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THE WHITE HOUSE
WASHINGTON

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ACTION	FYI
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/	COSTANZA
/	EIZENSTAT
/	JORDAN
/	LIPSHUTZ
/	MOORE
/	POWELL
/	WATSON

ENROLLED BILL
AGENCY REPORT
CAB DECISION
EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

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THE WHITE HOUSE
WASHINGTON

April 18, 1977

Jim Schlesinger -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Stu Eizenstat
Jack Watson
George Schultze

Re: Economic Effects of the
Energy Program

THE WHITE HOUSE
WASHINGTON

ACTION
FYI

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	COSTANZA
X	EIZENSTAT
	JORDAN
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	MOORE
	POWELL
X	WATSON

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THE PRESIDENT HAS BEEN.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20506

*Jim - in
Include
plan
J*

April 15, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Charlie Schultze *CLS*

SUBJECT: Economic Effects of the Energy Program

CEA has made an estimate of the overall economic effects of the Energy Plan as we now understand it. There is necessarily great uncertainty about such numerical estimates. They require making a number of judgment calls about how the public reacts to certain parts of the program.

1. Inflation effect:

Under existing laws and energy price controls, energy prices would be rising fairly sharply anyway. (About 3-1/2 to 4 percent a year faster than the general price level.) We have calculated the additional increase in the overall rate of inflation likely to arise from the energy program:

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(percent)					
	Increase in the annual rate of inflation				Total 4 year increase
	1978	1979	1980	1981	
Measures <u>other</u> than gasoline tax	+0.3	+0.3	+0.1	+0.1	0.8
Gasoline tax (if triggered every year)	0	+0.2	+0.2	+0.2	0.5
Total	+0.3	+0.5	+0.3	+0.3	+1.3

The major elements which contribute to the rise are the wellhead tax on crude oil, the increase in natural gas prices, and the gasoline tax. The measure of inflation used in this table is the GNP deflator, which is a price index for all items that enter the GNP. The increase in the consumer price index would be somewhat larger, but we haven't yet completed that calculation. (The gasoline tax, for example, would add about 0.3 percent per year to consumer price inflation.)

On the average, over the four year period, the energy program would add about 0.2 percent per year to the overall rate of inflation if the gasoline tax is not triggered and 0.4 percent per year if it is. The average increase in the CPI would be somewhat larger.

2. Effects on the GNP

Jim Schlesinger's group has estimated large savings in energy consumption from the program, and therefore, large business and homeowner investments in energy conservation measures. If those investments occur, it will add to the growth of GNP by an average of 0.2 percent per year, over the next three to four years. The rate of unemployment would thereby be lowered by perhaps an additional 300,000 at the end of the period.

The Schlesinger estimates of energy conservation, and hence of private investment in conservation measures, assume that businessmen and consumers will make substantial changes in their attitudes towards saving energy, beyond those induced by the specific economic rewards and penalties incorporated in the energy legislation. CEA staff believe that if such changes in attitudes do not occur -- if consumers and businessmen respond to energy prices and incentives as they have in the past -- the energy savings will be significantly smaller. Investment expenditures will correspondingly be less, and so will be the stimulus to GNP and employment.

3. Problems and Imponderables

A. Will energy-related investment plans be substantially cut back during the period in which Congress is debating the program? We simply cannot answer that question -- but it is a danger.

B. We have not been able to calculate with any reliability the costs, and hence the price effects, of meeting the mandated standards for appliances, automobiles, insulation, and other capital goods.

C. We cannot estimate the possible psychological effects of the "gas guzzler" tax: will there be anticipatory buying of large autos, and what will the Blumenthal plan for dealing with rebates on imported cars do to price competition in the auto industry, and thereby auto prices?

D. Will the combined investment requirements for energy conservation and environmental standards divert substantial investment away from capacity-increasing projects, and indirectly raise inflation problems later?

Summary

On balance, the energy program will:

- (a) Cause a relatively small, but unwelcome, addition to inflation, at least in the short run.

- (b) Add moderately to the growth of GNP.
- (c) Possibly, but not certainly, lead to some temporary hesitations and disruptions.

Final Note:

We will continue to refine our estimates right up to the last minute. These numbers are for your guidance over the weekend.

THE WHITE HOUSE
WASHINGTON

April 16, 1977

The Vice President
Midge Costanza
Stu Eizenstat
Hamilton Jordan
Bob Lipshutz
Frank Moore
Jody Powell
Jack Watson
Jim Schlesinger

The attached has been forwarded to the
President. The attached copy is for your
information.

Rick Hutcheson

Re: Economic Effects of the Energy Program

7771 1025 0000 2230 0000

THE WHITE HOUSE

WASHINGTON

April 18, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
SUBJECT: ZBB of Federal Information
Center Program

As you requested, my staff will work with OMB during the Spring budget review meetings to assess the Federal Information Centers. Zero Based Budgeting will be applied to this program as a part of the overall review of GSA.

C
/

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THE WHITE HOUSE
WASHINGTON

April 7, 1977

Jim McIntyre
Stu Eizenstat
Jack Watson
Richard Harden
Bert Lance

The attached was returned in the President's
outbox and is forwarded to you for your
information and appropriate action.

Rick Hutcheson

Re: Assessment of Federal Information
Centers

*I copied to Greg Schneider
per Bill Simon 4/13*

[do not bother copying Exec summary of FIC]

THE WHITE HOUSE
WASHINGTON

cc Jim McIntyre
B

ACTION	FYI
	MONDALE
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X	EIZENSTAT
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THE WHITE HOUSE
WASHINGTON

Mr. President:

Stu has summarized Jim McIntyre's report on the OMB study of Federal Information Centers.

Additional, thoughtful comments from staff are attached.

Rick

THE DOCUMENT HAS BEEN.

THE WHITE HOUSE
WASHINGTON

April 4, 1977

*Jim placed at how well
they're doing -
Assess for FY79
budget - 200 as
part of GSA
presentation
J*

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
SUBJECT: Jim McIntyre Memo re: Assessment of
Federal Information Centers

OVERVIEW

The OMB study of the Federal Information Center program finds the operation of individual centers to be high quality. Options are proposed by OMB to correct three principal weaknesses of the FIC program: poor overall management; insufficient information design and support facilities; and limitations on the population served.

BACKGROUND

The existing FIC program involves 37 Centers under the management of GSA, including toll-free telephone service to 40 additional cities. These Centers service only 55% of the nation's population. They handle 600,000 inquiries per month on a broad range of subjects. The program's Fiscal Year 1977 budget is \$2.8 million.

About 25% of FIC inquiries relate to four agencies which also maintain public information and referral systems: Internal Revenue Service, Civil Service Commission, Social Security Administration, and Veterans Administration. Of the total inquiries, 65% are by telephone and the balance are by walk-in. Each Center is staffed by 2 to 5 full-time persons.

DISCUSSION

OMB's study found Center personnel to be highly qualified and very responsive to questions. The nature of the service provided varied from Center to Center because no overall management policy presently exists. Most Centers are information

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and referral services, but some do research on substantive questions. Centers presently provide information on state, local and federal government matters.

The study concludes that about 45% of the population is effectively precluded from full access to FIC services by virtue of the limited extension of toll-free telephone service to only 40 tieline cities.

OMB proposed options range from upgrading management of the existing Centers to expanding the FIC program to 60 Centers. The use of Centers to serve an ombudsman role of following up on individual viewpoints or complaints was not considered desirable or feasible by the study. Adoption of all OMB recommendations (which include tests and pilot projects) would cost about \$10 million.

General Services Administration is in general agreement with the OMB report. Both agree that more explicit legislative authority should be obtained for any proposed program expansion.

OPTIONS

1. Propose legislation designed to upgrade the effectiveness of existing 37 Center network. This is the least expensive option, but several areas (especially rural communities) would remain excluded from service.

OMB describes two options for upgrading existing Centers:
a) Modest Management Improvements -- involves hiring 37 new full-time staffers, improving equipment and standardizing policy directives and data collection (cost - \$805,000); b) Service Improvement and Adjustments for Staffing Imbalance -- involves increasing GSA and FIC staffs by 56 people, improving equipment and possible relocation of some Centers (cost - \$1.03 million).

2. Propose legislation to improve management of Centers and to expand their coverage to include the entire population. Further commitment to the FIC program could await review of its post-expansion operation.

Three mutually exclusive options for expansion are presented:

(a) Expand coverage to the entire country on a toll-free basis from the existing 37 Center Network. (Cost - \$3.6 million)

(b) Expand coverage with at least one Center per State (cost - \$3.67 million). OMB favors this position. Long distance communications costs are reduced and coordination with state and local information services is improved.

(c) Expand coverage to entire population but consolidate to 10 Regional Centers. (Cost - \$4.49 million)

3. Propose legislation to expand the nature of the services provided as well as the population covered. Congress probably would be skeptical, viewing this as encroaching on its constituent casework. The chances of passing consumer agency legislation may be adversely affected by this proposal.

Basically, such legislation entails expanding the FIC role to include processing citizen viewpoints on policy issues and handling consumer complaints and inputs. OMB notes this could be done only in conjunction with management improvements suggested in Options 1 and 2. (Cost - \$1.11 million for 60 Centers in addition to improved management costs.)

RECOMMENDATION

Option #2(b)

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

INFORMATION

6 April 1977

TO: THE PRESIDENT
FROM: RICK HUTCHESON
SUBJECT: Additional Staff Comment: FICs

Schneiders and Hugh Carter concur with the OMB/Eizenstat option.

Watson suggests that FICs be expanded to serve as a source of information and assistance to state and local governments seeking federal aid, as well as helping private citizens. If the "Federal Program Information Act," sponsored by Sen. Kennedy and supported by the Administration, is passed, OMB would computerize the Catalogue of Federal Domestic Assistance, making the computerized information available to state and local officials through regional computer terminals. Placing those terminals in the FICs, with a staff capability to assist in the preparation of federal aid applications, would be a major contribution to making federal aid accessible to smaller communities and states which cannot afford full-time grantsmen. Going the next step of combining the FICs and FRCs in the 10 regional cities would be even better.

Harden is in basic agreement with the need to better utilize the FICs. His additional suggestions:

1. The concept of providing common facilities (used in Georgia in developing human resource centers) would help insure a high degree of professionalism at the centers.
2. The centers could be used to conduct periodic training sessions on Federal programs for state/local officials.
3. TIE-LINES with state/local centers (as used in Georgia) would improve effectiveness of both Federal and state/local centers.
4. Rotating individuals from agencies into information centers on a 1-3 month basis might give agency personnel a better feel for the concerns of the general public.
5. Suggest that you ask Frank Press to explore ways that advanced technology can be used to collect, process and distribute the information needed by these agencies.

JIM MCINTYRE MEMO



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

April 1, 1977

MEMORANDUM FOR: THE PRESIDENT

FROM: James T. McIntyre, Deputy Director *J. McIntyre*

SUBJECT: Assessment of Federal Information Centers

Last month you asked us to conduct an analysis of the effectiveness of the Federal Information Center network with the idea of considering an expansion of their functions and geographic coverage. Attached is a full report and an Executive Summary which a team from our Intergovernmental Relations and Regional Operations Division under Vince Puritano prepared during the past month. Although there was not time to go into great detail on many aspects, I think the report does provide a good, first-level analysis of the major options available and the relative costs and benefits of each.

Report Coverage

The major areas covered in the report are:

- . The overall effectiveness of current Centers' operations;
- . The desirability, feasibility, and cost of increasing the scope of information services, improving service quality, and expanding geographic coverage of Centers; and,
- . The desirability, feasibility, and cost of utilizing the Centers to facilitate more direct dialogue between citizens and agency policy officials and the President.

General Background

For background, the following information about the Centers might be helpful:

- . There are presently 37 Centers in operation which cover about 55% of the U.S. population, including toll-free telephone service to 40 additional cities.

- . The Centers operate under the policy direction of the General Services Administration.
- . The Fiscal Year 1977 budget is \$2.8 million, funded on a reimbursable basis by 17 Federal agencies; total staff is 140 positions.
- . The Centers receive about 600,000 inquiries per month of which about 60% are telephone and the balance walk-in.
- . The volume of public inquiries varies widely among individual Centers--from a low of about 5,000 per month to a high of 52,000.
- . The range of inquiry by subject matter is broad and diverse. Four agencies which also maintain substantial public information and referral systems of their own account for over 25% of Center inquiries: Internal Revenue Service, Civil Service Commission, Social Security Administration, and Veterans Administration. Questions related to these agencies are similar to those handled by their own information services--e.g., tax information, Federal employment, etc. Distribution of calls among Federal agencies is otherwise spread fairly evenly over the range of Federal programs and services. Inquiries related to State and local governments and private organizations run about 10% of the total.

General Findings/Conclusions

Overall, the assessment team was very favorably impressed by the quality and cost effectiveness of information services provided by the Centers. For the purposes of this memorandum, only those findings which were considered particularly significant will be noted:

- . The Centers' principal strengths start with a high degree of responsiveness to the substantial volume and wide diversity of questions they receive. This capacity is largely dependent on the abilities of the information specialists employed, who are highly competent in terms of dealing with the public, generally knowledgeable of government programs and services, and resourceful in seeking answers to complex questions and problems.

- . The principal weaknesses of the system are in three general areas: overall management; information system design and support facilities; and limitations on the population served.
- . In terms of overall management, the Centers operate largely independent of one another with little central management policy or direction. As a consequence, quality of management and services varies widely among Centers.
- . Routine flow of information to Centers from individual Federal agencies is especially weak. Each Center is individually responsible for updating its own information files, including national and regional data common to all.
- . Approximately 45% of the population is effectively precluded from full access to informational services by virtue of the limited extension of toll-free telephone service to only 40 tieline cities.

Major Options for Expansion and Upgrading of Centers

Based on the team's assessment of current Center operations and opportunities for improvements, the following basic alternatives were developed:

- . Alternative One consists of a strategy of upgrading the effectiveness of the existing 37 Center network as a desirable management initiative on its own merits, as well as laying the foundation for possible expansion of the system's coverage, service level, and roles as outlined in Alternatives Two and Three. The report presents two major options for consideration, dealing with overall improvements in management support, and adjusting for workload imbalances respectively.
- . Alternative Two covers various options for expanding Center coverage to all citizens on a toll-free basis, as well as supportive options for upgrading of communications equipment, data processing facilities, and the scope of informational services offered. Although any of the latter options could be implemented without necessarily expanding Center coverage, it is more likely they would be undertaken as part of a major upgrading and expansion program.

- Alternative Three modifies in a significant manner the basic role and functions of Federal Information Centers. The three specific sub-options are: converting the Centers to a broader intergovernmental information source in cooperation with participating States and/or localities; using the Centers as part of a two-way communication link between citizens and Washington; and using the Centers to improve Federal responsiveness in consumer affairs. With respect to these latter two functions, the assessment team indicated that the Centers can provide an effective channel for citizens to communicate with Federal officials, but an "ombudsman" type role for the Centers in following up on individual viewpoints or complaints was not considered desirable or feasible.

Attachments A-1 and A-2 portray the above alternatives in summary form, provide cost estimates for each, and describe a recommended package for the overall expansion of the Federal Information Center network.

Recommendations

As shown on the attached summary, the OMB assessment team recommended the following options be approved as the most cost effective total package:

<u>Description</u>	<u>Recommended Options</u>	<u>Cost (\$million)</u>
Current Centers	-	2.86
Upgrade management of existing 37 Centers	A.1 A.2	.81 1.03
Expand geographic coverage to a 60 Center network with at least one Center per State	B.2	3.67
Test various approaches to upgrading quality of information services under the expanded geographic coverage model.	C.1	.18
Examine opportunities to improve quality of service by adding computer support and telephone call "bridge" capability based on further testing.	C.2 C.3	.16 .00

<u>Description</u>	<u>Recommended Options</u>	<u>Cost (\$million)</u>
Approve concept of joint Federal/State/local government information centers and support a Statewide pilot in California	D	.16
Move ahead with a low key, limited publicity model for using Centers to obtain citizens' views and improve referral capability for consumer complaints	E.1 E.2	1.11 <u>.00</u>
Total recommendations for upgrading Federal Information Centers		\$9.98

It is important to note that these cost estimates are influenced in considerable measure by assumptions of demand for informational services by the public. The analysis has projected increased volumes of inquiries primarily to reflect expanded population coverage only. The extent and nature of publicity regarding Centers can have major, but unpredictable, impact on the volume of inquiries. For this reason, the cost estimates will be low if expansion is accompanied by substantial publicity at either the national or local level. The report urges that implementation of the recommended options proceed in a deliberate, time-phased manner in order to assure that the response capability of Centers is enhanced before additional demand for informational services is generated.

In considering the cost of this package, the report strongly recommends that the General Services Administration obtain a more explicit legislative authority for the contemplated expansion, and request a direct appropriation of funds for support of the Centers.

Staff of the General Services Administration worked with the OMB review team, but I have requested the official reaction of Acting Administrator Robert Griffin as well. I am enclosing a copy of his comments. Basically, he is in agreement with most of the analysis and recommendations contained in the report. He notes some concerns on timing and sequence of implementing specific recommendations, particularly in the area of expanded consumer complaint handling, and need for budgetary and personnel ceiling relief. On balance, however, I believe Mr. Griffin's comments should be construed as in general agreement with the overall report.

Attachments

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION
WASHINGTON, D.C. 20405



April 1, 1977

Honorable James T. McIntyre, Jr.
Deputy Director
Office of Management and Budget
Washington, DC 20503

Dear Mr. McIntyre:

We have reviewed the Office of Management and Budget's (OMB) assessment of the Federal Information Center (FIC) program and commend Mr. Puritano and his group for producing an excellent report in a very short period of time.

We are in general agreement with most of the recommendations in the report, but note that the General Services Administration (GSA) would need assistance from OMB in order to begin early implementation of many of the recommendations.

Specifically, an increase in staffing--and the necessary, associated training--to enable major expansion by October 1 would require that OMB release us from the freeze on hiring, assign GSA additional ceiling and direct contributing agencies to provide us with additional funding in fiscal year 1977 above the amounts budgeted.

The impact on fiscal year 1978 would be much greater. Authorizing legislation must pass before Congress could appropriate the funds necessary for an upgraded and expanded program for fiscal year 1978. A supplemental appropriation probably would not be enacted prior to the third quarter of fiscal year 1978. (We cannot ignore the possibility, of course, that a supplemental appropriation might be denied by the Congress, thus necessitating an immediate reduction-in-force.) We must assume that fiscal year 1978 expenditures would be financed during the first three quarters of the year from agency contributions, while costs for the remainder of the year would be financed from a supplemental appropriation. Since agency contributions would be insufficient to cover the first three quarters of fiscal year 1978, OMB would have to require the agencies to increase their contributions above the amounts budgeted for fiscal year 1978.

In addition to the foregoing budgetary and funding considerations, we have a general observation concerning communications costs and several comments relating to specific recommendations in the report.

In regard to communications costs, we have been advised by AT&T since the report was prepared that there will be a WATS tariff increase in mid-April 1977. We do not know the amount of the increase at this time and, therefore, are unable to estimate the extent of the impact on the cost projections in the report.

Although we are in general agreement with the options recommended by the study group, we have several dissents or modifications.

In Option A-1, we do not think it would be wise to extend FIC working hours much beyond the working hours of the Federal agencies in the area. Calls coming into an FIC early in the morning or late in the evening could only be referred to those agencies having offices open at those hours.

In Option C-3, we are concerned about the costs of unlimited "bridging" of calls. We agree with the study group that, at least initially, bridging of calls be limited to third parties in a local calling area. We recommend, further, that this be done only at selected FICs pending in-depth reviews by the FIC national office staff.

In Option E-2, we believe that the proposal to handle consumer complaints should be held in abeyance pending the possible establishment of a consumer agency. An examination of this proposal would be more appropriate at that time.

As previously indicated, our immediate concern involves funding and personnel ceiling. Your assistance in this area would permit us to begin implementation of the program outlined by your study team if it is decided to proceed.

Thank you for giving us the opportunity to comment on this comprehensive and professional study of the FIC program and its possibilities for the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert T. Griffin". The signature is written in a cursive, flowing style with a large initial "R".

ROBERT T. GRIFFIN
Acting Administrator

EXECUTIVE SUMMARY
FEDERAL INFORMATION CENTER
ASSESSMENT REPORT

I. INTRODUCTION

Background

Eleven years ago in November 1965, President Johnson directed that the Federal Government expand its efforts to improve services to individual citizens including basic information about the Federal Government itself. The following year, the first pilot Federal Information Center was opened in Atlanta, Georgia. Since then, the number of Centers has increased to a total of 37 with toll-free telephone tieline service to an additional 40 cities. As a total network, the Center system now covers about 55% of the U.S. population on a local call basis.

Objectives of the Current Assessment

A brief assessment was requested to determine the feasibility of expanding the current network of 37 Federal Information Centers to a nationwide system as a means of making basic information about Federal programs and services more readily available to all citizens. In addition, consideration was to be given to the use of Centers as a vehicle for citizens to communicate their opinions and other concerns about the Federal Government directly to agency policy officials and the President.

The three major areas to be covered in the assessment report were:

- . The overall effectiveness of current Centers' operations in responding to citizen needs for information about Federal programs and services;
- . The desirability, feasibility, and cost of increasing the scope of information services, improving service quality, and expanding geographic coverage of Centers; and
- . The desirability, feasibility, and cost of utilizing the Centers to facilitate more direct dialogue between citizens and agency policy officials and the President on policy issues, to improve Federal responsiveness to consumer interests, and to possibly create intergovernmental information centers.

Methodology

The methodology employed during the assessment consisted of:

- . Analysis of Available Data on Center Operations which consisted of reports on the volume and type of inquiries received, staff workload, and other factors.
- . Field Reviews of Center Operations included personal interviews with Center staff, General Services Administration supervisory personnel, Federal Executive Board Chairpersons, and officials from Federal agencies, State and local governments, and private organizations in 11 major Center cities throughout the country.
- . Selected Interviews with a wide range of people to obtain viewpoints and reactions to various possibilities for expanding the scope and role of Federal Information Centers. These included private organizations specializing in informational and referral services such as the United Way, State officials including personnel responsible for the State "tieline" operations in Georgia and South Dakota respectively, and Federal agencies with major citizen inquiry and assistance programs such as the Internal Revenue Service.

Concept and Role of a Federal Information Center

In carrying out this review, it was necessary to make some basic assumptions about the nature and overall purposes of the Federal Information Centers as a benchmark for assessing their current effectiveness and developing options for possible future expansion. The key assumptions were:

- . First, the Centers operate as a part of a much larger, and diversified network of information programs devoted to providing information to our estimated 215 million citizens on services available to them. This system includes a score of other major Federal information services as well as numerous State, local, and private systems.

In recognition of this diversity, the assessment team gave particular attention to the degree of coordination between Federal Information Centers and related information and referral systems administered by other Federal agencies, State and local governments, and private agencies.

- . Second, the assumption was made that most information service organizations enjoy a "comparative advantage" in having easier access to detailed information on certain types

of programs, services, or agencies. While a Federal Information Center can usually provide general information on available State, local government, and private agency services in its area of jurisdiction, it has a particular advantage and responsibility in providing detailed information on Federal activities. In developing options for expansion, considerable emphasis was given to increasing the capacity of Federal Information Centers to supply information on the Federal sector as their first and most important priority.

- . Third, in assessing opportunities to utilize the Federal Information Centers more extensively for facilitating citizen participation in the Federal decisionmaking process, the review team was conscious of the danger of creating unrealistic expectations concerning the ability of Centers to respond to and resolve the diverse range of personal as well as governmental problems which citizens might bring to their attention.
- . Finally, the role of the Centers as the first and perhaps the only direct point of contact which many citizens may have with the Federal Government was viewed as an important consideration in developing various alternatives. While communications technology allows for great efficiencies in storing and processing information, an assumption was made that the Centers should continue to emphasize a personalized approach in dealing with citizens as their basic and most responsive mode of operation.

II. ANALYSIS OF CURRENT CENTER OPERATIONS

Overall, the assessment team was very favorably impressed by the quality and cost-effectiveness of information services provided by the Centers. For the purposes of the Executive Summary, only those findings which were considered particularly significant will be described.

General Background

The Centers operate under the policy direction of the General Services Administration and its Office of Public Affairs.

The Fiscal Year 1977 budget for Federal Information Centers is \$2,858 million, funded on a reimbursable basis by 17 Federal agencies at \$168,000 each.

Allocation of funds is heavily directed to staff support--79% for salaries and related expenses. Resources are also heavily concentrated in Center operations as compared to national support.

Out of a total of 140 budgeted positions, 136 are allocated to direct Center operations. Staffing is fairly evenly distributed among Centers. Most Centers range in size from two to five full-time positions; three Centers exceed that level.

There are presently a total of 37 Centers in operation, with one more scheduled to open in the spring of 1977. Sixteen Centers also provide toll-free telephone service to one or more tieline cities, and cover a total of 40 additional cities.

Assessment of Operational Capabilities

The Centers receive about 600,000 inquiries per month in aggregate, of which about 65% are telephone and the balance walk-in. A negligible number of inquiries are received through the mail.

The range of inquiry by subject matter is broad and diverse and a very few areas dominate. Four agencies which also maintain substantial public information and referral systems of their own account for over 25% of Center inquiries: (1) Internal Revenue Service (9.2%); (2) Civil Service Commission (8.0%); (3) Social Security Administration (4.8%); and (4) Veterans Administration (4.4%). Questions related to these agencies are similar to those handled by their own information services--e.g., tax information, Federal employment, social security, and veterans assistance eligibility. Distribution of calls among Federal agencies is otherwise spread fairly evenly over the range of Federal programs and services. Very few discrete organizations beyond those mentioned above account for greater than 1% of inquiries.

The relative volume of public inquiries varies widely among individual Centers--from a low of about 5,000 per month to a high of 52,000 which include walk-in totals. A number of inter-related factors appear to account for this disparity. For instance, location of a Center in the lobby generates substantial walk-in volumes. The relative concentration of Federal programs and services in a particular city is also a factor. However, the level of publicity is generally believed to have the most substantial impact on the volume of inquiries which a Center receives, although the actual dimensions are not clear since no data was available to precisely measure the effects of publicity on inquiry volume.

All Centers' information files are manual. No computer or other automatic or mechanical updating systems are utilized. The sources of information maintained consists primarily of information showing location and telephone number of agencies (State, local government, and private as well as Federal), usually organized by functional areas of service. Each Center

maintains such information for national, regional, State and local levels of each agency, and each Center is individually responsible for updating its basic file.

Telecommunications equipment currently available is relatively unsophisticated. Few Centers have a capability to transfer incoming calls to an appropriate Federal agency, either within the city in which the Center is located or to another area. Other telecommunication support systems are also modest. Only 12 Centers currently operate with a pre-recorded message and automatic hold capacity to accommodate incoming calls when the rest of the Center staff is busy.

Overall Analysis of Strengths and Weaknesses

The Centers' principal strengths start with a high degree of responsiveness to the substantial volume and wide diversity of questions they receive. This capacity is largely dependent on the abilities of the information specialists employed, who were perceived to be highly competent in terms of dealing with the public, generally knowledgeable of government programs and services, and resourceful in seeking answers to complex questions and problems.

Responses are not confined to simply referring the questioner to an appropriate source for an answer. All Centers respond to substantive questions directly and conduct necessary research to the extent that they are able. Moreover, the informational services provided are not restricted to questions related to Federal programs and services. All Centers receive and maintain a capacity to respond to a significant volume of inquiries related to State, local, and private services available in the community.

The principal weaknesses of the system are in three general areas: overall management; information system design and support facilities; and limitations on the population served.

In terms of overall management, the Centers operate largely independent of one another with little management or policy direction and support from Washington. As a result, the quality of management in individual Centers is highly variable, as reflected in varying procedures on data file structure and maintenance, staff training, and knowledge of alternative information services and sources in the community.

Routine flow of information to Centers from individual Federal agencies, both nationally and regionally, is especially weak. Each Center is individually responsible for updating its own information files, including national and regional data common to all.

There is also a high degree of variation among Centers in terms of inquiry volumes for given levels of staff and population served. These variables directly affect their ability to respond adequately to substantive inquiries, handle peak workloads, and develop/update information sources.

Approximately 45% of the population is effectively precluded from full access to informational services by virtue of the limited extension of toll-free telephone service to only 40 tieline cities.

III. MAJOR OPTIONS FOR EXPANSION AND UPGRADING OF CENTERS

Based on the team's assessment of current Center operations and opportunities for improvements, the following basic alternatives were developed.

- . Alternative One consists of a strategy of upgrading the effectiveness of the existing 37 Center network as a desirable management initiative on its own merits, as well as laying the foundation for possible expansion of the system's coverage, service level, and roles as outlined in Alternatives Two and Three. The report presents two major options for consideration, dealing with overall improvements in management support, and adjusting for workload imbalances respectively.
- . Alternative Two covers various options for expanding Center coverage to all citizens on a toll-free basis, as well as supportive options for upgrading of communications equipment, data processing facilities, and the scope of informational services offered. Although any of the latter options could be implemented without necessarily expanding Center coverage, it is more likely they would be undertaken as part of a major upgrading and expansion program.
- . Alternative Three modifies in a significant manner the basic role and functions of Federal Information Centers. The three specific options are: converting the Centers to a broader intergovernmental information source in cooperation with participating States and/or localities; using the Centers as part of a two-way communication link between citizens and Washington; and using the Centers to improve Federal responsiveness in consumer affairs.

Attachments A-1 and A-2 portray the above alternatives in summary form, provide cost estimates for each, and describe a recommended package for the overall expansion of the Federal Information Center network. However, it is important to note that total costs continue to be primarily for personnel and

related expenses and that most of the estimates are driven by three basic factors: (1) total population served; (2) average volume of inquiries per 100,000 population; and (3) estimates of the number of inquiries an average Center staff member can handle per day. Although the assessment did generate some additional data on these three factors, much more reliable estimating techniques and data are still needed. For this reason, the assessment team urges considerable caution in the selection and sequence of implementing the individual options recommended.

A. Upgrade Quality of Services in Existing 37 Centers

The quality of services provided by the existing 37 Federal Information Centers is generally high for the level and scope of service contemplated. However, the assessment team noted substantial variations in quality, reflective of wide differences in management and operations, and overall levels and allocation of resources. The following options are intended to upgrade quality of services provided by the existing 37 Centers, assuming no change in population coverage.

Option A.1 - Improve Quality of Service in the Existing 37 Center Network through Modest Management Improvements

The quality of management systems varies significantly among individual Centers, and certain minimal management support functions are not performed at all.

A substantial number of these recommendations can be implemented within existing Center resources, and GSA has already initiated steps to implement many of them. These include transferring Centers located in the lobby of Federal buildings to off-lobby locations, development of standardized policy directives governing Center operations, more formal training for new staff, installing more efficient data filing and updating procedures, and providing for more routine updating of common information.

A number of management improvements considered essential for efficient Center operations will entail modest additional resources. These include measures to allow Center managers to devote time to organizing and managing Center operations, modest upgrading in facilities and equipment, and strengthening national office management and policy direction capability.

The total cost of these actions are estimated at \$805,000 including 37 additional full-time positions and modest upgrading in facilities and equipment.

Option A.2 - Further Upgrade Quality of Service by Adjusting for Major Staffing Imbalances and Improve Response Capabilities in Existing 37 Center Network

The volume of inquiries received varies substantially among Centers, in absolute terms, and in relation to current staffing levels. Moreover, the range in inquiry volume does not appear to relate to differences in levels of population served, probably because of differences in the extent of publicity.

The assessment team proposes that existing staffing levels be augmented in the high volume Centers in order to maintain no greater than 125 telephone calls per staff member per day. Additional publicity should be considered in areas with relatively low volumes of inquiry and staffing should be adjusted accordingly.

The combined effect of these actions would involve an additional 51 full-time information specialists positions, at a total cost of \$950,000.

As part of an overall objective to upgrade the quality of response provided by the Centers, the assessment team has concluded that individual Centers must have access to a considerably greater amount of information on programs and issues than presently. A number of procedural changes are recommended designed to generate a more routine flow of information from individual Federal departments and agencies on issues of general interest to the public.

These actions will depend principally on national policy and procedural decisions, but will also require modest increases in the GSA national office staff. A total of five positions at a cost of \$80,000 is proposed which combined with augmentation in Center staffing, entails a total cost for Option A.2 of \$1.03 million.

Recommendation

The OMB assessment team recommends approval of each of the options discussed: Option A.1 (\$.81 million), and A.2 (\$1.03 million).

B. Expand Population Coverage

The assessment team perceives no rational basis for restricting coverage of Federal Information Center's services to the present 55% of the population. Three alternative, mutually exclusive options are considered for expanding coverage to 100% of the population.

Option B.1 Expand Coverage of the Centers to the Entire Country on a Toll-Free Basis from the Existing 37 Center Network

Under this option, toll-free telephone lines would be extended to the entire population, from the existing 37 Centers, and additional staff would be added to handle the increased volume of calls.

This option has the principal benefit of building on the existing system and could therefore be implemented most expeditiously and with least disruption.

A significant potential problem is degradation in the relative quality of informational services provided to citizens in outlying areas. Existing Centers now provide more comprehensive information on inquiries generated in FIC cities, as compared to tieline cities. These disparities are likely to be even greater for outlying rural areas, particularly with respect to information on locally based programs and services.

This option would entail a total additional cost of \$3.6 million covering staff increases and toll-free telephone lines to all parts of the country.

Option B.2 Expand Coverage with at Least One Center per State

Under this option, all existing 37 Centers would remain in operation. However, an additional 23 Centers would be opened, one in the largest metropolitan area of those States in which no Centers exist now.

The principal advantage of this option is that it would tend to offset the relative degradation in quality of responsiveness to outlying areas cited in Option B.1 by placing the Centers closer to the populations served. It would also facilitate development of relationships with State governments for exchange of information, and establishes the basis for moving toward the government information center model, where desired.

In terms of cost, this option is not materially more expensive than Option B.1 (\$3.67 million compared to \$3.60 million) largely because long distance telecommunications line costs on an intra-State basis are substantially less than inter-State. This helps offset the costs of added staff.

Option B.3 Expand Coverage to Entire Population but Consolidate to 10 Regional Centers

This option contemplates operating information services from 10 consolidated Centers, probably located in each of the 10 standard Federal regional cities. The remaining Centers would be closed.

Of necessity, a 10-Center model would experience much greater difficulty in maintaining information on the hundreds of cities and towns in each region and would be forced to rely on national or regional sources primarily, and possibly State governments. The more individualized approach with citizens presently employed in most Centers and which constitute one of their strengths, probably would be compromised as well. In the view of the assessment team, the quality of informational services provided by this model would be significantly below that of the others. Moreover, reducing the number of individual Centers might be perceived by the public as a retrenchment in information services offered, and congressional support might be weakened as well.

In terms of cost, and perhaps contrary to expectations, this option would be relatively expensive--about \$4.49 million compared to approximately \$3.6 million for Options B.1 and B.2. These higher costs result principally from relatively high inter-State telephone communications charges relative to intra-State charges, and these costs more than offset savings realized from staff savings associated with economies of scale.

Recommendation

The OMB assessment team recommends approval of Option B.2 at an annual cost of \$3.67 million.

C. Improve Quality of Service Under an Expanded Coverage Model

If the geographic coverage of informational services is expanded as outlined under any of the three preceding options, substantial strain will be placed on Federal Information Centers' ability to provide adequate informational services for the added populations. The following outlines three options to enhance their response capability for this purpose:

C.1. Improve Quality of Service by Expanding Scope of Informational Services Provided

Under the present system, primary reliance is placed on individual Centers to develop and maintain their basic information file, including routine updating of basic data and researching information for unique or unanticipated questions. A number of the options discussed previously contemplate improving procedures for identifying relevant information on a more systematic basis and making it available to Centers. However, if toll-free telephone services are extended to the entire population, additional steps should be taken to develop information on programs and services in areas to which services are extended.

In developing a capacity to develop information covering a wide geographic area, a basic policy determination must be

made concerning the nature of informational services to be provided. Although the Centers are presently designed primarily to answer questions concerning the Federal Government, they cover State and local services as well. As services are expanded geographically, the ability of Centers to provide information on local programs and services will be considerably less.

The assessment team recommends that as a matter of policy, first priority be accorded to developing a response capability on Federal programs and services located in the geographic area served. As a second priority, they should attempt to develop State-based information, in cooperation with existing State information and referral services, if possible. Centers would attempt to maintain a limited amount of local information, such as telephone directories for the larger communities served, but publicity should be carefully programmed to avoid the implication that detailed local information is available.

Under this approach, additional efforts should be made to develop comprehensive, area-wide information on available Federal programs and services, and develop necessary contacts and research to assemble appropriate State and local information.

The assessment team recommends that one additional staff position be allotted to each GSA regional office for the above purpose. This would include responsibilities for identifying the information needs of other Centers in the region, and assuring such information is compiled and updated on a continuing basis and made available to the Centers in a timely and useful manner. The cost of this option is estimated at \$175,000.

C.2 Improve Quality of Service Through Data Processing Support

The volume and routine nature of a substantial part of the information utilized by Centers suggests that consideration should be given use of computer capability for storage and retrieval of at least portions of the Center data file.

The OMB assessment team concluded that while computer support has considerable intuitive appeal, there was insufficient evidence available to support system-wide application of such a capability at this time.

Although a substantial amount of information utilized by the Centers is relatively routine in nature, it covers highly diverse subject matter, and updating the basic information

would be a constant and demanding process. Moreover, a substantial number of questions require individualized research and probing to obtain an adequate answer.

If a decision were made to develop a computer system support capability for the Centers under an expanded population model, as outlined under Option B, the added costs are estimated at approximately \$1.2 million plus initial startup costs of \$450-750 thousand. These estimates are based on a 10-Center model and would increase 5-10% if the 37 or 60 Center models were adopted.

In view of the complexity of information needs, the uncertainties regarding the cost-effectiveness of computer support, and the relatively high costs of a nationwide system, the OMB assessment team recommends that further experiments be conducted with a prototype system rather than installing a computer capability on a system-wide basis at this time. The cost of a four-month test using commercial time-sharing facilities in support of a sample of Centers is estimated at \$158,000.

C.3 Improve Quality of Service by Adding Capacity to Directly "Bridge" Callers to Service Agencies

This option contemplates installing the capacity for Centers to bridge incoming telephone calls to an appropriate agency in order to assure a more adequate response to citizens' questions.

In reviewing this option, the assessment team reviewed existing State information systems currently in operation which employ this capacity--notably the States of Georgia and South Dakota tielines. Each operation was found to exhibit notable differences from current or contemplated Federal Information Center operations--particularly the extent of service provided individual callers. As a result of the highly detailed response given callers by the Georgia tieline, the overall average cost per telephone call is about \$10 compared to \$0.40 presently for Federal Centers. The South Dakota model, which provides less in-depth case-work assistance to callers than the Georgia tieline, operates at an average cost of \$2.58 per call. Not all of these cost differentials are attributable to the call "bridging" capability, but that capacity is integrally related to the more in-depth response provided by these other models.

No accurate basis exists on which to estimate the additional cost of installing a call "bridge" capability in Federal Centers largely because proportion of calls to be bridged and extent of time spent on each are critical unknown variables.

The assessment team recommends that call "bridge" capability not be installed at this time for long distance calls. Instead, capacity for transferring calls within the local area should be added to all Centers now, and this experience should be used to gain more experience and data for estimating the need and costs of adding more complete coverage and service of this type.

D. Expand Role of Centers to Serve as Combined Federal Information Centers

The assessment included an examination of the Government Information Center in San Diego as a possible model for use elsewhere. The results confirmed that the quality and convenience of service under a combined approach with other levels of government was clearly advantageous to citizens. However, the volume of inquiries which a combined Center must be prepared to handle may run as much as 50% higher than a Federal Center, and staffing/financing arrangements for a joint Center can be potentially troublesome.

The rationale for selection of Option B.2 which would establish a Center in each State recognizes the desirability of moving toward an intergovernmental approach to providing information services. However, this model is dependent on closer day-to-day cooperation and joint planning among Federal, State, and local governments, and can only be implemented as cooperative agreements are developed among participating units of government.

Recommendation

The OMB assessment team recommends a further expansion of the San Diego pilot Center to a State-wide effort in cooperation with the State of California to develop further experience with this model. The Federal cost of this proposal is estimated at \$160,000.

E. Expand Role of Federal Information Centers to Include Processing Citizen Viewpoints on Policy Issues, and Handling Consumer Complaints and Inputs

Options E. 1 and E.2 involve a fundamental change in the basic nature of the Centers. Both require the capacity to receive, analyze, and disseminate feedback from citizens. This role places the Centers in a much more sensitive public role which could adversely affect their normal function of providing information and referral services. Reservations were also voiced about the consumer complaint role, particularly with

respect to having the Center perceived as an enforcement agency on behalf of citizens vis a vis Federal agencies. In both cases, it might be extremely difficult to drop these roles once citizens begin to utilize the Centers for such purposes.

At the same time, the assessment team found support for testing both roles provided this could be done under a carefully planned and controlled strategy which would avoid jeopardizing the effectiveness of the Center information and referral activities. This would require a decentralized approach in installing such capabilities in each Center to assure adequate flexibility.

Recommendation

The assessment team recommends the Centers start with a low-key reactive role with a modest increase in staff to compensate for the workload that additional inquiries and viewpoints would generate. This is estimated at \$650,000 which supports one additional staff member in all existing Centers. A similar approach is recommended for Option E.2 - a minimum upgraded capacity to refer consumer complaints to appropriate agencies, disseminate information, etc. This option would not entail any additional costs over and above the basic manpower improvements over staff increases recommended under A.1 and A.2.

Both the options should be implemented after the basic management improvements (Option A.1 and A.2) and initial expansion of geographic coverage (Option B.2) have been fully implemented. Option E.1 for 60 Centers would cost \$1.11 million.

IV. BASIC CONSIDERATIONS IN EXPANDING THE NUMBER AND SCOPE OF RESPONSIBILITIES FOR FEDERAL INFORMATION CENTERS

The following basic considerations should be taken into account in planning for and expanding the scope of responsibilities for Federal Information Centers.

- National publicity on the expansion of FICs should be avoided until basic management improvement and staffing increases have been accomplished to handle increased volume of inquiries.
- An explicit legislative basis should exist or be developed for the contemplated expansion of responsibilities.

- Appropriate consultation should be held with Congress, particularly in reference to authorization and appropriation requests contemplated.
- Systematic consultation should be carried out with appropriate Federal agencies, State and local governments, and private agencies in planning for the establishment of new Centers to maximize opportunities for mutual support.
- Implementation of each recommendation should commence as quickly as possible, but on a time-phased basis tailored to the complexity, degree of difficulty, and cost of each.

The following outlines a suggested timeframe and sequence for implementation of the report's recommendations.

A. Actions to upgrade the quality of services of the existing 37 Center network contemplated by Options A.1 and A.2 should begin now, without awaiting passage of legislative authority or separate appropriations.

B. GSA should begin immediately to carry out the necessary analysis, planning, and negotiations to implement the full range of recommended actions, including:

- Plans for expanding and upgrading Center operations beyond those reflected in Options A.1 and A.2; and negotiations and plans to implement the limited pilots and test experiments proposed under Option C.2 (computerization of the data file in one Center), Option C.3 (installation of limited telephone call bridging capacity), and Option D (develop government-wide Centers in California).

C. On the basis of the initial planning and analysis carried out in the above, initial steps to implement all or selected elements of major expansion options should commence by October 1, 1977.

- With respect to expansion of coverage to 100% of the population (Option B.2), first priority should be on extension of toll-free telephone lines and services out of the existing 37 Centers.
- Initial steps to upgrade the quality of information made available to Centers on a regular, recurring basis (Option C.2) should begin.

D. Implementation of Option E.1, for expanded citizen participation should not commence until substantial upgrading in FICs' response capability has been effected. A target date of January 1978, should be adopted to install the more limited, reactive citizen participation model.

Options for Expansion of Federal Information Centers

Option Description	Estimated Costs (\$ million)	Cost Comments	Scope/Quality of Services	Impact Analysis Number of Citizens Served	Difficulty/Risk in Implementing
I. Current Status Maintain existing network of 37 Federal Information Centers without major change	2.86	PRESENT LEVEL	PRESENT LEVEL	- Covers 55% of Population - 7.2 Million Inquiries (1976)	NOT APPLICABLE
II. Options for Expansion/Upgrade A.1 Upgrade quality of service in existing 37 Center network through modest management improvements	0.81	LOW - Adds 37 Staff - Supports full-time Center managers - Supports basic Management improvements	HIGH - Scope and accuracy of information improved - Better staff training	NO CHANGE	LOW - Current management procedures can be upgraded easily
A.2 Further upgrade quality of service by adjusting for major staff imbalances and improve response capabilities within existing 37 Center network	1.03	LOW - Adds 56 positions (51 at Center level)	HIGH - Reduce current work imbalances - Less lost calls - Improved information	MODERATE - Modest increase in volume	LOW - Modest increase in staff - Requires individual agency support for improved information
B.1 Expand coverage of Centers to entire country on toll-free basis from existing 37 Center network	3.60	HIGH - Adds 76 staff - Includes leased lines	MODERATE - 23 States still served from out of State	HIGH - Covers full population	MODERATE - Big staff increase - More data needed for new areas
B.2 Expand coverage to entire country with at least one Center per State	3.67	HIGH - Adds 81 staff - Includes leased lines	HIGH - All States served from in-State Center	HIGH - Covers full population	HIGH - 23 new locations - More data needed for new areas
B.3 Expand coverage to entire country but consolidate to ten regional Centers	4.49	HIGH - Adds 56 staff - Costly inter-State lines used	LOW - Limited local data - Less personal approach	HIGH - Covers full population	HIGHEST - Closes 27 Centers - New operating mode
C.1 Improve quality of service by expanding scope of informational services provided.	0.18	LOW - Minimal over A.1 and A.2	HIGH/LOW - Improved Federal data - Less local data	NO CHANGE	LOW - Requires improved information on outlying areas
C.2 Improve quality of service through major upgrading of telecommunications and data processing support	0 - 1.25	LOW - Does not include \$0.45 - \$0.75 start up costs	UNKNOWN - Can not be predicted - further tests needed	NO CHANGE	HIGH - Failure potential high - New system discipline
C.3 Improve quality of service by adding capacity to directly "bridge" callers to service agencies	NOT ESTIMATED	LOW/VERY HIGH - Determined by policies on extent of bridging	HIGH - High assurance that assistance is provided	UNKNOWN - Most help to disadvantaged	LOW - Cost/benefit tests needed
III. Options for Expanded Role D. Expand role of Federal Centers to serve as combined Government Information Centers (GIC) with cooperating States and localities	UP TO 0 - 1.43	MODERATE - Up to 50% of present costs - Costs shared by S/L governments	HIGH - One stop service - More comprehensive data provided	MODERATE - Assumes 50% increase where implemented	MODERATE - Requires individualized S/L agreements - S/L may withdraw
E.1 Expand role of Federal Centers to include processing of citizen viewpoints on national policies	0.65 - 4.48	LOW/VERY HIGH - Very publicity sensitive	HIGH - Expands opportunity for direct citizen involvement	LOW/VERY HIGH - Depends on publicity	HIGH - Could raise false expectations
E.2 Expand role of Federal Centers to facilitate handling of consumer complaints/inputs regarding Federal agency performance and policies	0 - 1.45	MODERATE - Adds 74 people	HIGH - Better referrals - Improved coordination of consumer programs	MODERATE	HIGH - Could distort public view of FICs

Recommendations for Expansion of Federal Information Centers
(Estimated Costs in \$millions)

Option Description	Estimated Costs	Possible Combinations	Recommendations		
				RECOMMENDED INCREASES	CUMULATIVE TOTALS
I. Current Status					
Maintain existing network of 37 Federal Information Centers without major change	2.86	BASE	CURRENT STATUS (BASE)		\$2.86
II. Options for Expansion/Upgrade					
A.1 Upgrade quality of service in existing 37 Center network through modest management improvements	0.81	ANY COMBINATION OF BASE + A.1 & A.2 POSSIBLE	A.1	\$0.81	
A.2 Further upgrade quality of service by adjusting for major staff imbalances and improve response capabilities within existing 37 Center network	1.03		A.2		1.03
			SUB-TOTAL	\$1.84	\$4.70
B.1 Expand coverage of Centers to entire country on toll-free basis from existing 37 Center network					
B.1	3.60	ONLY ONE OF B.1, B.2, OR B.3 POSSIBLE ALL ASSUME A.1 & A.2 BEING DONE			
B.2 Expand coverage to entire country with at least one Center per State	3.67		B.2	\$3.67	\$8.37
B.3 Expand coverage to entire country but consolidate to ten regional Centers	4.49				
C.1 Improve quality of service by expanding scope of informational services provided.					
C.1	0.18	ANY COMBINATION OF C B.1, B.2, OR B.3 ONLY	C.1	\$0.18	
C.2 Improve quality of service through major upgrading of telecommunications and data processing support	0 - 1.25		C.2 (EXPERIMENT ONLY)	0.16	
C.3 Improve quality of service by adding capacity to directly "bridge" callers to service agencies	NOT ESTIMATED		C.3 (LOCAL EXPERIMENT)	0	
			SUB-TOTAL	\$0.34	\$8.71
III. Options for Expanded Role					
D. Expand role of Federal Centers to serve as combined Government Information Centers (GIC) with cooperating States and localities	0 - 1.43	CAN BE ADDED TO ANY COMBINATION OF A, B, OR C	D (CALIFORNIA STATEWIDE EXPERIMENT)	\$0.16	
E.1 Expand role of Federal Centers to include processing of citizen viewpoints on national policies	0.65 - 4.48		E.1 (MODEL I, REACTIVE ONLY 60 CENTERS)	1.11	
E.2 Expand role of Federal Centers to facilitate handling of consumer complaints/inputs regarding Federal agency performance and policies	0 - 1.45		E.2 (MINIMUM COORDINATION)	0	
			SUB-TOTAL	\$1.27	
			TOTAL RECOMMENDATIONS		\$9.98

THE WHITE HOUSE
WASHINGTON

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J.C.

MINUTES OF THE CABINET MEETING

Monday, April 18, 1977

The thirteenth meeting of the Cabinet was called to order by the President at 9:04 a.m., Monday, April 18, 1977. All Cabinet members were present except Attorney General Bell, who was represented by Deputy Attorney General Peter Flaherty. Other persons present were:

Joe Aragon	Bob Lipshutz
Zbigniew Brzezinski	Bunny Mitchell
Landon Butler	Dick Moe
Pat Caddell	Frank Moore
Hugh Carter	Frank Press
Jane Frank	Gerald Rafshoon
Rex Granum	David Rubenstein
Jim King	Charles Schultze
Tim Kraft	Stansfield Turner
	Jack Watson

1. Ms. Kreps gave a presentation on the long-range goals of the Department of Commerce. The goals include improving the collection and dissemination of economic and social information; creating a better business environment; achieving balanced growth among cities, states and regions; developing more comprehensive oceans and coastal zone policies; and applying science and technology to current problems.

2. The President asked for comments from Cabinet members beginning with the Secretary of State:

-- Mr. Vance said that four foreign visitors are expected this week--Roy Jenkins, President of the European Community, will be here for two days principally to discuss north/south and other major economic issues facing Europe--Portuguese Prime Minister Soares arrives at a time when it is important for the U.S. to recognize Portugal's evolution toward a democratic government--Foreign Minister Khaddam of Syria, who is extremely instrumental in developing Syrian policy in the Middle East, will come here to learn first-hand and discuss the United States' current

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views on the Middle East--finally, King Hussein of Jordan arrives next Sunday for a very important visit with the President.

3. Mr. Brown gave statistics on the hiring of women, blacks and Hispanics at and above the Assistant Secretary level in DOD. He intends to follow through with affirmative action hiring at other senior and middle-rank levels in the Department.

-- Mr. Brown has sent the President a memorandum on SALT.

-- He will submit to the President on Friday a recommendation on the composition and charter of the Military Compensation Commission.

-- He described his trip last week to Rochester, New York, and New London, Connecticut.

4. Ms. Kreps said that after consultations with the Department of State, she will approve a salmon fisheries plan for the West Coast. Although some objections can be expected from the Canadians, Ms. Kreps is confident that her proposal is consistent with the Trudeau-Carter discussions last month.

5. Mr. Adams hopes that an Administration position can be established before April 25 on auto emissions. The President pointed out that EPA Administrator Doug Costle testifies today on the subject and will hold a news conference outlining the Administration's policies in this area.

-- Mr. Adams attended a rural transportation town meeting in Wichita, Kansas, on Saturday. He said that serious rural transportation problems have never been sufficiently addressed. He also noted that the energy program will have a greater impact in many respect on rural areas than on urban areas.

6. Mr. Lance described the status of three OMB projects: 1) an effort to develop requirements for consultant contracts; 2) the spring budget review process; and 3) identification of major "threats" to a balanced budget in 1981.

The President stressed the importance of better information on consultants. As he indicated in a recent note to Mr. Lance, he wants brief information to be disclosed concerning the scope of each consulting project,

-- She summarized HUD's flood relief efforts and said that she may ask Secretary Marshall for assistance from CETA funds.

The President asked Ms. Harris and all other Cabinet members to ensure that proper notification of OMB occurs when any intradepartmental reorganization is contemplated.

14. The President suggested that Dr. Schlesinger brief the Cabinet on the energy plan prior to his Wednesday night address to the joint session of Congress; he asked Jack Watson to arrange the briefing. Mr. Watson said that arrangements will also be made for the Cabinet and their spouses to attend the joint session on Wednesday night.

15. Mr. Bergland summarized his recent trip to California on drought matters. The entire region west of the Mississippi River is extremely dry, and a great deal depends whether or not there are heavy snows next winter. The \$100 million authorization for water conservation in the President's drought package is important as a short-run measure to overcome some of the present difficulties.

-- He was impressed by the cooperative farms he saw in California.

-- Mr. Bergland commented briefly on his progress in reorganizing the Agriculture Department.

16. The President stressed the importance of following the subcommittee budget mark-up process on the Hill. The President said that Cabinet members should be represented in these subcommittee mark-ups. If Cabinet members want to change Administration budget figures, they should discuss the matter with the President before communicating any decision. The President added that he has no reticence whatsoever about vetoing bills that exceed or significantly change budget authority.

17. The Vice President said that only four Cabinet departments had commented on the proposed six-month agenda. The President remarked that comments should be given today to the Vice President and that silence would be taken as agreement to the outline.

18. The President welcomed Deputy Attorney General Flaherty, the former Mayor of Pittsburgh, and noted that Pittsburgh was one of the great success stories in the nation in urban development.

-- Mr. Flaherty described the status of Justice Department's effort to reform LEAA. At present, the department is looking at some form of special revenue sharing as a way to revise the program.

19. The President said he wants an options paper on illegal aliens by next week. Mr. Marshall explained that some cost and measurement data will be absent from the memorandum, but that he could include the data which are available by the end of next week.

20. The President asked Mr. Adams for memoranda on Lock and Dam 26 and aircraft noise regulations this week.

21. The President has not called Prime Minister Callaghan yet on the U.S.-U.K. air rights issues. Mr. Adams thinks that the call would be helpful, and the President asked him and Mr. Alan Boyd to be present when the call is made.

22. Mr. Marshall summarized the status of Department of Labor efforts to prevent the longshoremen's strike from spreading and to minimize disputes in other areas.

-- He will testify on the youth bill, the anti-inflation program and collective bargaining this week.

-- He goes to Mexico this weekend to deliver a paper on dispute settlement.

23. Ambassador Young described meetings of the Economic and Social Council (ECOSOC) at the U.N. this month. He will address ECOSOC tomorrow morning.

-- He mentioned the recent deliberations at the U.N. on a peaceful solution for Namibia.

-- He plans to attend a regional conference in Guatemala for two days next week.

24. Dr. Brzezinski said that the NSC has issued twenty-two special reviews to date.

-- Four meetings were held last week: the first meeting resulted in the initial section of a proposal on electronic surveillance legislation; the proposal, among other things, undertakes to analyze the important civil rights issues involved; the second meeting on Europe was based on an inadequate policy paper and, therefore, produced no results; a third resulted in a paper on arms transfers; and a fourth concerned the Horn of Africa--especially Somalia.

-- Messrs. Brown, Vance and Brzezinski are continuing to work on the SALT issue; they have been meeting with Soviet Ambassador Dobrynin.

The President said that he wants to reduce the sale of conventional weapons world-wide.

25. The President reported that the stimulus package is still intact, despite elimination of the \$50 rebate. He wants to do everything possible to ensure that the \$11 billion originally scheduled for the rebate is not put back in the budget piecemeal.

26. Mr. Blumenthal stressed the need to take care of the jobs portion of the program and said that he is working with Senator Long to do so. Mr. Marshall concurred on the need for prompt action.

27. Mr. Califano urged the President to hold the line on the budget.

The President suggested that Cabinet members consider, wherever possible, consolidating several existing advisory committees into one major committee, much like his own Cabinet. Such a committee might meet once a month and overcome problems of built-in constituencies and patronage that plague existing committees.

-- Mr. Califano said that he has issued a directive in HEW ordering that the amount of consulting fees and the names of those who will receive such fees shall appear on the front page of all consulting reports.

-- He said that a report released today indicates that health care institutions can save \$1 billion in energy costs by 1980 if certain conservation measures are undertaken. He is assessing the situation in the education area as well.

-- He reiterated his concern that the Congressional Finance committees are loaded with a number of controversial bills--including cost containment and Social Security reform.

-- Mr. Califano noted the importance--both politically and in terms of social policy--of the impact of the proposed energy package on the poor. The President asked for additional views from him and suggested that he discuss the subject with Dr. Schlesinger.

The President, Messrs. Blumenthal, Schlesinger and Califano discussed the use of energy revenues to finance portions of the Social Security system. Messrs. Blumenthal, Califano, Eizenstat and Schultze will meet to discuss the issue, and Mr. Schultze will transmit a memorandum to the President on the subject.

27. The President applauded Mr. Andrus for his superb handling of the water projects decision.

-- Mr. Andrus said that the water projects package will stand scrutiny on its merits by anyone, although he expects there to be continued debate on the President's final decision.

-- He discussed briefly the controversy involving a submarine base off Cumberland Island, Georgia, and said that the Department of Interior will never sign off on using Cumberland Island as a spoil site. He believes that both the submarine base and recreational use of the island can be accommodated.

-- The President said that Mr. Andrus should communicate the Redwoods Park position to the Congress.

28. The President asked several Cabinet members about the status of certain projects:

-- Ms. Kreps said that problems with the Agency for Consumer Advocacy are not yet worked out. Business is still opposed to parts of the proposal, and she is working with Consumer Adviser Esther Peterson on certain modifications.

-- Mr. Bergland said that there is no comprehensive crop insurance program now, but that he is working on a proposal.

The President asked for a short memorandum from Mr. Blumenthal on IMF salaries. He would like to meet with interested departments and Assistant Secretary for Tax Policy Larry Woodworth on the need for the DISC program.

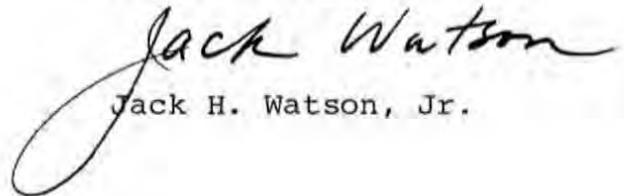
The President asked Mr. Adams for a report on the status of waterway user fees.

29. The President intends to spend considerable time during the next two weeks preparing for the International Economic Summit meeting; he asked Dr. Brzezinski to coordinate any comments from Cabinet members. He said that this may be his only trip abroad this year, and that it is crucially important as a first step in shaping our ties with the developing world.

30. The President regretted postponement of the Cabinet briefing by Cy Vance, scheduled for this evening, and indicated that it would be rescheduled soon.

The meeting was adjourned at 11:05 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jack Watson". The signature is written in dark ink and is positioned above the typed name.

Jack H. Watson, Jr.

THE WHITE HOUSE
WASHINGTON

6. Typo
27. ^{pl} Check accuracy
with Califano
27 3rd line typo

Jack - needs
better proof reading -
J

THE WHITE HOUSE
WASHINGTON

ok
J.C.

MINUTES OF THE CABINET MEETING

Monday, April 18, 1977

The thirteenth meeting of the Cabinet was called to order by the President at 9:04 a.m., Monday, April 18, 1977. All Cabinet members were present except Attorney General Bell, who was represented by Deputy Attorney General Peter Flaherty. Other persons present were:

Joe Aragon	Bob Lipshutz
Zbigniew Brzezinski	Bunny Mitchell
Landon Butler	Dick Moe
Pat Caddell	Frank Moore
Hugh Carter	Frank Press
Jane Frank	Gerald Rafshoon
Rex Granum	David Rubenstein
Jim King	Charles Schultze
Tim Kraft	Stansfield Turner
	Jack Watson

1. Ms. Kreps gave a presentation on the long-range goals of the Department of Commerce. The goals include improving the collection and dissemination of economic and social information; creating a better business environment; achieving balanced growth among cities, states and regions; developing more comprehensive oceans and coastal zone policies; and applying science and technology to current problems.

2. The President asked for comments from Cabinet members beginning with the Secretary of State:

-- Mr. Vance said that four foreign visitors are expected this week--Roy Jenkins, President of the European Community, will be here for two days principally to discuss north/south and other major economic issues facing Europe--Portuguese Prime Minister Soares arrives at a time when it is important for the U.S. to recognize Portugal's evolution toward a democratic government--Foreign Minister Khaddam of Syria, who is extremely instrumental in developing Syrian policy in the Middle East, will come here to learn first-hand and discuss the United States' current

J. G. W. / 18

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE

WASHINGTON

1

MEMORANDUM TO: THE PRESIDENT

FROM: Jack Watson
Jane Frank

Jack

April 15, 1977

RE: Proposed Agenda for the Cabinet Meeting
Monday, April 18, 1977

1. Presentation by Juanita Kreps* of long-range goals in the Department of Commerce. (20 minutes)
2. Discussion of release of the energy plan.
3. Reactions to the draft Calendar of Priority Activities.
4. Comments on the anti-inflation message and decision to drop the \$50 tax rebate.
5. Reports from Cabinet members.

* For next week we have tentatively scheduled Pat Harris on the Community Development Block Grant Program.

CC: The Vice President

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for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

rick --

original has been
given to tim kraft

SUPREME COURT OF GEORGIA
STATE JUDICIAL BUILDING
ATLANTA, GEORGIA 30334

CONLEY INGRAM
ASSOCIATE JUSTICE

April 18, 1977

Tim -
15 min
OK
J

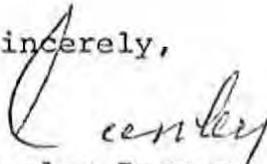
Mr. Jimmy Carter
President, U. S. A.
The White House
Washington, D. C.

Dear Jimmy:

I will be in Washington May 16th through the morning of May 20th to attend the annual meeting of the American Law Institute. I very much would like to come by the White House to see you for a brief visit sometime that week if at all possible for you. Please ask Susan Clough to let me know if this can be arranged, and, if so, I will come whenever you say.

Best regards to all.

Sincerely,


Conley Ingram

CI/mc

THE WHITE HOUSE
WASHINGTON

April 18, 1977

Charles Warren -

**The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.**

Rick Hutcheson

cc: The Vice President
Stu Eizenstat
Jack Watson
Z. Brzezinski

**Re: Non-Proliferation and the
Clinch River Breeder Reactor**

THE WHITE HOUSE
WASHINGTON

*cc Warren
CEP*

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Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

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THE WHITE HOUSE
WASHINGTON

Mr. President:
Brzezinski concurs.

Rick

THE PRESIDENT HAS SEEN.

cc Warren
J

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

April 13, 1977

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Non-Proliferation and the Clinch River Breeder Reactor
FROM: Charles Warren, Chairman

We wish to commend you for your strong and courageous leadership in establishing, for the first time, a U.S. policy which offers a realistic basis for controlling the spread of nuclear weapons capability abroad.

We believe that an issue left partially unresolved in your April 7 statement -- the future of the proposed Clinch River Breeder Reactor (CRBR) -- is of major importance and we would like to provide you with our thoughts on this question. For the reasons set out below, our judgment is that an early and unambiguous termination of the CRBR project is necessary to achieve your non-proliferation and energy policy objectives.

1. Proceeding with CRBR could easily undermine the Administration's credibility on non-proliferation abroad. A key aspect of your non-proliferation program is unilateral action by the United States denying ourselves plutonium-based power technologies in order to establish maximum credibility abroad. To have that credibility, the U.S. position must include a decisive turning away from the fast breeder reactor and, hence, from the CRBR. Continuation of the CRBR seriously risks sending the wrong signals to Western Europe nations and Japan, whom we seek to influence. Allowing the licensing or construction of the CRBR project to proceed is very likely to be interpreted by other countries as a U.S. move to keep a near-term IMFBR option open.

Will not do either

2. There are sound economic reasons why the CRBR project should not be continued. The recent Ford Foundation/Mitre Corporation study concluded that introduction of the breeder could be deferred for 20 years or longer without seriously affecting the economic health or security of the United States, and that this time should be used to carry out a broader program of research and development on breeder reactors. Also, far too much of our research and development resources have already been

I agree

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spent on this inherently dangerous CRBR design. This flow of resources should be ended now in order to avoid the accumulation of further commitments to the CRBR and to free energy R&D funds for other efforts.

3. All fast breeders could yield plutonium. Your statement indicated a shift away from plutonium breeders. Experimenting with other breeders using other moderators (e.g., gas, heavy water) and other blankets (e.g., thorium) holds the possibility of breeding non-weapons grade nuclear fuel. In contrast, a "fast" breeder of any type inherently can produce large amounts of plutonium, even if modified to operate on a uranium-thorium fuel cycle. Moreover, converting an LMFBR to operate on the uranium-thorium cycle involves changes primarily in the fuel and fuel rod geometry: the same reactor could easily be converted back to the uranium-plutonium cycle. To avoid uncertainty, we urge you to emphasize a shift in U.S. policy away from fast breeder technology generally and toward studies of other breeder options which will not create substantial amounts of plutonium.

Relatedly, we would caution against efforts to utilize the CRBR as part of a program to demonstrate the operation of fast breeders on a uranium-thorium cycle. In addition to the expense involved, it appears that such a reactor would produce too much plutonium and not enough U²³³ to offer realizable proliferation advantages. This question deserves additional investigation prior to any decision or commitment of resources.

4. Proceeding with the CRBR project will produce adverse public reaction. The CRBR has been the focal point in attacks by the public interest groups on the Ford Administration's energy policy. Environmental and arms control groups will have difficulty supporting your Administration's energy message policy if it appears that the CRBR is continuing.

We are ready to help in any way possible on this matter.

Respectfully submitted,


Charles Warren
Chairman

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for Preservation Purposes**

THE WHITE HOUSE
WASHINGTON

10 w/
sk

Date: April 14, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Jack Watson *AC*
Zbigniew Brzezinski *Donnell*

FOR INFORMATION: The Vice Presid
James Schlesing

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Charles Warren memo 4/13 re Non-Proliferation
and the Clinch River Breeder Reactor.

**YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:**

TIME: IMMEDIATE TURNAROUND

DAY:

DATE:

ACTION REQUESTED:

Your comments

Other:

STAFF RESPONSE:

I concur.

No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

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EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

April 13, 1977

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Non-Proliferation and the Clinch River Breeder Reactor
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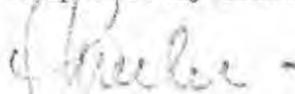
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We are ready to help in any way possible on this matter.

Respectfully submitted,



Charles Warren
Chairman

Date: April 14, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Jack Watson ✓
Zbigniew Brzezinski

FOR INFORMATION: The Vice President
James Schlesinger

FROM: Rick Hutcheson, Staff Secretary

1977 APR 14 PM 2 32

SUBJECT: Charles Warren memo 4/13 re Non-Proliferation
and the Clinch River Breeder Reactor.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:
TIME: IMMEDIATE TURNAROUND
DAY:
DATE:

ACTION REQUESTED:

Your comments

Other:

STAFF RESPONSE:

I concur.

Please note other comments below:

No comment. *[Signature]*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

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THE WHITE HOUSE
WASHINGTON

April 18, 1977

The Vice President
Stu Eizenstat
Frank Moore
Jack Watson
Bert Lance
Landon Butler

The attached was returned in the
President's outbox and is forwarded
to you for your information and
appropriate action.

Rick Hutcheson

Re: Local Public Works Legislation

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

April 14, 1977

*I don't
favor either
one -*

MEMORANDUM FOR: THE PRESIDENT
FROM: STU EIZENSTAT *Stu*
BILL JOHNSTON
SUBJECT: Lance Memo re: Local
Public Works

J

Issue

The House version of the Local Public Works bill (now in conference) contains two provisions that would:

- 1) Require that all public works projects be built by private contractors. Previously about 10% of the projects have been constructed by public agencies themselves.
- 2) Expand the provisions of the Davis-Bacon Act to require that the "prevailing wage" be paid to all workers employed on public works projects, not just to those employed by contractors and subcontractors, as the standard language of Davis-Bacon reads.

The Senate version does not contain these provisions. We have been asked to clarify our position to the conferees.

Discussion

OMB, CEA, COWPS, HUD and EPA feel we should oppose both provisions. They argue that these changes would add to wage costs, set undesirable precedents for other projects to which Davis-Bacon applies, and create potential legal problems given recent Supreme Court decisions that federal labor standards cannot be applied to state and local employees.

The Department of Labor, the Department of Commerce, and the buildings trade unions feel we should support both provisions. They feel that public works projects should be performed at fair wages in the private sector and that these changes insure this result.

(According to Lance, DoL and DoC ask that the Administration be silent if these provisions cannot be supported. --Rick)

STAFF COMMENTS AND RECOMMENDATIONS

EIZENSTAT: "We believe that we should support the provision that requires governments to subcontract all work to the private sector, (subject to a waiver by the Secretary of Commerce) but we recommend vigorous opposition to the language extending the Davis-Bacon Act. This stance will satisfy the construction unions since it will insure that all work is performed in the private sector. We should avoid the undesirable precedent of dictating wage standards for state and local workers, and the potential danger of extending high wage Davis-Bacon coverage to CETA and other public jobs programs."

WATSON: Agrees with Stu on both issues. "State and local governments do support (the forced account provision), and it will prevent them from switching their own payrolls to federal funds. Local governments would still be able to use some money on local administration and design initiatives. They are also going to receive increased counter-cyclical funds to help with payroll problems."

VICE PRESIDENT: Although the proposal that all public works projects be built by private contractors has strong support from the building trades and construction unions, it is opposed strongly by the public employee unions, specifically, AFSCME, for two reasons: (1) their members perform some of these public works projects and would lose this work were this requirement enacted; and (2) it would affirm a general trend which they strongly oppose of subcontracting out public employee work to private contractors. Jerry Wurf has campaigned strongly in public against such subcontracting, arguing that it is actually more expensive to do so, and that it costs his members jobs. Mondale suggests that if you support this provision that some language be drafted which would allow for "administrative authority to grant exceptions in cases where public employees regularly perform such work at less expense."

BUTLER: "I suggest that we not get involved in the conference decisions on either question... Both Stu and Jack make a good case for a compromise. Organized labor, however, has not asked us to support these provisions. It therefore seems to me that it should be the job of the House and Senate conferees to draft the compromise, not us. It doesn't seem to me that either of these two issues are central to our concerns on this bill. By volunteering a compromise, we are simply taking the conferees off the hook, and asking for trouble ourselves. We should respond to the conferees by saying only that we hope for a speedy compromise."

OPTIONS

_____ Support both provisions (DoL, DoC)

_____ Oppose both provisions (OMB, CEA, COWPS, HUD, EPA)

_____ Oppose the expanded Davis-Bacon provision, but
support the forced account provision. (Watson, Eizenstat)

_____ Take no position (Butler)

_____ Agree with Mondale suggestion that if you support the
forced account provision, administrative exceptions
be made possible for public employees

LANCE MEMO



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APR 12 1977

ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: BERT LANCE *B Lance*
SUBJECT: Local Public Works Legislation

BACKGROUND

Conference work is now underway on the public works bills (H.R. 11 and S. 427). Final agreement and passage is expected soon after Congress reconvenes from the Easter recess, April 18.

The House version of the public works legislation contains two provisions that raise a major policy issue on the way in which federally funded construction will be carried out. The provisions are:

- Force Account provision....a prohibition on the use of any state or local government employees performing any of the work funded by the \$4 billion authorized under this program; and
- Davis-Bacon provision....a modification of the standard Davis-Bacon wage setting procedure which would have the effect of requiring any person employed on a project funded under this program to be paid the prevailing Davis-Bacon wage rate, including any state or local public employees.

ISSUE

What should the Administration's position be on the "force account" and modified Davis-Bacon provisions?

DISCUSSION

The Davis-Bacon Act was passed in 1931, and requires that Federal contractors and sub-contractors must pay wages no less than local "prevailing wages" as determined by the Department of Labor (DOL). Since 1931, over 70 Federal laws have been enacted that include provisions requiring that prevailing wages be paid by contractors on federally-funded construction under grant-in-aid and other assistance programs such as: the Federal Aid Highway Act of 1956, the National Housing Act, the Water Quality Act of 1964, and the Public Works and Economic Development Act of 1965.

In April of 1976, the previous Secretary of Labor attempted to change the meaning of "contractor" under the Davis-Bacon clause of Title X of the Public Works and Economic Development Act of 1970, (PWEDA). The Secretary's action was the result of pressure from the unions who discovered that much of the Title X Job Opportunities program construction was being carried out by State and local government employees instead of by contractors. Citing the authority of the Reorganization Act No. 14 of 1950, which gives the Secretary of Labor the responsibility for the coordination of administration and consistency of enforcement of the labor standard provisions of Federal grant-in-aid and other assistance programs, the Department of Labor asserted that a "contractor" under Title X of PWEDA was (1) one who performs construction work, (2) one who hires additional employees on a temporary basis for the performance of construction work, or (3) one who performs new building construction, including an addition to an existing structure, or initial highway construction. Thus, for the first time State and local entities, using their own workforces on construction projects, would have been required to pay Davis-Bacon wages to their own employees.

The Commerce Department informed the Department of Labor that it disagreed with the new interpretation, and believed that the Reorganization Plan did not provide DOL the authority to change the definition of "contractor" under another agency's statute. In December 1976, the Secretary of Labor extended his new definition to the Local Public Works Act of 1976 (\$2 billion). In order to settle the disagreement Commerce requested the Justice Department to give an opinion on the Secretary of Labor's authority and on whether the term "contractor" under Title X of PWEDA includes employees hired by public entities to carry out construction. The Justice Department, on January 11, ruled in favor of the Commerce Department's interpretation and stated that "project work carried out by State and local governments under PWEDA on a "force account" basis is not subject to the labor standard (Davis-Bacon) provisions. (~~See Attachment A~~).

The specific provisions at issue in the House passed version of the local public works reauthorization 1) forbid State and local government grantees to engage in construction activity under this program except by contracting the work to a private construction firm (~~see Attachment B~~) and 2) modify the standard Davis-Bacon language, which requires that construction work performed by contractors and subcontractors is subject to the wage setting procedure under Davis-Bacon, by striking the phrase "contractors and subcontractors" thereby making State and local public employees subject to the Davis-Bacon wage setting procedures, (~~see Attachment C~~).

In considering these two provisions the following broader factors appear important:

- ° Organized labor support these provisions. This is probably because about ten percent of the projects (about 400) are

likely to be carried out using State and local public employees; only a small portion of public employee jobs will go to union members; contracting out would result in more union jobs; and wages paid public employees would normally be lower than those paid by private contractors and subcontractors.

- Federal wage setting for local government is an issue. The Supreme Court ruled last year that the Fair Labor Standards Act (FLSA) cannot be applied to states and local governments. Unions have been exploring ways to overturn this. One device is to condition grants-in-aid by requiring recipient governments to conform to FLSA. The Davis-Bacon modification in this case can be viewed as a first step in the direction of the Federal Government's assertion of the right to set State and local government wage rates.
- This could establish a precedent for other public community development and construction type programs. The unions tend to enforce consistency among statutes and practices. If the modified Davis-Bacon clause in this bill is accepted, it could become the standard for the more than 70 other acts that already apply Davis-Bacon wage standards to federally assisted State and local government construction projects and any similar future legislation in this area.

Specifically related to the public works program, these two provisions are likely to have the following effects.

- Delay implementation of the program. Commerce had expected to grant the \$4 billion principally to project applications already in-hand from the first round last fall. With these two new provisions, they will have to allow applicants to revise their requests to take into account the contracting clause and project costs. It is also likely that the modified Davis-Bacon clause would be in conflict with state or local laws governing the setting of public employee salaries.
- Reduce the number of projects which will be funded. Since we are working within a fixed appropriation amount (\$4 billion) and assuming that these provisions will increase project costs, there will be fewer projects funded.
- Reduce the number of jobs created. A corollary to the number of projects funded is that the higher per project and per job costs within a fixed total means fewer jobs.
- Unusual restrictions of local government decision-making. These provisions would likely result in some local governments having to contract out work which they normally perform themselves, such

as rural road and bridge repairs or painting of school buildings. This represents an unusual restriction on the ability of local governments to decide how public work can and should best be carried out.

OPTIONS

- Option #1: Oppose both provisions on the grounds that they would result in unnecessary time delays, reduce the number of jobs created, and establish undesirable restrictions on the rights of State and local governments.
- Option #2: Oppose the expanded Davis-Bacon provision, as an undesirable restriction on state and local rights, but support a modified "force account" provision which allows substantial administrative authority to grant exceptions.
- Option #3: Support both provisions as contributing to the objective of decreasing private construction trades unemployment.

RECOMMENDATION

The Secretary of Labor urges support of both provisions. He also asks that if they cannot be supported, the Administration be silent (~~see Attachment #1~~). We understand that the Department of Commerce agrees with this recommendation. The Council of Economic Advisors, the Council on Wage and Price Stability, the Department of Housing and Urban Development (informally), and the Environmental Protection Agency (informally) are opposed to these provisions.

Based on our review of these provisions, I recommend that you oppose both provisions.

DECISION

- _____ Option #1: Oppose both provisions.
- _____ Option #2: Oppose the expanded Davis-Bacon provision, but support a modified (weakened) "force account" provision.
- _____ Option #3: Support both provisions

Attachments

THE WHITE HOUSE
WASHINGTON

Date: April 12, 1977

MEMORANDUM

FOR ACTION:

The Vice President *attached - mixed*
Stu Eizenstat *- attached - mixed*
Hamilton Jordan *- attached*
Frank Moore
Jack Watson *- attached - disagrees*

FOR INFORMATION: Midge Costanza

- support provision on contrary to private sector, oppose Davis Bacon Act

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Bert Lance memo 4/12 re Local Public Works Legislation.

YOUR RESPONSE MUST BE DELIVERED TO THE STAFF SECRETARY BY:
TIME: 1:00 P.M.
DAY: Friday
DATE: April 15, 1977

ACTION REQUESTED:

Your comments
Other:

STAFF RESPONSE:

I concur.
Please note other comments below:

No comment.

2/19

Hold for Hamilton comments

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

April 12, 1977

MEMORANDUM

FOR INFORMATION:

FOR INFORMATION: Midge Costanza

The Vice President
Stu Eizenstat
Hamilton Jordan
Frank Moore
Jack Watson ✓

APR 14 1977

Bruce

FROM: Rick Hutcheson, Staff Secretary

1977 APR 12 PM 7 16

SUBJECT: Bert Lance memo 4/12 re Local Public Works
Legislation.

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 1:00 P.M.

DAY: Friday

DATE: April 15, 1977

ACTION REQUESTED:

Your comments

Other:

STAFF RESPONSE:

I concur.

No comment.

Please note other comments below:

Call Bill Johnston -

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)



THE VICE PRESIDENT
WASHINGTON

April 15, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: THE VICE PRESIDENT *WF*
SUBJECT: TWO PROVISIONS PENDING IN CONFERENCE
ON PUBLIC WORKS BILL

I would like to raise an additional point concerning the proposal that all public works projects be built by private contractors. While this proposal has strong support from the building trades and construction unions, it is opposed strongly by the public employee unions, specifically, the American Federation of State, County, and Municipal Employees. Their reasons are twofold:

1. Their members perform some of these public works projects and would lose this work were this requirement enacted, though the numbers involved are not too substantial from their point of view.
2. Perhaps more importantly, from their point of view, it affirms a general trend which they strongly oppose of subcontracting out public employee work to private contractors.

AFSCME President Jerry Wurf has campaigned strongly in public against such subcontracting arguing that it is actually more expensive to do so and that it costs his members jobs at a time when their ranks have been severely hurt by unemployment caused by city and state budget deficits.

I therefore suggest that if we support this provision that some language be drafted which would allow for "administrative authority to grant exceptions in cases where public employees regularly perform such work at less expense."

Recommendation

We believe that we should support the provision that requires governments to subcontract all work to the private sector, (subject to a waiver by the Secretary of Commerce) but we recommend vigorous opposition to the language extending the Davis-Bacon Act. This stance will satisfy the construction unions since it will insure that all work is performed in the private sector. We should avoid the undesirable precedent of dictating wage standards for state and local workers, and the potential danger of extending high wage Davis-Bacon coverage to CETA and other public jobs programs.

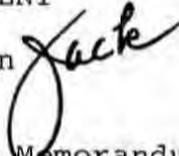
THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO: THE PRESIDENT

FROM:

Jack Watson



April 15, 1977

RE:

Bert Lance Memorandum on Local Public Works Legislation

I respectfully suggest that you follow a course of action different from any of the options outlined by Bert.

In my view, you should:

1. Support the forced account provision.
State and local governments do support it, and it will prevent them from switching their own payrolls to federal funds. Local governments would still be able to use some money on local administration and design initiatives. They are also going to receive increased counter-cyclical funds to help with payroll problems.
2. Oppose Davis-Bacon modification.

I would go to organized labor to solicit their support for this package.

Attachments

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO THE PRESIDENT

FROM: LONDON BUTLER *LB*
DATE: APRIL 15, 1977
SUBJECT: LANCE MEMO RE: LOCAL PUBLIC WORKS

I suggest that we not get involved in the conference decisions on either the question of the Force Account provision or the modification of the Davis-Bacon provision.

Labor and Commerce feel we should support both provisions, and OMB, SEA, COWPS, HUD, and EPA feel we should oppose both provisions.

Both Stu and Jack make a good case for a compromise. Organized labor, however, has not asked us to support these provisions. It therefore seems to me that it should be the job of the House and Senate Conferees to draft the compromise, not us.

It doesn't seem to me that either of these two issues are central to our concerns on this bill. By volunteering a compromise, we are simply taking the conferees off the hook, and asking for trouble ourselves. We should respond to the conferees by saying only that we hope for a speedy compromise.

95TH CONGRESS
1ST SESSION

H. R. 11

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 1977

Read twice and referred to the Committee on Environment and Public Works pursuant to the order of the Senate of February 25 (legislative day, February 21), 1977

AN ACT

To increase the authorization for the Local Public Works Capital Development and Investment Act of 1976.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 102 of the Local Public Works Capital De-
4 velopment Investment Act of 1976 is amended by adding

5 at the end thereof the following:

6 “(4) ‘public works project’ includes the trans-
7 portation and providing of water to drought-stricken
8 areas.”

9 SEC. 2. Paragraph (2) of section 102 of the Local
10 Public Works Capital Development and Investment Act of
11 1976 is amended by striking out “and American Samoa.”

Date: April 12, 1977

MEMORANDUM

FOR ACTION:

The Vice President
Stu Fizenstat
Hamilton Jordan
Frank Moore
Jack Watson

FOR INFORMATION: Midge Costanza

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Bert Lance memo 4/12 re Local Public Works
Legislation.

239
XC: B Johnston
B CARP
977 APR 12 PM 8 43

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 1:00 P.M.

DAY: Friday

DATE: April 15, 1977

ACTION REQUESTED:

Your comments

Other:

STAFF RESPONSE:

I concur.

No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

Attachments not submitted to the President



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

APR 12 1977

ACTION

MEMORANDUM FOR: THE PRESIDENT
FROM: BERT LANCE *B Lance*
SUBJECT: Local Public Works Legislation

BACKGROUND

Conference work is now underway on the public works bills (H.R. 11 and S. 427). Final agreement and passage is expected soon after Congress reconvenes from the Easter recess, April 18.

The House version of the public works legislation contains two provisions that raise a major policy issue on the way in which federally funded construction will be carried out. The provisions are:

- ° Force Account provision....a prohibition on the use of any state or local government employees performing any of the work funded by the \$4 billion authorized under this program; and
- ° Davis-Bacon provision....a modification of the standard Davis-Bacon wage setting procedure which would have the effect of requiring any person employed on a project funded under this program to be paid the prevailing Davis-Bacon wage rate, including any state or local public employees.

ISSUE

What should the Administration's position be on the "force account" and modified Davis-Bacon provisions?

DISCUSSION

The Davis-Bacon Act was passed in 1931 and requires that Federal contractors and sub-contractors must pay wages no less than local "prevailing wages" as determined by the Department of Labor (DOL). Since 1931, over 70 Federal laws have been enacted that include provisions requiring that prevailing wages be paid by contractors on federally-funded construction under grant-in-aid and other assistance programs such as: the Federal Aid Highway Act of 1956, the National Housing Act, the Water Quality Act of 1964, and the Public Works and Economic Development Act of 1965.

In April of 1976, the previous Secretary of Labor attempted to change the meaning of "contractor" under the Davis-Bacon clause of Title X of the Public Works and Economic Development Act of 1970, (PWEDA). The Secretary's action was the result of pressure from the unions who discovered that much of the Title X Job Opportunities program construction was being carried out by State and local government employees instead of by contractors. Citing the authority of the Reorganization Act No. 14 of 1950, which gives the Secretary of Labor the responsibility for the coordination of administration and consistency of enforcement of the labor standard provisions of Federal grant-in-aid and other assistance programs, the Department of Labor asserted that a "contractor" under Title X of PWEDA was (1) one who performs construction work, (2) one who hires additional employees on a temporary basis for the performance of construction work, or (3) one who performs new building construction, including an addition to an existing structure, or initial highway construction. Thus, for the first time State and local entities, using their own workforces on construction projects, would have been required to pay Davis-Bacon wages to their own employees.

The Commerce Department informed the Department of Labor that it disagreed with the new interpretation, and believed that the Reorganization Plan did not provide DOL the authority to change the definition of "contractor" under another agency's statute. In December 1976, the Secretary of Labor extended his new definition to the Local Public Works Act of 1976 (\$2 billion). In order to settle the disagreement Commerce requested the Justice Department to give an opinion on the Secretary of Labor's authority and on whether the term "contractor" under Title X of PWEDA includes employees hired by public entities to carry out construction. The Justice Department, on January 11, ruled in favor of the Commerce Department's interpretation and stated that "project work carried out by State and local governments under PWEDA on a "force account" basis is not subject to the labor standard (Davis-Bacon) provisions. (See Attachment A).

The specific provisions at issue in the House passed version of the local public works reauthorization 1) forbid State and local government grantees to engage in construction activity under this program except by contracting the work to a private construction firm (see Attachment B) and 2) modify the standard Davis-Bacon language, which requires that construction work performed by contractors and subcontractors is subject to the wage setting procedure under Davis-Bacon, by striking the phrase "contractors and subcontractors" thereby making State and local public employees subject to the Davis-Bacon wage setting procedures, (see Attachment C).

In considering these two provisions the following broader factors appear important:

- ° Organized labor support these provisions. This is probably because about ten percent of the projects (about 400) are

likely to be carried out using State and local public employees; only a small portion of public employee jobs will go to union members; contracting out would result in more union jobs; and wages paid public employees would normally be lower than those paid by private contractors and subcontractors.

- Federal wage setting for local government is an issue. The Supreme Court ruled last year that the Fair Labor Standards Act (FLSA) cannot be applied to states and local governments. Unions have been exploring ways to overturn this. One device is to condition grants-in-aid by requiring recipient governments to conform to FLSA. The Davis-Bacon modification in this case can be viewed as a first step in the direction of the Federal Government's assertion of the right to set State and local government wage rates.
- This could establish a precedent for other public community development and construction type programs. The unions tend to enforce consistency among statutes and practices. If the modified Davis-Bacon clause in this bill is accepted, it could become the standard for the more than 70 other acts that already apply Davis-Bacon wage standards to federally assisted State and local government construction projects and any similar future legislation in this area.

Specifically related to the public works program, these two provisions are likely to have the following effects.

- Delay implementation of the program. Commerce had expected to grant the \$4 billion principally to project applications already in-hand from the first round last fall. With these two new provisions, they will have to allow applicants to revise their requests to take into account the contracting clause and project costs. It is also likely that the modified Davis-Bacon clause would be in conflict with state or local laws governing the setting of public employee salaries.
- Reduce the number of projects which will be funded. Since we are working within a fixed appropriation amount (\$4 billion) and assuming that these provisions will increase project costs, there will be fewer projects funded.
- Reduce the number of jobs created. A corollary to the number of projects funded is that the higher per project and per job costs within a fixed total means fewer jobs.
- Unusual restrictions of local government decision-making. These provisions would likely result in some local governments having to contract out work which they normally perform themselves, such

as rural road and bridge repairs or painting of school buildings. This represents an unusual restriction on the ability of local governments to decide how public work can and should best be carried out.

OPTIONS

- Option #1: Oppose both provisions on the grounds that they would result in unnecessary time delays, reduce the number of jobs created, and establish undesirable restrictions on the rights of State and local governments.
- Option #2: Oppose the expanded Davis-Bacon provision, as an undesirable restriction on state and local rights, but support a modified "force account" provision which allows substantial administrative authority to grant exceptions.
- Option #3: Support both provisions as contributing to the objective of decreasing private construction trades unemployment.

RECOMMENDATION

The Secretary of Labor urges support of both provisions. He also asks that if they cannot be supported, the Administration be silent (see Attachment D). We understand that the Department of Commerce agrees with this recommendation. The Council of Economic Advisors, the Council on Wage and Price Stability, the Department of Housing and Urban Development (informally), and the Environmental Protection Agency (informally) are opposed to these provisions.

Based on our review of these provisions, I recommend that you oppose both provisions.

DECISION

- _____ Option #1: Oppose both provisions.
- _____ Option #2: Oppose the expanded Davis-Bacon provision, but support a modified (weakened) "force account" provision.
- _____ Option #3: Support both provisions

Attachments

Attachment A

Attachment A

✓ @ HEM
© Bill Clinger

Office of the Attorney General
Washington, D. C. 20530

Congratulations!



EDA file
General - JH
re: Davis-Bacon 1/12/77
issue -

Honorable Elliot Richardson
Secretary of Commerce
Department of Commerce
Washington, D.C. 20230

Dear Mr. Secretary:

This is in response to the December 3, 1976, letter from Acting Secretary of Commerce Smith requesting my opinion whether the term "contractors or subcontractors" in § 109 of the Local Public Works Capital Development and Investment Act of 1976 (Local Public Works Act) encompasses governmental grantees under the Act who choose to carry out project work by direct hire of a work force (i.e., on a "force account" basis) rather than by entering into contracts with independent contractors.

Section 109 provides as follows:

All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The

Secretary shall not extend any financial assistance under this Act for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

The Secretary of Labor, acting "in accordance with [his] responsibilities under Reorganization Plan No. 14 of 1950," advised the Secretary of Commerce by letter of October 27, 1976, of his determination that:

a "contractor" within the meaning of section 109 of the Local Public Works Capital Development and Investment Act of 1976 is: (1) one who performs construction work, including alteration or repair, pursuant to a contract; (2) one who hires additional employees on a temporary basis for the purpose of performing construction work, including alteration or repair, which historically has not normally been performed by its regular work force; or (3) one who performs new building construction, including an addition to an existing structure, or initial highway construction.

The letter to me from the Acting Secretary of Commerce expresses disagreement with this interpretation, insofar as it would bring within the Davis-Bacon restrictions "force account" work by State and local government grantees.

In connection with this matter, we have considered the views of the Department of Labor, which were provided in a memorandum of law from the Solicitor of Labor dated

December 20, 1976. The Solicitor calls attention to opinions of earlier Attorneys General, which set forth the principle that an opinion should not be furnished unless the question posed is one which the head of the department making the request is "called upon to decide in its administration." 20 Op. A.G. 312, 313 (1892); see 28 U.S.C. 512.^{1/} It is unquestioned in the present case that the Secretary of Commerce has an administrative responsibility whose disposition depends upon resolution of the issue here presented --namely, the responsibility to withhold financial assistance from any project which does not comply with the labor standard requirements of the law. The Solicitor of Labor contends, however, that the resolution of this particular issue has

^{1/} The policy reasons for the limitation are obvious, and not dissimilar from some of the bases underlying the judicial doctrine of standing. It has been said, however, that "as a matter of public policy as well as of courtesy, any doubt on a question of this nature should be determined in favor of the propriety of [giving] advice." 27 Op. A.G. 37, 38 (1908).

been committed to the Secretary of Labor by the following sentence of § 109: 2/

The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

The first of the cited provisions authorizes the Secretary of Labor to prescribe, and requires other agencies to observe, "standards, regulations, and procedures . . . with respect to compliance with and enforcement of . . . labor standards." The second requires the Secretary to "make reasonable regulations for contractors and subcontractors engaged in . . . works financed in whole or in part by loans or grants from the United States." While I do not dispute the propriety of the Secretary of Labor's addressing the question here at issue under the authority provided by these provisions, or even the claim to great deference for his determination, I

2/ The Solicitor also cites the Portal-to-Portal Act, 29 U.S.C. 259, which establishes as a defense to any liability or punishment for failure to pay minimum wages under the Davis-Bacon Act reliance upon a written regulation, order, ruling, approval, or interpretation of the Secretary of Labor. I will not discuss this provision here, since any support for the Solicitor's position which it provides is much weaker than that contained within the two provisions discussed in text.

believe that the Secretary of Commerce's administrative responsibility for implementation of the Local Public Works Act at least requires him to satisfy himself concerning any doubts he may have regarding the lawfulness of the Secretary of Labor's determination, and permits him to seek my advice for that purpose. This conclusion will be seen as particularly appropriate when it is recognized that, as will be discussed below, the present controversy does not involve a uniform interpretation which the Secretary of Labor seeks to apply to the Davis-Bacon Act and all related acts, but rather a special rule applicable to the Local Public Works Act.^{3/} To the extent the outcome hinges upon the peculiar text or peculiar circumstances of that law, the policy considerations supporting an assertion of exclusive cognizance in the Secretary of Labor become less persuasive, and the issue becomes more appropriate for--if not resolution by the Secretary of Commerce--at least examination by the Attorney General at the Secretary's instance.

I find, moreover, that the jurisdictional issue has already been resolved in an opinion issued by Attorney General

3/ The Solicitor of Labor states that although "the Secretary . . . has under consideration the matter of defining 'contractor' uniformly under all of the Davis-Bacon labor standards statutes," "because individual statutes vary materially in their language, it has been determined that such action for the time being will be considered on a case by case basis"

Rogers in 1960, 41 Op. A.G. 488. That opinion responded to an inquiry from the Secretary of Commerce as to whether owner-operators of trucks engaged in federally subsidized highway projects were "employed" laborers and mechanics covered by 23 U.S.C. 113--a provision invoking the Davis-Bacon Act, similar to the § 109 at issue here. There, as here, the Secretary of Commerce disagreed with the Secretary of Labor's determination of coverage. After affirming the authority of the Secretary of Labor to address the issue (just as I affirm that authority in the present case), Attorney General Rogers examined the basis for that decision and concluded that "in my judgment, the Secretary of Labor's interpretation of the Davis-Bacon Act and 23 U.S.C. 113 is a proper one." Id. at 503. If the issuance of an opinion was appropriate in that case, it is a fortiori appropriate here, since the status of State and local governmental grantees as "contractors" goes much more to the heart of administration of the particular statute in question than did the status of owner-operators in that earlier case.

The Solicitor's memorandum also suggests an allied point, to wit, that the proper forum to decide the present question is the Department of Labor's Wage Appeals Board established

by the Secretary's Order No. 32-63 (29 Fed. Reg. 118, Jan. 4, 1964, as amended by 29 Fed. Reg. 4761, April 2, 1964). The difficulty with this resolution is that the Wage Appeals Board is directly responsible to the Secretary of Labor for the proper performance of its functions, which include the obligation to abide by the Secretary's interpretations. Surely it would be futile to require an appeal to this body of a ruling made by the Secretary personally in his letter to the Secretary of Commerce of October 27, 1976.

Turning, then, to the substance of the matter, I must find that the application of the Davis-Bacon provisions to "force account" projects under the Local Public Works Act as set forth in the Secretary's letter can not be derived from the language of the statute. The phrase "contractors or subcontractors" appears in the Local Public Works Act for the first and only time in § 109. Through the remainder of the Act, the grantees are referred to as "governments" or "applicants," see, e.g., §§ 103(a), 108(b)(c)(d), 106(d). It would not occur to a person reading through the Act as an integral whole that the new term "contractors or subcontractors" was being applied to these entities. In fact, even if these words were used in isolation, in a construction context such as is here involved their normal application would not

embrace an entity which performs work for itself, with its own employees, but would be limited to an entity which performs work, under contract, for another. Although the term "contractor" is "strictly applicable to any person who enters into a contract," it "is commonly reserved to designate one who, for a fixed price, undertakes to procure the performance of works on a large scale, or the furnishing of goods in large quantities, whether for the public or a company or individual." Black, Law Dictionary 397 (4th ed. 1951). The same authority gives the following definition: "One who in pursuit of independent business undertakes to perform a job or piece of work, retaining in himself control of means, method and manner of accomplishing the desired result." Id. Neither of these definitions would appropriately be applied to a State or local governmental entity in the present context.

This normal meaning of the phrase "contractors or subcontractors" might, to be sure, be overcome by some contrary indication of legislative intent, displayed in the text of the statute or in its legislative history. In fact, however, all such indications positively reenforce the interpretation described above. The text of § 109, in addition to referring explicitly to the Davis-Bacon Act, is patterned after the language of that statute--for example, in its use

of the phrase "laborers and mechanics" and the terminology "prevailing wages." It is entirely clear in the Davis-Bacon Act, however, that the phrase "contractor or subcontractor," which appears frequently, is employed in the usual sense described above, and not in such a fashion as would render it applicable to the initiator of the work, the United States itself. See, e.g., Veader v. Bay State Dredging & Contracting Co., 79 F. Supp. 837, 840 (D. Mass 1948); 38 Op. A.G. 229 (1935). It is true that the situations are not entirely parallel, since in the Local Public Works Act there intervenes a third party between the United States and the "contractor" in the Davis-Bacon sense. This seems to us inconsequential, however, since the word is for present purposes only susceptible of two meanings, one of which would include the initiator of the work (whether it be the United States or the State or locality to which the United States makes grants), and the other of which--following the usual meaning in a construction context--would include only the person or entity which contracts to do the work for another.

The Solicitor of Labor cites several cases decided under the Fair Labor Standards Act, as amended, 29 U.S.C. 201 et seq., as supporting the Secretary's interpretation of the term "contractor". Wirtz v. Allen Green & Associates, Inc., 379 F.2d 198 (6th Cir. 1967); Brennan v. Six Flags Over

Georgia, Ltd., 474 F.2d 18 (5th Cir. 1973), cert. denied, 414 U.S. 827 (1973), Hodgson v. Colonnades, Inc., 472 F.2d 42 (5th Cir. 1973). These decisions, however, deal with statutory language which is in no way parallel to that involved here; and they do not raise the central issue of legislative intent here involved, namely, whether the employment practices of State and local government entities were meant to be covered.

The Solicitor's memorandum places some reliance upon the fact that the second sentence of § 109 requires the Secretary of Commerce to obtain assurance that "these labor standards will be maintained upon the construction work" (emphasis added)--suggesting that the underscored phrase indicates that all work on the project is covered. However, the phrase "these labor standards" clearly refers the reader back to the first sentence of the section, which sets forth standards applicable only to "contractors or subcontractors." I do not believe the second sentence can reasonably be read as addressing the problem here involved, and it is an analysis of the phrase "contractors or subcontractors" which must be looked to for a solution.

The legislative history of the Local Public Works Act is less helpful, with respect to the present point, in what it says than in what it does not say. The only reference to

§ 109 is the statement that it "makes the Davis-Bacon Act applicable to all grants for projects under this act." S. Rep. No. 939, 94th Cong., 2d Sess. 18 (1976); H.R. Rep. No. 1077, 94th Cong., 2d Sess. 6 (1976). This could conceivably mean that State and local employees are to be governed by federal minimum wage determinations, but I think it much more likely to mean that "contractors or subcontractors" are subject to such determinations under this law, just as they are under Davis-Bacon, and with the same application of that phrase. What is much more significant in the legislative history, however, is the absence of any reference in the committee reports or the floor debates to the fact that State and local civil-service salaries for persons working on projects funded by the Act might have to be higher than those presently applied, and higher than those given to other State and local employees performing similar work. Federal intervention with respect to State and local governmental wage scales is certainly not a step to be taken lightly, cf. National League of Cities v. Usery, ___ U.S. ___, 96 S. Ct. 2465 (1976), and the absence of any clear and explicit reference to the matter, not only in the text but even in the legislative history, would be extraordinary.

This point is highlighted by examination of a recent instance in which the Congress chose to apply the Davis-Bacon restrictions to "force account" work. The Comprehensive Employment and Training Act of 1973, as amended, 29 U.S.C. 801 et seq. (Supp. V), contains two separate provisions which apply to States and to certain types of local governments as employers. The texts invoking Davis-Bacon standards read as follows:

[P]ersons employed in public service jobs under this chapter shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 206(a)(1) of this title applied to the participant and if he were not exempt under section 213 of this title, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer; 29 U.S.C. § 848(a)(2)

* * *

[F]unds allotted under section 963 of this title to eligible applicants may be used for . . .

(3) payment of wages (at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (sections 276a-276a-5 of Title 40), for unemployed and underemployed persons as employees of public employers in jobs on community capital improvement projects which would not otherwise be carried out, including the rehabilitation, alteration, or improvement of public buildings, roads and other public transportation facilities, health and education facilities, and other facilities for the improvement of the community in which the project is or will be located 29 U.S.C. § 964(b)(3).

See 604(b)(3)
93-567

It is unlikely that a legislature which knew how to express so clearly the coverage of public service jobs intended to achieve the same effect by use of the phrase "contractors or subcontractors" in § 109.

It is also impossible to ignore the fact that § 109 is not a unique statutory enactment, but one in a long series of labor standard provisions attached to federal grants, invoking the provisions of the Davis-Bacon Act. Many of these, involving grants for State and local programs, contain operative language which is not merely similar, but identical, to the text here at issue. See, e.g., Comprehensive Employment and Training Act of 1973, as amended, § 706, 29 U.S.C. 986 (Supp. V); General Education Provisions Act, as amended, § 433, 20 U.S.C. 1232b; Federal Civil Defense Act of 1950, as amended, § 201, 50 U.S.C. App. 2281(i); Housing and Urban Development Act of 1965, as amended, § 707, 42 U.S.C. 3107. As far as we are aware, these provisions were, at least until 1975, uniformly interpreted by the Department of Labor to exclude work which States and localities performed on a "force account" basis. Thus, in an opinion delivered on October 27, 1965, to the Housing and Home Finance Agency, concerning interpretation of the Housing and Urban Development Act of 1965, supra, the Acting Solicitor of Labor stated:

"It has been our position that municipalities or other local public bodies are not contractors and subcontractors within the meaning of the provisions of the Davis-Bacon and other related Acts" (emphasis added). It is doubtful whether the Secretary of Labor could now change this position, when many of the enactments using the statutory formula here in question have been based upon the well-known prior interpretation of that text--amounting, in effect, to its Congressional adoption. See 2A Sutherland, Statutes & Statutory Construction, § 49.09 at 256-57 (4th ed. 1973). 4/

The only basis which the Secretary of Labor has expressed for treating the standard language differently

4/ This is not to say that the standard language may not be given a different interpretation when a distinction is justified by legislative history or by other provisions of the statutory text. However, as set forth above, I find no such justification in the present case. I note that the Secretary of Labor, as appears from his letter to you of April 1, 1976, has adopted an interpretation identical to that here at issue with respect to Title X of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3246, et seq.; and we are advised by the Solicitor that the Department of Housing and Urban Development, with the Department of Labor's approval, has adopted a similar (though not identical) interpretation with respect to § 110 of Title I of the Housing and Community Development Act of 1974, 42 U.S.C. 5310. My opinion has not been requested with respect to these interpretations, and having conducted no examination of the texts or legislative histories involved, I express no opinion concerning them.

in the present case ^{5/} is that in considering application of this statute "the Department of Labor for the first time has examined a situation where grant recipients are apparently hiring large numbers of employees on a temporary basis to perform construction which would not normally be performed with their regular work force." ^{6/} This may assuredly be a reason why the exclusion of "force account" work uniformly adopted in other enactments should not have been adopted here; and if the issue were one of Secretarial discretion, rather than of Congressional intent, it would support a differing exercise of such discretion in the present case. But it is an inadequate basis for declining to apply the intended meaning of a statutory text.

^{5/} The second sentence of § 109, discussed earlier, is not a distinctive feature of the present statute. Similar language is contained in other provisions which have been interpreted not to include "force account" work. See, e.g., the Housing and Urban Development Act of 1965, as amended, § 707, 42 U.S.C. 3107; Federal Civil Defense Act of 1950, as amended, § 201, 50 U.S.C. App. 2281(i); October 27, 1965 Opinion of Acting Solicitor of Labor, supra.

^{6/} This statement is contained in the April 1, 1976, letter from the Secretary referred to in footnote 4, whose justifications are adopted by reference in his October 27, 1976 letter.

The inadequacy of the end which the Department of Labor has in mind to support the means which it has chosen is also displayed in the nature of the supposed definition of "contractor" which has been adopted. It would include a State or locality which hired additional employees on a temporary basis to perform repair work which "historically has not normally been performed by its regular work force," but it would not include a State or locality which uses its present employees to perform such repairs, or which hires additional, temporary employees to perform repair work which historically has normally been performed by its regular work force. These distinctions may be supported by sound policy, but they can not be found within the word "contractor." In using its own employees upon a covered project, the State or locality either is a contractor (if the broad meaning of that term is adopted) or is not a contractor (if the more common and hitherto uniformly applied meaning is adopted.) The term can not be applied selectively, and with total disregard of meaning, to cover only those situations in which "force account" work is being used in a fashion the Secretary considers undesirable.

Finally, I must address the Solicitor's suggestion that the Secretary of Labor's interpretation should be accepted

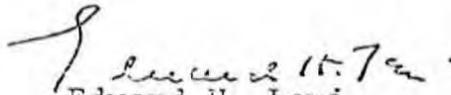
because it is clearly necessary to effectuate the purpose of the Davis-Bacon Act, which he takes to be to prevent the use of federal funds in such a fashion as to depress local wage conditions. It seems to me, however, that this is merely a restatement of the present controversy rather than a guide to its solution. It is assuredly not clear that the Davis-Bacon Act was intended to prohibit all use of federal funds which would have the suggested effect, for otherwise "force account" work by the federal government itself would have been included. The legislative history of the Davis-Bacon Act shows that the federal government was intentionally exempted from the prohibition, on the assumption that it would be fair. See 74 Cong. Rec. 6512-13 (1931) (remarks of Reps. Fish, Bacon, and Dowell). The Act was directed at "unscrupulous contractors" who paid less than the prevailing local wage rates. See H.R. Rep. No. 1445, 71st Cong., 3d Sess. 2 (1931), 74 Cong. Rec. 6511-12, 6516-17 (1931) (remarks of Reps. Bacon and McCormack). The real issue of legislative intent involved in the present controversy is whether, in the Local Public Works Act, the Congress was according to State and local governmental entities the same benefit of

the doubt which it accorded the federal government itself under the Davis-Bacon Act, or rather intended to restrict States and localities as well as the perennial "unscrupulous contractors." As I have suggested above, the latter conclusion finds no support in the text or legislative history of the Act, and is plainly negated by both the ordinary meaning of the statutory language and by its historically accepted application in the Davis-Bacon context. Thus, the extension of Davis-Bacon restrictions to State and local governments in their own hiring would subvert rather than further the Congressional intent.

I appreciate the Secretary of Labor's policy reasons for adopting the interpretation he has chosen, but even the great deference which must be accorded his views can not permit disregard of a clear legislative disposition. I therefore advise that project work carried out by State and local governments under the Local Public Works Act on a

"force account" basis is not subject to the labor standards provisions of § 109.

Sincerely,


Edward H. Levi
Attorney General

Attachment B

accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor can begin within ninety days of project approval.

(c) *No part of the construction (including demolition and other site preparation activities) renovation, repair, or other improvement of any public works project for which a grant is made under this Act after the date of enactment of this subsection shall be performed directly by any department, agency, or instrumentality of any State or local government. Construction of each such project shall be performed by contract awarded by competitive bidding, unless the Secretary shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest. Contracts for the construction of each project shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility. No requirement or obligation shall be imposed as a condition precedent to the award of a contract to such bidder for a project, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.*

(f) *Notwithstanding any other provision of law, no grant shall be made under this Act for any local public works project unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.*

SEC. 108. (a) *Not less than one-half of 1 per centum or more than 12½ per centum of all amounts appropriated to carry out this title shall be granted under this Act for local public works projects within any one State unless a State has no Indian tribe in such State in which case the minimum percentage to be granted within such State shall be three-fourths of 1 per centum, except that in the case of Guam, Virgin Islands, and American Samoa, not less than one-half of 1 per centum in the aggregate shall be granted for such projects in all three of these jurisdictions. Notwithstanding any other provision of this Act, not more than 2½ per centum of all amounts appropriated to carry out this title shall be granted to Indian tribes under this Act for local public works projects.*

(b) *In making grants under this Act, the Secretary shall give priority and preference to public works projects of local governments. In making grants for projects for construction, renovation, repair or other improvement of buildings for which application is made after the date of enactment of this sentence, the Secretary shall also give priority and preference as between such building projects to those projects which will result in conserving energy, including but not limited to, projects to redesign and retrofit existing public facilities for energy conservation purposes.*

(c) *In making grants under this Act, if for the [three] twelve most recent consecutive months, the national unemployment rate is equal to or exceeds 6½ per centum, the Secretary shall (1) expedite and give priority to applications submitted by States or local governments having unemployment rates for the [three] twelve most recent consecu-*

Attachment C

tive months in excess of the national unemployment rate and (2) shall give priority thereafter to applications submitted by States or local governments having unemployment rates for the ~~three~~ *twelve* most recent consecutive months in excess of 6½ per centum, but less than the national unemployment rate. Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary determines that the unemployment rates furnished by States or local governments are accurate, and shall provide assistance to States or local governments in the calculation of such rates to insure validity and standardization.

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

(d) Whenever a State or local government submits applications for grants under this Act for two or more projects such State or local government shall submit as part of such applications its priority for each such project.

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

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

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

SEC. 109. All laborers and mechanics employed [by contractors or subcontractors] on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary shall not extend any financial assistance under this Act for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

* * * * *

Attachment D

Attachment D
U. S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

MAR 28 1977

Honorable T. Bertram Lance
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Lance:

This is in response to your request for the Department of Labor's views on three specific provisions of H.R. 11, the "Public Works Employment Act of 1977". We were specifically requested to comment on a provision requiring minority contracting, a "buy American" provision, and provisions involving the force account restriction.

H.R. 11 would extend title I of the Public Works Employment Act of 1976 through Fiscal Year 1978, and make several changes in the program. The Department of Labor favors extension of the public works program.

We urge that the Conference Committee adopt the language in the House-passed version of H.R. 11 with respect to the problem of force account work and the Davis-Bacon Act. Section 3 of House-passed H.R. 11 adds a new subsection "(e)" to section 105 of the Public Works Employment Act of 1976. This subsection would assure that public works projects are performed by contractors and subcontractors and not by employees of the public entity. In my judgment, this provision is essential, since the construction industry is a key to our economic recovery. I would note that the provision allows the government entity to do the work itself, but only if the Secretary of Commerce determines that to do so is in the public interest.

Section 5 of House-passed H.R. 11 would require that the Davis-Bacon Act apply to all work performed under this bill regardless of whether it is performed by contractors and/or subcontractors. This would ensure that the prevailing wage rates of the Davis-Bacon Act would be paid for federally-aided work.

Enactment of an extension of the public works program, with these House-passed provisions, would assure that private contractors and subcontractors and their employees will not be adversely affected by actions of public agencies.

If it is decided that the Administration will not urge the conferees to adopt the House-passed provision assuring Davis-Bacon wages for all construction work under the 1976 Public Works Employment Act (section 5 of the House-passed bill), we ask that the Administration remain silent on this issue in any transmittal to the conferees.

We strongly support the "buy American" provision and have no objection to the minority contracting provision.

Sincerely,

Signed Ray Marshall

Secretary of Labor