements (BCRR) Users Guide. This guide establishes a ratio of dental users to dental providers. However, in order to test the criteria in measuring the productivity of dentists and assess the effectiveness of dental programs, a study will be initiated on about March 30, 1980. It is anticipated that the results of this study will strengthen and refine the BCRR Users Guide.

Some of the areas considered for review are provider productivity, manpower needs by number and speciality, and cost/income for specific services.

Recommendation 58(b)
Continue to encourage and assist (Community Health) centers to bill and collect money when it is due them and make sure that centers concentrate on serving the medically underserved rather than seeking to serve patients in other areas that do not have a shortage of personal health services simply to increase revenue.

Status
To ensure that maximum reimbursement is obtained from private insurance companies and self-pay patients, certain actions are being implemented on a continuing basis.

Presently, the Department is providing technical assistance to Community Health Centers (CHCs) in order to assist them in determining charges and reimbursement ratios. In this connection, analyses are being conducted on third-party reimbursements and patient collection patterns. In addition, procedures are being implemented to assure that continued collection efforts from State and local governments are effected.

Every effort is being made to primarily serve medically underserved populations; however, it should be recognized again that CHC regulations provide that no one shall be denied care based upon the ability to pay. Certainly, CHCs will continue to reach all potential patients in the target areas regardless of their financial resources.

Recommendation 58(c)
Better enforce compliance with existing productivity and staff size criteria (Community Health Centers).

Status
As part of the overall management and policy efforts, the Department has taken and will continue to take actions to strengthen CHCs productivity and staff size criteria. In this connection, uniform standards are used to monitor supported ambulatory health care programs, program indicators are reviewed before and during each budget period, and analyses of program indicators for project compliance are being conducted to determine the appropriate level of grant support for general service costs.

Recommendation 58(d)
In addition to using cost criteria to control supporting and general service costs, assure close evaluation of the reasonableness of such costs at each (Community Health) center in relation to the level of service provided.

Status
Revised funding criteria have been issued for the Bureau of Community Health Services (BCHS) programs which include program indicators. The revisions are currently being utilized by the regional offices in the management and evaluation of these programs.

Recommendation 58(e)
Compile and maintain records to identify the number of (Community Health) center registrants who live in medically underserved areas and identify centers whose registrant workload is not primarily from those areas.

Status
The Department informed GAO that it did not concur to this recommendation and did not believe that it would be cost beneficial to promulgate a series of data gathering and maintenance requirements to verify that CHCs serve medically underserved areas. This nonconcurrence is still valid.

Recommendation 58(f)
Stop funding (Community Health) centers which serve only or primarily people who do not live in medically underserved areas, particularly where the residents have access to other health care providers. Funds to centers should be reallocated to medically underserved areas whose residents will be the center's primary workload, so as to achieve the greatest coverage with resources available.

Status
The Department did not concur, taking a position that the program serves the population the Congress intended that it serve. Whether a person lives in an area designated as a medically underserved area or one immediately adjunct to it does not mean they have better access to health care services. This nonconcurrence is still valid.

Recommendation 58(g)
Have health centers (CHCs) promote participation of the center users in preventive health care services.

Status
The Department began implementation of a Productivity/Effectiveness Initiative which included as its major guide, Primary Care Effectiveness - An Approach to Clinical Quality Assurance in BCHS Program and Projects. One of the components of this guidance is the clinical tracking system which enables projects to assure that different groups of patients are receiving routine preventive and health maintenance services. Most projects have already implemented an immunization tracking system and this is being expanded to include all important conditions and services for which followup is warranted. This recommendation is a continuing effort in which BCHS will routinely monitor centers' activities in terms of clinical indicators.

Recommendation 58(h)
Use some health centers (CHCs) as sites for demonstration projects authorized under the recently enacted National Consumer Health Information and Health Promotion Act of 1976.

Status
The Department is now actively pursuing demonstration projects under the National Consumer Health Information and Health Promotion Act. In this connection, these demonstration projects are administered by the Center for Disease Control (CDC). The program included a health education risk reduction effort for fiscal year 1979. CDC awarded 50 grants, of which 48 were to State health agencies. In fiscal year 1980, CDC will continue the initiative with emphasis on education on smoking and alcoholism for children and youth. A requirement for the program is that the services must be furnished at a primary delivery site. Community Health Centers will apply to State health agencies for these grants.

Recommendation 59(a)
Issue in final form all regulations and guidelines needed to administer the nationwide HMO program, more effectively and uniformly, particularly for compliance, open enrollment, community rating, and fraud and abuse.

Status
All actions with respect to this recommendation have been completed, with the exception of two areas. These are (1) issuance of Subpart A Interpretive Rulings, and (2) completion of the guidelines/criteria for waiver of the open enrollment requirement. It is anticipated that final regulations and guidelines for the two areas will be issued by March 31, 1980.

Recommendation 59(b)
Issue a formal, uniform (HMO) loan policy for administering the loan program.

Status
All regulations concerning the four areas addressed in this recommendation have been issued either in final or interim form. In this connection, 80 percent of the loan policy manual was published in April 1979. The remaining chapters have been completed and are currently being revised. It is anticipated that final revisions, printing, and publication will be completed by March 31, 1980.

Recommendation 59(c)
The Congress should defer action on proposals that would institute new methods to pay HMOs for services provided to Medicare and Medicaid clients because HEW has not (1) demonstrated that it can accurately determine fee-for-service costs per enrollee, (2) issued community rating guidelines or (3) established an effective compliance function. (Note: implementation by HEW, not Congress, has only been partial).

Status
This recommendation is not addressed; it is directed to the Congress.

Recommendation 53(b)
Request comments from appropriate Congressional committees on proposed and final regulations published in the Federal Register.

Status
The Department's Office of the Assistant Secretary for Legislation conducts a dissemination effort to Congress on proposed regulations. Major new proposed regulations and other significant proposed revisions to existing regulations are called specifically to the attention of key Congressional committee staff and members of Congress with jurisdiction over the subject area involved as well as those members of Congress who have expressed interest in the proposed regulations. Members are also invited to submit comments on the proposed regulations.

Copies of the final regulations are also made available to Members of Congress and Congressional committee staff. In addition, depending on the level of interest exhibited in the subject, briefings may be conducted by Departmental personnel with interested Congressional staff and members at the time of publication of final regulations.

Footnotes:
1. Status of Recommendation 51(a) to be submitted at a later date.
2. Status of Recommendation 51(d) to be submitted at a later date.
3. Status of Recommendation 53(b), see above on page 35.

ACCOUNTING FOR GRANT FUNDS

Question: In a recent report of the HEW Audit agency, it was disclosed that one college (Bishop College) had spent government funds for purposes other than the programs under which it had received the money, but the HEW's accounting system allowed the commingling of funds, so that HEW itself never found out. Please describe how HEW's accounting system allowed this to happen, and whether this deficiency has been corrected.

Answer: In the case of Bishop College, officials at the institution have been indicted for misappropriation of government funds and falsifying government reports (United States of America vs. M. K. Curry, et al). HEW received reports allegedly containing false information from the grantee and, therefore, could not detect the underlying abuse through the accounting system. No government accounting system can prevent falsification of reporting by grantees nor can an accounting report, by itself, be determined to be misleading.

The nature and magnitude of the problems in cases such as this are brought to light by program compliance reviews, independent audit, or as in this case, criminal investigation.

We have implemented an initiative to upgrade our accounting systems with the objective of identifying potential cases of grantee abuse for management follow-up action at the earliest possible time.

Question: We have been told that HEW's accounting system tracks the expenditures of monies by fund availability (one-year, two-year, etc.) rather than by program. As such, HEW never knows how expenditures are distributed among programs within an account. Is this true? If it is true, how does HEW know whether funds appropriated for one purpose (such as developmental disabilities) are actually used for that purpose, or are really used for other programs, within the same account (such as vocational rehabilitation, Head Start, runaway youth, Administration on Native Americans, etc.)?

Answer: Contrary to what has been told, HEW's accounting system does account for expenditures by fund availability and by individual programs within each appropriation. All individual awards are issued against, and are identified with, funds appropriated for a specific program. Recipients report their expenditures quarterly at the program award level. These expenditures are recorded in the accounting system for each award and provide the basis of accounting for any advances of cash received by the recipient. This expenditure reporting provides the program manager with one tool for monitoring the award. Through periodic performance reports from the recipient, visits to the site, and audit reports, the program manager determines that performance is, or is not, in accord with the terms of the award. The manager can ascertain also the level of performance and, after

matching the performance information to the expenditure information, can determine the status of performance under the award. Where the manager determines performance does not measure up to expenditures, or is being misspent, he or she must take appropriate corrective action.

SUBCOMMITTEE RECESS

Senator SCHMITT. The subcommittee will recess until March 10 at 2 p.m. when we will hear testimony from public witnesses on the Labor-HEW and related agency programs. Let me apologize for having this such a disjointed hearing.

[Whereupon at 11:30 a.m., Friday, March 7, the subcommittee was recessed, to reconvene at 2 p.m., Monday, March 10.]

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