

[7/19/80-Not Submitted-DF]

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ID 803716

THE WHITE HOUSE

WASHINGTON

DATE: 19 JUL 80

FOR ACTION: GENE EIDENBERG

FRANK MOORE

JIM MCINTYRE

STU EIZENSTAT

FRAN VOORDE

DK

INFO ONLY: THE VICE PRESIDENT

SUBJECT: ALLISON MEMO RE REPORT ON THE HEAT RELIEF PROGRAM IN
PREPARATION FOR YOUR TEXAS TRIP

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+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +

+ BY: +

+++++

ACTION REQUESTED: IMMEDIATE TURNAROUND

STAFF RESPONSE: () I CONCUR. () NO COMMENT. () HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

7/19 Report does not need to go to President.
Information has been incorporated
into President's trip briefing for
Texas.

Community Services Administration WASHINGTON, D.C. 20506

Trip
- Bills
- Attention to our
Role by
being there



JUL 18 1980

MEMORANDUM FOR THE PRESIDENT

FROM: William W. Allison *WWA*
Deputy Director

SUBJ: Report on the Heat Relief Program in
Preparation for Your Texas Trip

DATE: July 18, 1980

As you know, we are providing emergency funds for a "heat relief" program in the Southwest. The Director is using discretionary authority to transfer winter fuel payment (ECAP) funds to our "local initiative" authority which is not encumbered by the 6/30/80 program deadline which the Congress set for ECAP.

Community Action Agencies in Texas, Arkansas, Oklahoma, Missouri, Kansas and Louisiana are already operating heat relief programs with existing funds which will be reimbursed by a total of \$6.725 million in ECAP and other CSA funds. Eligible activities which can be carried out to assist individuals and families whose incomes do not exceed 125% of the poverty index include: transportation to state and local heat relief centers; purchase of fans and evaporator coolers; rental of air conditioners; and, where there is no other option to save a life or prevent a serious health hazard, payment of utility bills.

Several House Appropriations Committee Staff members are attempting to restrain our quick response to this crisis. They have strongly suggested that we delay this emergency program until they can begin polling Appropriations Subcommittee Members regarding the appropriateness of CSA's action to reprogram these funds from ECAP to "local initiative" for heat relief. Polling of Subcommittee members cannot begin until next week. These staff members indicate they are concerned that, by transferring these funds to "local initiative", we are circumventing the Congressional

requirements to end the ECAP program by 6/30/80. They also maintain that Congress never intended these funds to be used for the payment of summer utility bills.

We continue to maintain that under our Section 616 Authority, the Director can transfer up to 20% of ECAP funds into the "local initiative" category where the 6/30/80 deadline would not apply. We have also refused to interrupt the program until the Subcommittee can be polled. We have agreed that, through a funding mechanism technicality which will not interrupt program delivery in the field, we can delay actual obligation of funds until 7/22/80. However, we have made it clear to the Committee Staff that we will continue with the program under our statutory authority even if many Subcommittee members express opposition.

In the meantime, the weather pattern is spreading. Also, communities like East St. Louis and Memphis are as badly affected as communities in states which we are presently serving - but they happen to be just across the state line.

When Congress returns on 7/21/80, Congressman Biaggi intends to introduce legislation which will release the 6/30/80 restriction on use of ECAP funds and direct CSA to use available funds for heat relief efforts in affected areas. We are providing assistance to the Congressman in drafting legislation. He intends to push for immediate passage. We are making plans to borrow against other existing CSA accounts, should the legislation pass, to initiate heat relief programs until we can recoup and redistribute ECAP funds.

We have discussed Mr. Biaggi's intentions with Frank Moore's staff, Jim McIntyre's staff and Gene Eidenberg's staff. They have all expressed interest and are discussing it among themselves. We believe it will be important for you to support such legislation if it is to pass quickly next week before the situation becomes critical in areas such as Southern Illinois and Southwestern Tennessee.

During your trip to Texas on 7/21/80, we recommend that you highlight the quick response your Administration has made to the crisis in the six state area. You may also wish to indicate your Administration is reviewing the

steps necessary to make use of available ECAP funds for heat relief programs in other affected areas.

The Director is in Washington State today and Ohio on Saturday but we have discussed with your Advance Office the Director's availability to join you on Monday, if appropriate.

Attached is a complete report on the heat relief program and the steps required to quickly expand the program into other affected areas.

157d

ID 803716

THE WHITE HOUSE

WASHINGTON

- Pac Sam Hansen to already going into briefing book for trip; no need for a separate ~~as~~ memo.

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PLEASE NOTE OTHER COMMENTS BELOW:

MEMORANDUM OF CALL

TO: _____

YOU WERE CALLED BY—

YOU WERE VISITED BY—

OF (Organization) _____

PLEASE CALL → PHONE NO. _____ FTS
CODE/EXT. _____

WILL CALL AGAIN

IS WAITING TO SEE YOU

RETURNED YOUR CALL

WISHES AN APPOINTMENT

MESSAGE _____

RECEIVED BY _____

DATE _____

TIME _____

Unred Transmittal

Eidenberg

Moore

McI

Eizenstat

Fran V



note: pls note references to
7/21 trip.

Community WASHINGTON, D.C. 20506
Services Administration



JUL 18 1980

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Deputy Director

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EMERGENCY ASSISTANCE: Heat Wave

'UPDATE'

Prepared: 07/18/80

With over a thousand deaths from the current heat wave, there is a growing crisis in which the elderly poor are left without any means of combatting serious health consequences. The Community Services Administration (CSA) proposes to use its legal and financial means to move money quickly into the heat crisis areas of the country in order to assist low-income persons, particularly the elderly. CSA, at the President's direction, is in the process of placing seven million dollars in Regions VI and VII for obligation to grantees this Tuesday. However, certain legal restrictions arising from the particular appropriation used will mean that only 25% of the seven million dollars will be available for payment of utility bills, the remainder being limited to other crisis intervention activities.

The universal reaction of CSA's grantee network and of the state, local, and Congressional offices requesting assistance is that, above all else the elderly poor need financial assistance to pay for cooling costs, particularly air conditioning. The fear of high utility bills has kept many of the elderly poor from using available cooling devices even though the heat has made their use medically necessary.

Emergency legislation about to be proposed by Congressman Biaggi (D-NY) would make approximately twenty million dollars available for utility payments. CSA can immediately advance ten million dollars from the Rural Development Loan Fund, to be reimbursed from ECAP funds, if Mr. Biaggi's proposal passes for utility payment assistance, but only if OMB

provides full and immediate cooperation. All of the sums under discussion would come from current appropriations.

I. PROPOSED SOURCE OF FUNDS

There is, at a minimum, twenty million dollars in Emergency Crisis Assistance Program (ECAP) funds which were unexpended by the states as of June 30, 1980, the cut-off date for ECAP awards. Because the cut-off date is a statutory restriction, these unspent funds are not directly available for heat crisis bill payments. However, CSA has the authority, "notwithstanding any limitation on appropriations for any program or activity," to transfer up to twenty percent of the amount appropriated for one program or activity to any other program activity.¹ Thus, CSA could recoup the unspent ECAP funds, transfer these funds under its Section 616 authority to another program or activity and reobligate them. This authority was used to move the first seven million dollars to Regions VI and VII. However, there are two difficulties that arise in using this procedure. First, CSA's transfer authority must be from one "program or activity" to "any other" program or activity². The bill paying aspects of the heat crisis program are not sufficiently different than the bill paying aspects of the ECAP program to justify a conclusion that CSA is actually transferring funds from one activity to a different activity. This is particularly true in the warmer states, where ECAP assistance to prevent utility cut-offs last winter went to unpaid bills which reflected the

¹ Section 616 of the Economic Opportunity Act, 42 U.S.C. 2966.

² Ibid.

high cooling costs from the previous summer. Thus, CSA's General Counsel has been forced to conclude that while the transfer authority may be used for heat crisis intervention activities, they must result in a program which differs from ECAP.

A second difficulty is that the unspent ECAP funds are distributed in varying amounts among fifty states and a timely movement of the funds from non-crisis states to the states suffering from the heat simply could not be accomplished. State audit requirements, the willingness of various states to move quickly, and the resultant bureaucratic paperwork between state sub-grantees, states, and CSA would create too many delays.

A simpler and legally sound alternative is for CSA to transfer up to ten million dollars from its Rural Development Loan Fund which totals fifty-six million dollars. Only twenty million dollars of this fund are scheduled for obligation in FY 1980, with ten to twenty million dollars scheduled for obligation in FY 1981. Actual outlays of the FY 1980 obligation can be delayed until FY 1981. Use of the fund would present no legal problems since CSA's transfer authority is available and utility payments for heat crisis constitutes a different "program or activity" than rural development. And there are no recoument or delay problems as in the use of unspent ECAP funds.

Any serious depletion of the fund without subsequent reimbursement will injure CSA's economic development policies and plans, since CSA's Office of Economic Development has been very successful in using the fund for leveraging major economic development fundings.

However, up to ten million dollars of available funds can immediately assist the poor by expenditure now for heat crisis and reimbursement through Congressman Biaggi's proposed legislation will also assure use in subsequent fiscal years for economic development. However, use of the fund calls for immediate OMB cooperation both in finalizing and effecting the twenty million dollar obligation in FY 1980 for economic development and in giving CSA an allocation from the fund for the heat crisis program.

Use of the fund beyond the proposed ten million dollar ceiling would call for some guarantee of reimbursement. This can be accomplished only through legislation. Congressman Biaggi is prepared to introduce emergency legislation making unspent ECAP funds available for the heat crisis. Since these funds are for the most part in the states not facing a heat crisis, legislation simply lifting the June 30 cut-off date would not solve the problem. However, legislation which sanctioned CSA's use of the Rural Development Loan Fund and directed reimbursement of the Fund with unspent ECAP funds would allow immediate transfer and obligation of funds to meet the crisis and still prevent depletion of the fund. There is one caveat to this course of action. The 1980 ECAP Program tied eligibility to 125% of the poverty guidelines. There is a serious question whether OMB's annual revision of the poverty guidelines was accomplished legally in that the statute requires use of the latest available CPI data in the annual revision. OMB's revision, both in 1979 and in 1980, was accomplished in April but based on the previous calendar year's CPI data rather than on the latest available CPI changes. Thus the poverty guidelines

may have been set at an illegally low level. It is difficult to predict whether this situation can or will provide grounds for a successful lawsuit by legal services programs, with an injunction resulting against unspent ECAP funds. However, the possibility of this occurring does present some risk to achieving reimbursement of the rural loan fund by remaining ECAP funds.

II PROPOSED USE OF FUNDS

CSA was first notified of the existence of the heat related problems by its Dallas Regional Office. This occurred on Wednesday, July 9, 1980. At that time, the official death toll was 102. On Thursday, July 10, CSA representatives participated in a briefing sponsored by the Federal Emergency Management Agency (FEMA) where they were made aware of the following facts: (1) the extreme heat conditions did not fall within the disaster criteria established by FEMA so there would be no request to the President to declare the areas affected as being in a disaster status; (2) the U.S. Weather Service predicted that the problem would continue for four to six weeks; and (3) CSA and the other federal agency representatives present were asked to take whatever steps necessary to get appropriate forms of relief to the affected areas as soon as possible.

Immediately following the FEMA meeting we began examining our resources to see if we could identify any funds to assist during this crisis. We felt particularly hard pressed since we knew that the poor, especially the elderly poor, would be hardest hit by the extreme conditions. Realizing that the Department of Health and Human Services (HHS) still had several

million dollars in unobligated funds from last winter's energy assistance program, which was appropriated under CSA's authority, we asked if they would retransfer those funds to CSA so that we could take appropriate steps to use them during the present crisis.

On Friday, July 11, HHS notified us that they would return the funds which was immediately accomplished by our fiscal departments. By then the death toll was in excess of 300 individuals and our Region VII Office in Kansas City requested assistance for Missouri and Kansas.

Later that same day, our Controller and the Acting Director of our ECAP Program met with OMB representatives to discuss our intention of using the retransferred HHS funds during the heat crisis. Early that evening OMB notified us of their initial approval and we subsequently prepared a press release for the White House.

The method for determining allocation of funds to a given state is based on three elements: (1) the total number of poor in the state, added to (2) three times the number of elderly poor in the state, with the sum of these two elements multiplied by an appropriate thermal factor. Listed below are the thermal factors and the corresponding categories.

<u>Thermal Factor</u>	<u>Category</u>
2.5	20 days or more of temperatures at 100 degrees or more
2.0	15-19 days of temperatures at 100 degrees or more
1.5	10-14 days of temperatures at 100 degrees or more

Thermal Factor

Category

1.0

9 days of temperatures at 100 degrees or more

In order to be eligible to receive funds, a state must have experienced at least 9 days of temperatures at 100 degrees or more. We feel the thermal factor is an essential part of the formula since there is a direct relationship between the number of deaths and/or serious health hazards to the sustained effects of temperatures exceeding the normal body temperature.

The types of activities we are recommending with our limited funds are: the provision of transportation to state and local operated cooling centers, the purchase or rental of inexpensive appliances such fans or evaporative coolers, and in limited cases, where medical certification is provided, the renting or leasing of small air conditioning units. Funds are also available to provide for any other supportive services which will lessen the impact of the extreme heat on the health and survival of the poor. We are also interested in making funds available to pay for utilities to insure that the poor make use of available cooling appliances as well as to prevent shut-offs or disconnection. Assistance will be limited to those households with incomes at or below 125% of the CSA poverty income guidelines.

Community WASHINGTON, D.C. 20506
Services Administration



MEMORANDUM

TO : Joe Maldonado

FROM : Wallace W. Lumpkin

SUBJECT : Report on Unobligated ECAP Funds within States
as of June 30, 1980

Attached are the unobligated ECAP funds within States as of June 30, 1980. These totals are the result of a telephone survey and should not be viewed as final. Based upon earlier reporting they appear to be accurate but could vary once final accounting and auditing is complete.

Attachment

REGION I

CONN.	500,000
MASS	3,000,000

REGION III

DELAWARE	220,000
D. C.	300,000
PA	1,000,000

REGION IV

Alabama	120,000
FLORIDA	687,000
GEORGIA	100,000
MISSISSIPPI	16,000
N.C.	50,000
TENNESSEE	750,000

REGION V

ILLINOIS	2,000,000
INDIANA	50,000
MINN	6,000,000
OHIO	805,000
WISCONSIN	1,300,000

REGION VI

ARKANSAS	130,000
LA	20,000
N.M.	40,000
TEXAS	300,000

REGION VII

MISSOURI	1,000,000
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REGION IX

CALIFORNIA	<u>3,000,000</u>
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TOTAL	21,388,000
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- Section 1 The Community Services Administration (hereinafter "CSA") is hereby authorized to transfer such sums as may be necessary from its Rural Development Loan Fund, which Fund has been established pursuant to Section 731 of the Economic Opportunity Act, as amended, to its ongoing Emergency Heat Assistance Program, which Program is carried out by the authority of Title II of the Act; provided that from unexpended funds appropriated for energy crisis activities in Public Laws 96-86 (10/12/79), 96-123 (11/12/79) and 96-126 (11/27/79) there shall be reimbursed to the Rural Development Loan Fund an amount equivalent to the amount of funds transferred to the Emergency Heat Assistance Program.
- Section 2 To the extent that CSA has awarded or will award funds to its grantees, and to the extent that such funds were or will be transferred out of the appropriations cited in Section 1 of this Act, and to the extent that such funds are prohibited from use in payment of summer utility bills, such prohibition is hereby waived.
- Section 3 To the extent that the funds described in Sections 1 and 2 of this Act are available, assistance may be provided from CSA's Emergency Heat Assistance Program to states or areas within states which (a) beginning on or after July 1, 1980, until and including September 30, 1980, experience nine or more consecutive days of temperatures of 100° or more, where such consecutive days of 100° or more temperatures are abnormal in relation to the National Oceanic Atmospheric Agency averages for such states or areas within states, and (b) contain substantial numbers of low-income individuals whose health is threatened due to such extended heat crisis.