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THE WHITE HOUSE
WASHINGTON

DATE: Oct 3, 1993

TO: Steve Neuwirth

FROM: **JOHN D. PODESTA**
Assistant to the President and
Staff Secretary

National Archives

Washington, DC 20408

93 SEP 30 P1:40

September 29, 1993

The Honorable John Podesta
Assistant to the President
and Staff Director
The White House
Ground Floor/West Wing
Washington, D.C. 20500

Dear John:

Enclosed is a memorandum from Ken Thibodeau, Director of NARA's Center for Electronic Records, providing estimates of costs for restoration of the backup tapes at issue in the Armstrong litigation. Several options are set out.

The meanings of a few terms are not readily apparent. As explained in the notes to Table 1, "full system" refers to restoration accomplished by new systems that would have to be acquired by NARA or by a new contractor. "Incremental system" refers to the restoration work being performed by an EOP component or under one of the existing EOP contracts, which would entail incremental expansion of the system available under the existing contract.

The breakdown of costs is figured in one of two ways: (1) restoring all items transferred to NARA in January 1993 or (2) restoring a subset of those items. "All items" would encompass everything on the tapes, including software, systems files, etc. "Selected items" would encompass only e-mail. This universe might be further narrowed, as even the plaintiffs' current FOIA request, broad though it is, does not reach all of the e-mail. I believe, however, that we should assume for purposes of anticipating costs that all of the e-mail on the tapes will have to be restored.

I would be happy to discuss this with you at your convenience.

Sincerely,

Miriam

Miriam M. Nisbet
Special Assistant to the Acting Archivist
for Presidential Materials and Related Issues

Enclosure

National Archives

Washington, DC 20408

rec'd 9/28/93

Date : September 27, 1993

Reply to Attn of : NSX

Subject : Restoration of Files in Armstrong v. EOP et al.

To : Miriam Nisbet

On behalf of the White House, you have requested estimates for the costs of processing the e-mail files in the Armstrong v. EOP case. I take this processing to include (1) restoration of application files from the backup tapes and (2) additional processing required to retrieve e-mail messages and related data and output them in a form that can be read by a person. Costs were estimated for this processing. Note that these estimates do not cover any review to identify Federal or Presidential records, or for restrictions. Rather the processing covered by these estimates is prerequisite to such review.

Three options for performing the restoration are analyzed: (a) NARA, (b) the originating agencies, (c) contract. The contract option was analyzed in two scenarios: one assuming an existing contract under which the contractor has access to appropriate systems, the second assuming a newly awarded contract which would require acquisition of systems. Existing contracts which might be candidates would include contracts for operational support and any contract for a disaster recovery site.

A caveat is in order. The Center for Electronic Records does not have any basis in experience for estimating these costs. The Center has never operated a system comparable to any of those required for this processing, nor have we ever performed any processing resembling that required to restore, locate, extract and output user files, such as those in the PROFS and All-in-One systems. WHCA has provided most of the data that is the basis of these estimates in the form of costs for their current IBM and DEC systems and declarations by knowledgeable WHCA staff, principally Sgt. M. Jolly. Nonetheless, I take full responsibility for these estimates and ask that they be taken for what they are; i.e., rough estimates.

The estimates, tabulated in the attached Table 1, range from a low of approximately $1,000,000 for processing by the agencies of origin or under existing contract, to a high of approximately $8,000,000 for processing under new contracts. The remaining 9 tables, which are attached, provide the basis for the summary figures in Table 1. The estimates are for systems configured to accomplish the required processing in 1 to 3 years.

Each option has pros and cons:

(a) NARA

Pros:

NARA is a neutral organization vis-a-vis the contents of the files. We have no interest in whether the files provide evidence of culpability or innocence or whether the files contain anything that anyone might wish to hide. Our interest is in the integral preservation of the records,

Cons:

NARA has no experience in performing such restoration; no equipment capable of executing the processes required; and no specific knowledge of the hardware or software used to create the backups and necessary for restoration of files.

NARA's start-up time before we could begin to perform restoration in a production mode would probably be the longest of the three options. It is unlikely that NARA could start actual restoration before May, 1994.

Assignment of this task to NARA would require drastic cutbacks, if not suspension, of work on the accessioning, preservation and access to the permanently valuable electronic records of the Federal Government.

(b) Originating Agencies (NCS, WHCA, EOP/OA)

Pros:

The originating agencies have the equipment, experience and knowledge required to perform the restoration.

Startup time would probably be the shortest.

Cons:

For any sizeable volume of restoration work, the workload could have severe and even crippling impact on the agency's ability to support current operations.

(c) Existing Contract

Pros:

If the agency has a contract in place that could be modified to include the restoration, startup time could be relatively short.

A contractor may be able to add personnel for these specific tasks more easily than an agency, lessening the impact on current operations.

Under any existing contract, the contractor should have access to and familiarity with the system.

Cons:

Contracting is probably the most expensive alternative in terms of cash outlays over the short term.

(d) New Contract

Pros:

Doing the work under contract would eliminate the conflict with current operations in all agencies.

Cons:

If an agency does not have access to an existing contract, the startup time to production could be longer than 6 months.

Any new contractor would have to pay the same costs for the necessary hardware and software as NARA.

Contracting is probably the most expensive alternative in terms of cash outlays over the short term.

Kenneth Thibodeau

KENNETH THIBODEAU
Director
Center for Electronic Records

Table 1
SUMMARY OF COST ESTIMATES
RESTORATION AND OUTPUT OF COMPUTER FILES

Sep 21, 19

Cost Factor	Option: Full System — NARA	Full System — New Contract	Incremental System — Agency	Incremental System — Existing Contract
A. All Items Transferred to NARA in January 1993				
(1) Output to Paper				
System	3,471,745	3,471,745	1,235,866	1,235,866
Personnel	985,920	2,844,000	486,720	1,404,000
OverHead	1,055,533	1,737,149	344,517	527,973
Total:	5,513,198	8,052,894	2,067,103	3,167,839
(2) Output to Magnetic Tape				
System	2,855,351	2,855,351	644,658	644,658
Personnel	858,000	2,475,000	405,600	1,170,000
OverHead	906,670	1,540,070	210,052	362,932
Total:	4,620,022	6,870,422	1,260,310	2,177,590
B. Selected Items Transferred to NARA in January 1993				
(1) Output to Paper				
System	3,087,443	3,087,443	1,441,367	1,441,367
Personnel	657,280	1,896,000	324,480	936,000
OverHead	912,945	1,470,689	353,169	475,473
Total:	4,657,667	6,454,131	2,119,017	2,852,841
(2) Output to Magnetic Tape				
System	2,714,622	2,714,622	534,942	534,942
Personnel	486,720	1,404,000	216,320	624,000
OverHead	804,268	1,297,724	150,252	231,788
Total:	4,005,611	5,416,347	901,514	1,390,730
C. SUMMARY				
Minimum Cost	4,005,611	5,416,347	901,514	1,390,730
Maximum Cost	5,513,198	8,052,894	2,067,103	3,167,839

* Overhead is estimated at 20 %

List of Notes:

A1: Table 1

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F9: Full System

Performance by NARA or under new contract(s) would require the acquisition of entire systems.

J9: Incremental System

Performance by an EOP agency or under existing contract by that agency would entail incremental expansion of the system available under the contract in order to lessen the impact of this processing on other work.

B14: All Items Transferred to NARA in January 1993

Items transferred to NARA are listed in Table 10. It should not be necessary to restore and output files from all of these items because many contain only software, system data and other files which are clearly non-record. Others contain records which are authorized for disposal. Nonetheless, costs for processing all items are estimated as a means of delineating a worst case scenario.

The universe of "all items" for which costs are estimated is those items which could be processed on the 3 principal computer platforms identified in Table 2.

D17: System

System Costs

System costs are estimated for the 3 platforms, identified in tables 2 and 3, that are necessary to process most of the computer storage materials transferred to NARA. For processing by NARA and under new contracts, estimates are for the complete systems needed to do the work (q.v. Table 2, 3). For processing by the agencies or under existing contractors, it is assumed that the performer has access to the necessary platform; but that additional hardware would be acquired to offset the impact of this processing workload on current operations (q.v. Table 4, 5).

D18: Personnel

Personnel Costs are detailed in Table 6.

F19: ((F17+F18)*$ovrhd)+$gstart

Government and new contract overhead includes personnel costs estimates for a 6 month period required to bring the systems on line.

F26: ((F24+F25)*$ovrhd)+$gstart

Government and new contract overhead includes personnel costs estimates for a 6 month period required to bring the systems on line.

B32: Selected Items Transferred to NARA in January 1993

Selected items are those which contain user files and related data from the PROFS, All-in-One and similar systems (q.v. Table 10).

F37: ((F35+F36)*$ovrhd)+$gstart

Government and new contract overhead includes personnel costs estimates for a 6 month period required to bring the systems on line.

F44: ((F42+F43)*$ovrhd)+$gstart

Government and new contract overhead includes personnel costs estimates for a 6 month period required to bring the systems on line.

Table 2
Cost Estimates: Full System
RESTORATION AND OUTPUT OF COMPUTER FILES on ALL ITEMS
Transferred to NARA

Sep 20, 1993

2.A: Configured for Output to Paper

COST FACTOR	SYSTEM IBM ES 9000	VAX 8600	VAX 6xx0	TOTAL
Hardware & Software	1,319,000	472,000	640,000	2,906,000
Actual	1,794,000	400,000		
Minimal	1,319,000			
Installation & Site Prep	38,232	13,681	12,606	60,838
Actual	52,000	10,000		
Minimal	38,232			
Maintenance	180,307	126,600	198,000	504,907
Actual per annum	74,400			
Minimal per annum	60,102			
Subtotal:	1,537,539	612,281	850,606	3,471,745

2.B: Configured for Output to Magnetic Tape

COST FACTOR	SYSTEM IBM ES 9000	VAX 8600	VAX 6xx0	TOTAL
Hardware & Software	1,175,000	400,000	438,500	2,488,500
Actual	1,650,000	400,000		
Minimal	1,175,000			
Installation & Site Prep	34,058	12,606	12,606	56,664
Actual	52,000	10,000		
Minimal	34,058			
Maintenance	146,187	64,000	100,000	310,187
Actual per annum	54,000			
Minimal per annum	48,729			
Subtotal:	1,355,245	476,606	551,106	2,855,351

List of Notes:

A1: Table 2

Systems configurations for restoration and output of files from all items were adjusted to accomplish the necessary processing in no more than 3 years.

A7: 2.A: Configured for Output to Paper

For printing the files on paper, additional printers were added to the basic configurations, because the print process is the most time consuming.

E9: SYSTEM

At least three system configurations are deemed necessary to process the items transferred to NARA: one IMB system and two DEC VAX systems. It is assumed tha the IBM system could be reconfigured to process the 32 cartridges of EOP/OA PROFS files from the Reagan administration.

A11: COST FACTOR

Costs for systems acquisition, installation and maintenance were estimated based on data received from WHCA on both IBM and VAX systems operated by the agency. Costs for the second VAX system, necessary for processing tapes from the EOP/OA, are assumed to be the same as those of the WHCA VAX.

E17: E13*C18/C14

Installation & Site Preparation: VAX systems

Actual costs are known only for installation. Site preparation estimate was produced by multiplying the cost of the VAX system by the ratio of (installation + site preparation) to the system cost of the ES 9000.

A30: 2.B: Configured for Output to Magnetic Tape

For output to magnetic tape, a second 3480 class tape drive was added to the VAX 6xx0 system. This addition reduced total processing time to 2.5 years.

Table 3
Cost Estimates: Full System
RESTORATION AND OUTPUT OF COMPUTER FILES on SELECTED ITEMS
Transferred to NARA

Sep 20, 1993

3.A: Configured for Output to Paper

COST FACTOR	IBM ES 9000	SYSTEM VAX 8600	VAX 6xx0	TOTAL
Hardware & Software	1,319,000	424,000	472,000	2,690,000
Actual	1,794,000	400,000		
Minimal	1,319,000			
Installation & Site Prep	38,232	12,290	12,606	60,838
Actual	52,000	10,000		
Minimal	38,232			
Maintenance	120,205	84,400	132,000	336,605
Actual per annum	74,400			
Minimal per annum	60,102			
Subtotal:	1,477,437	520,690	616,606	3,087,443

3.B: Configured for Output to Magnetic Tape

COST FACTOR	IBM ES 9000	SYSTEM VAX 8600	VAX 6xx0	TOTAL
Hardware & Software	1,175,000	400,000	438,500	2,488,500
Actual	1,650,000	400,000		
Minimal	1,175,000			
Installation & Site Prep	34,058	12,606	12,606	56,664
Actual	52,000	10,000		
Minimal	34,058			
Maintenance	97,458	32,000	40,000	169,458
Actual per annum	54,000			
Minimal per annum	48,729			
Subtotal:	1,306,516	444,606	491,106	2,714,622

Table 4
Costs Estimates for Incremental System
RESTORATION AND OUTPUT OF COMPUTER FILES for All Items Transferred to NARA

Sep 21, 1993

Cost Factor	ES 9000	VAX 8600	VAX 6xx0	TOTAL
	SYSTEM			
A. Configured for Output to Paper				
Hardware & Software				
DASD	57,998	57,998	57,998	
Tape Drive	14,000	14,000	14,000	
Cartridge Drive	38,563	38,563	38,563	
Line Printer	165,620	94,640	260,260	
Dumb terminal	388	388	388	
Acquisition Subtotal:	276,569	205,589	371,209	853,366
Installation	8,020	5,962	10,765	24,748
Maintenance				
DASD	2,986	2,986	2,986	
Tape Drive	3,476	3,476	3,476	
Cartridge Drive	7,925	7,925	7,925	
Line Printer	24,095	13,769	37,864	
Dumb terminal	120	120	120	
Maintenance Subtotal:	115,809	84,829	157,115	357,753
TOTAL:	400,398	296,380	539,089	1,235,866
B. Configured for Output to Magnetic Tape				
Hardware & Software				
DASD	57,998	57,998	57,998	
Tape Drive	14,000	14,000	14,000	
Cartridge Drive	38,563	38,563	77,126	
Line Printer	23,660	23,660	23,660	
Dumb terminal	388	388	388	
Acquisition Subtotal:	134,609	134,609	173,172	442,389
Installation	8,020	3,904	5,022	16,946
Maintenance				
DASD	2,986	2,986	2,986	
Tape Drive	3,476	3,476	3,476	
Cartridge Drive	7,925	7,925	15,851	
Line Printer	3,442	3,442	3,442	
Dumb terminal	120	120	120	
Maintenance Subtotal:	53,849	53,849	77,625	185,323
TOTAL:	196,478	192,361	255,818	644,658

Table 5
Costs Estimates for Incremental System
RESTORATION AND OUTPUT OF COMPUTER FILES for Selected Items
Transferred to NARA
Sep 21, 1993

Cost Factor	SYSTEM ES 9000	VAX 8600	VAX 6xx0	TOTAL
A. Configured for Output to Paper				
Hardware & Software				
DASD	57,998	57,998	57,998	
Tape Drive	14,000	14,000	14,000	
Cartridge Drive	38,563	38,563	38,563	
Line Printer	165,620	47,320	94,640	
Dumb terminal	388	388	388	
Acquisition Subtotal:	276,569	158,269	205,589	640,426
Installation	8,020	4,590	5,962	18,572
Maintenance				
DASD	2,986	2,986	2,986	
Tape Drive	3,476	3,476	3,476	
Cartridge Drive	7,925	7,925	7,925	
Line Printer	168,668	27,538	151,457	
Dumb terminal	120	120	120	
Maintenance Subtotal:	366,351	84,090	331,929	782,370
TOTAL:	650,940	246,949	543,479	1,441,367
B. Configured for Output to Magnetic Tape				
Hardware & Software				
DASD	57,998	57,998	57,998	
Tape Drive	14,000	14,000	14,000	
Cartridge Drive	38,563	38,563	77,126	
Line Printer	23,660	23,660	23,660	
Dumb terminal	388	388	388	
Acquisition Subtotal:	134,609	134,609	173,172	442,389
Installation	3,904	3,904	5,022	12,829
Maintenance				
DASD	2,986	2,986	2,986	
Tape Drive	3,476	3,476	3,476	
Cartridge Drive	7,925	7,925	15,851	
Line Printer	3,442	3,442	3,442	
Dumb terminal	120	120	120	
Maintenance Subtotal:	35,899	17,950	25,875	79,724
TOTAL:	174,412	156,462	204,068	534,942

List of Notes:

A1: Table 4

Incremental system costs were estimated on the assumption that the organization responsible for the processing has access to the relevant platform, but that additional hardware is acquired to minimize the impact of the processing of these files on other work.

G7: SYSTEM

The systems are configured to accomplish required output of files from all items to paper in 3 years.

D16: Line Printer

To provide for output of files on all items to print within 3 years, 6 printers are added to the EX 900, 4 to the VAX 8600 and 11 to the VAX 6xx0.

A58: Table 5

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G64: SYSTEM

The systems are configured to accomplish required output of files from all items to paper in 1 or 2 years.

A68: A.

The systems are configured to permit printing of the files from the selected items within 2 years.

B92: Configured for Output to Magnetic Tape

Output of the selected files on magnetic tape would take 2 years on the ES 9000 and one year on each of the other systems.

Table 6
Cost Estimates: PERSONNEL
RESTORATION AND OUTPUT OF COMPUTER FILES

Sep 21, 1993

	SYSTEM			
Government Operation	ES 9000	VAX 8600	VAX 6xx0	TOTAL
Full System				
Annual Costs	158,080	85,280	85,280	
All Items Transferred to NARA				
Output to Paper	474,240	255,840	255,840	985,920
Output to Magnetic Tape	474,240	170,560	213,200	858,000
Selected Items Transferred to NARA				
Output to Paper	316,160	170,560	170,560	657,280
Output to Magnetic Tape	316,160	85,280	85,280	486,720
Incremental System				
Annual Costs	54,080	54,080	54,080	
All Items Transferred to NARA				
Output to Paper	162,240	162,240	162,240	486,720
Output to Magnetic Tape	162,240	108,160	135,200	405,600
Selected Items Transferred to NARA				
Output to Paper	108,160	108,160	108,160	324,480
Output to Magnetic Tape	108,160	54,080	54,080	216,320

Contractor Operation				
Full System				
Annual Costs	456,000	246,000	246,000	
All Items Transferred to NARA				
Output to Paper	1,368,000	738,000	738,000	2,844,000
Output to Magnetic Tape	1,368,000	492,000	615,000	2,475,000
Selected Items Transferred to NARA				
Output to Paper	912,000	492,000	492,000	1,896,000
Output to Magnetic Tape	912,000	246,000	246,000	1,404,000
Incremental System				
Annual Costs	156,000	156,000	156,000	
All Items Transferred to NARA				
Output to Paper	468,000	468,000	468,000	1,404,000
Output to Magnetic Tape	468,000	312,000	390,000	1,170,000
Selected Items Transferred to NARA				
Output to Paper	312,000	312,000	312,000	936,000
Output to Magnetic Tape	312,000	156,000	156,000	624,000

List of Notes:

A1: Table 6

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C12: Annual Costs

Annual costs for operation of a system are defined in table 7.

B14: All Items Transferred to NARA

Processing of all items is estimated to require 3 years.

B18: Selected Items Transferred to NARA

Processing of files from selected items is estimated at 1 or two years per system.

Table 7
Cost Estimates: PERSONNEL
ANNUAL OPERATIONS

Sep 21, 1993

A. FULL SYSTEM OPERATION

	Government	Contractor	SYSTEM IBM ES 9000	VAX 8600	VAX 6xx0
Personnel Required	Hourly Rate		Number Required		
Computer Programmer	20	58	1	0	0
Systems Programmer	26	75	1	1	1
Computer Operator	15	43	2	1	1
Government			Annual Costs		
Computer Programmer			41,600	0	0
Systems Programmer			54,080	54,080	54,080
Computer Operator			62,400	31,200	31,200
		Total:	158,080	85,280	85,280
Contractor			Annual Costs		
Computer Programmer			120,000	0	0
Systems Programmer			156,000	156,000	156,000
Computer Operator			180,000	90,000	90,000
		Total:	456,000	246,000	246,000
START-UP COSTS					
Government			79,040	42,640	42,640
Contractor			228,000	123,000	123,000

B. INCREMENTAL SYSTEM OPERATION

	Government	Contractor	SYSTEM IBM ES 9000	VAX 8600	VAX 6xx0
Personnel Required	Hourly Rate		Number Required		
Systems Programmer	26	75	1	1	1
			Annual Costs		
Government			54,080	54,080	54,080
Contractor			156,000	156,000	156,000

List of Notes:

A1: Table 7

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E10: Contractor

Contractor rates are derived from a system development contract currently in place in the Center or Electronic Records.

A12: Personnel Required

Staffing requirements for system operation of the full system are based on data provided by WHCA, NSC and the EOP/OA for the systems on which these materials were produced.

C45: Government

Government rates are the average hourly salaries plus benefits paid by the Center for Electronic Records.

Table 8
SYSTEM PROCESSING TIMES
Restore, Locate, Extract and Output User Files in
Items Transferred from EOP & NSC to NARA

				HOURS			
				All		Selected	
MEDIUM	100 MB Per Item	All Items	Selected Items	Output to Paper	Tape	Output to Paper	Tape
cassette, 4 mm	20.00	18	18	6,613	900	6,613	900
hard drive	0.65	161	161	1,922	262	1,922	262
System 1							
3480 cartridge	1.20	1,607	1,155	35,425	4,821	25,461	3,465
6250 CPI reel	1.00	359	258	6,595	898	4,739	645
		System Total:		42,020	5,719	30,200	4,110
System 2							
6250 CPI reel	1.00	702	71	12,896	1,755	1,304	178
cassette, 8 mm	10.00	65	24	11,941	1,625	4,409	600
		System Total:		24,836	3,380	5,713	778
System 3							
cassette, 8 mm	10.00	33	2	6,062	825	367	50
3480 cartridge	1.20	2,924	485	64,457	8,772	10,691	1,455
		System Total:		70,519	9,597	11,059	1,505

	Work Days			
cassettes 4 mm	827	113	827	113
hard drive	240	33	240	33
System 1	5,252	715	3,775	514
System 2	3,105	423	714	97
System 3	8,815	1,200	1,382	188

	Years			
cassettes 4 mm	3	0	3	0
hard drive	1	0	1	0
System 1	20	3	15	2
System 2	12	2	3	0
System 3	34	5	5	1

List of Notes:

A1: Table 8

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I35: Work Days

Work days are calculated on the basis of one 8 hr. shift per day.

J44:

Years are calculated as 52 weeks at 5 work days per week.

Table 9
UNIT PROCESSING TIMES
RESTORE, LOCATE, EXTRACT and OUTPUT

MEDIUM	100 MB per Volume	Hours to Restore	Hours to Locate/ Extract	Hours to Output to Paper	Hours to Output to Tape	Total PROCESSING HOURS Per Unit With Output to Paper	Total PROCESSING HOURS Per Unit With Output to Tape
100 Megabytes	1.00	0.33	2.00	16.04	0.17	18.37	2.50
hard drive	0.65	0.0	1.3	10.4	0.1	11.73	1.41
6250 cpi reel	1.00	0.3	2.0	16.0	0.2	18.37	2.50
3480 cartridge	1.20	0.4	2.4	19.3	0.2	22.05	3.00
8 mm	10	3.3	20.0	160.4	1.7	183.72	24.97
4 mm	20	6.6	40.0	320.8	3.3	367.43	49.93

List of Notes:

C14: "Volume

Unit volume expresses the amount of data that can be stored on a unit volume of the medium divided by the storage capacity of a reel of tape at 6250 CPI.

F14: "Extract

Access includes locating relevant logical files on disk and extracting the for output.

E16: 0.33

Per unit restoration time based on the sixth Declaration of M. Jolly, estimate at 20 min/tape or 0.33 hr. Estimate includes locating, mounting, and restoration to disk.

F16: 2

Hours to access user files on one unit volume is estimated on the basis of the longest retrieval process described in the 6th declaration of M. Jolly i.e., the location and extraction of documents and document indexes. It i assumed that other access, to e-mail and calendars would proceed in parallel with document access.

G16: 100000000*0.77/(4000*20*60)

Print speed estimated using a high speed (20 p. per minute) printer, and accepting WHCA's finding, reported in M. Jolly's 1st declaration, that the volume of print of user data is 0.77 of the maximum storage capacity of th media. The remaining storage capacity is assumed to be used by control codes.

(100,000,000 MB x 0.77 user data) / (3000 char per page x 20 pp. per min 60 min. per hr) =

C18: .65

Hard drive at 50 megabytes per unit.

C21: 10

8 mm cassette at 1 megabyte per unit.

C22: 20

4 mm cassette at 2 megabytes per cassette.

Table 10
SYSTEM PROCESSING REQUIREMENTS
Items Transferred from EOP & NSC to NARA

MEDIUM	AGENCY	Era	Items All	Selected
cassettes 4 mm	WHSR	Bush	18	18
hard drives	NSC & OVP	Bush	161	161
System 1				
3480 cartridge	WHCA	Bush	1,575	1,123
3480 cartridge	OA	Reagan	32	32
6250 CPI reel	WHCA	Reagan	359	258
	System subtotal		1,966	1,413
System 2				
3480 cartridge	OA	Bush	2,924	485
6250 CPI reel	WHSS	Reagan	89	65
6250 CPI reel	WHCA	Reagan	451	4
6250 CPI reel	WHCA	Bush	162	2
cassettes 8 mm	WHSS	Bush	65	24
	System subtotal		3,691	580
System 3				
3 cassettes 8 mm	WHCA	Bush	33	2
TOTAL			5,869	2,174
Other				
	WHCA copies		129	
	Tower Commission		6	
GRAND TOTAL			6,004	

List of Notes:

C33: WHCA copies

WHCA copies:

129 cartridges containing copies of 188 reels of Reagan PROFS computer backups.

C34: Tower Commission

Tower Commission:

Presidential records including 3 reels shipped to NARA in NSC-WHCA PROFS backups from Reagan era, and 3 disc packs from NSC.

List of Notes:

E9: SYSTEM

SYSTEMS

At least three system configurations are deemed necessary to process the i transferred to NARA: one IMB system and two DEC VAX systems. It is assume the IBM system could be reconfigured to process the 32 cartridges of EOP/O PROFS files from the Reagan administration.

A10: COST FACTOR

Cost Factor:

Costs for systems acquisition, installation and maintenance were estimated on data received from WHCA on both IBM and VAX systems operated by the age Costs for the second VAX system, necessary for processing tapes from the E are assumed to be the same as those of the WHCA VAX.

E16: E12*C17/C13

Installation & Site Preparation:
VAX systems

Actual costs are known only for installation. Site preparation estimate w produced by multiplying the cost of the VAX system by the ratio of (instal + site preparation) to the system cost of the ES 9000.

Clinton

THE WHITE HOUSE
WASHINGTON

DATE: 10/3/93

TO:
THE VICE PRESIDENT
MACK MCLARTY
DAVID GERGEN
GEORGE STEPHANOPOULOS
MARK GEARAN
ROBERT RUBIN

FROM: **JOHN D. PODESTA**
Assistant to the President and Staff Secretary

The attached has been forwarded to the President.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL OF ECONOMIC ADVISERS

WASHINGTON, D.C. 20500

MEMBER

P7: 03

October 1, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: ALAN S. BLINDER AB

SUBJECT: Foreign Economic Developments

Exchange Rates: The dollar declined slightly in value this week.

Value of the Dollar in terms of:	Week Ending 9/24/93	Week Ending 10/1/93	Percent change from: Week ago	Year ago
Deutschemark	$1 = 1.6428 DM	$1 = 1.6290 DM	-0.8%	+14.7%
Yen	$1 = 105.91 Yen	$1 = 105.87 Yen	-0.0%	-11.6%
Multilateral (March 1973 = 100)	92.83	92.66	-0.2%	+13.3%

OPEC: ▸ Output quotas for the next six months were raised to 24.5 million barrels a day. The new quotas exceed existing quotas by 1 million barrels a day, but due to extensive cheating, are below recent production. Crude oil prices increased sharply following the quota announcement.

Japan: ▸ A political consensus for an income tax cut followed by a consumption tax increase may be forming. Ministry of Finance officials and political leaders are divided on the timing of the consumption tax change. A decision is expected in November.

▸ The ratio of job offers to job seekers, a key labor market indicator, fell again in August reaching its lowest level since July 1987. The industrial and mining production index fell 0.7% in August and was down 2.0% from a year ago.

▸ The August CPI was up 0.2% from July and 1.9% from a year ago.

Europe: ▸ West **German** consumer confidence rose slightly in August, but remained substantially below its level a year ago. Inflation continued to slow as the CPI rose 0.1% in September, bringing March-September inflation to a 2.7% annual rate.

▸ **French** unemployment remained at 11.7% in July. The trade surplus for the first half of 1993 was $6.5 billion, more than double its value a year ago.

Other Countries: ▸ **Canadian** GDP fell 0.2% in July, but is up 2.7% over a year ago.

▸ **Brazil's** trade surplus rose to $1.2 billion in August, bringing the 1993 total to $9.2 billion.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20500

MEMBER

'93 OCT 1 P7:03

October 1, 1993

MEMORANDUM FOR THE PRESIDENT

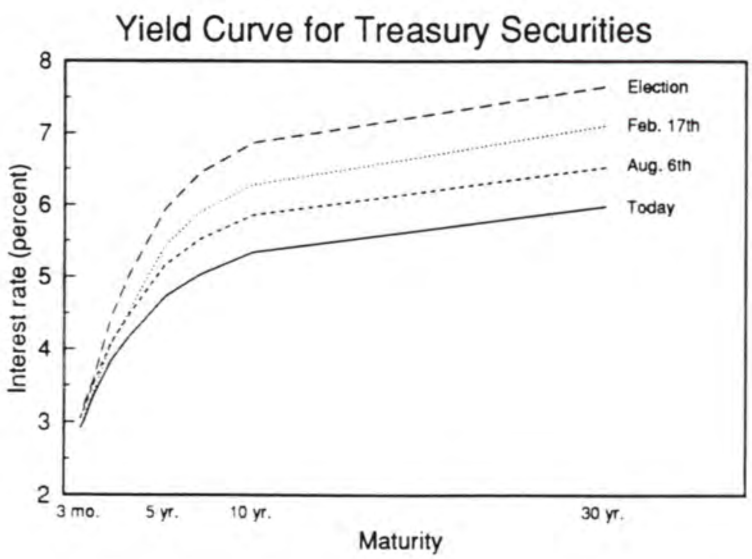
FROM: ALAN S. BLINDER AB

SUBJECT: Interest Rates and the Stock Market, Week Ending Friday, October 1, 1993

Interest rates fell this week, especially at the long end. Changes in Treasury borrowing rates over the week were as follows:

	Close 9/24/93	Close 10/1/93	Change
3-month bills	2.93	2.92	-0.01
10-year bonds	5.42	5.34	-0.08
30-year bonds	6.06	5.98	-0.08

The stock market closed higher for the week. The S&P index closed Friday (October 1) at 461.29, up 0.8 percent from the preceding Friday's close. The Dow Jones Industrial Average rose 1.1 percent over the week to close at 3581.11.



THE WHITE HOUSE
WASHINGTON

DATE: October 3, 1993

TO: Bob Rubin

FROM: **JOHN D. PODESTA**
Assistant to the President and Staff Secretary

The attached has been forwarded to the President.

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20500

October 1, 1993

MEMORANDUM FOR THE PRESIDENT

THROUGH: LAURA D. TYSON

FROM: MATTHEW D. SHAPIRO MDS
ROBERT F. WESCOTT RFW

SUBJECT: The Economy's Response to Lower Interest Rates

You asked for comments on a recent Washington Post article entitled, "Rates Are Low, So Where's the Boom?"

Timing: The Economy Responds to Lower Interest Rates with a Lag

Most econometric models find a 2- or 3-quarter lag between a reduction in interest rates and a rebound in interest-sensitive sectors. The sharp reductions in rates that began last winter should thus have a noticeable effect starting in the third and fourth quarters of 1993. The August rate reductions should have their effects concentrated in the first half of 1994.

Are Interest-sensitive Sectors Responding to the Low Rates?

The answer is mixed. Demand for business equipment, automobiles, and other consumer durables is strong. Housing and nonresidential structures investment have shown fragmentary improvements to date.

Purchases of business equipment have been strong. In each of the first 2 quarters of this year, equipment spending increased by about 15 percent in year-over-year terms--the fastest real rate of increase since 1984.

Investment in business structures has been recovering slowly. Structures investment has increased in the last 2 quarters after 3 years of steady declines. The over-building of commercial structures in the 1980s has muted the response to lower interest rates.

Demand for consumer durables has picked up noticeably.

- Automobiles have been selling at the highest rate since 1989. The year-to-date sales of light vehicles in 1993 is 8 percent above last year's pace.

- o Real spending on household durable goods (furniture, major appliances, etc.) was up almost 12 percent in the second quarter of 1993 over the same quarter in the previous year--the fastest year-over-year rate of increase since 1984.

Housing starts were about flat for the first 6 months of the year, but rebounded sharply in August. This could be the first sign that the lowest mortgage rates in 20 years may finally be giving this sector an upward kick.

- o Several special factors have been holding housing back, including relatively weak income growth, poor confidence levels, and an especially bleak economic situation in Southern California, which is an important home-building region.

- o By some estimates, there also has been a 5-year over-supply of housing nationally, a holdover from the speculative boom of the late 1980s. This oversupply may now be ending.

- o There is evidence that where income gains and employment gains have been respectable, especially in the Mountain States and in Texas, people are responding to lower interest rates and housing starts have been rebounding.

Credit Availability Improving

The ability to get credit, not just the interest rate, affects the demand for goods financed by borrowing. Credit availability was a serious problem during the 1990-91 recession. There are broad indications that the credit crunch is over. Yet, certain borrowers, especially those with balance sheet problems, cannot borrow as much as they want.

Lower Interest Rates Put Income in Some Pockets, but Take it From Others

Lower interest payments can stimulate the economy by putting more resources in the hands of individuals making interest payments. But this stimulus is largely offset by the response of the individuals or institutions receiving the interest payment.

- o The household sector is a net creditor to the government. Lower interest rates therefore reduce government interest payments to households.

- o When a household refinances a mortgage or credit card account, it benefits by having greater cash flow. But this benefit is at least partially offset by the reduction in cash flow of the holder of the mortgage.

THE WHITE HOUSE
WASHINGTON

DATE: 10/01/93

NOTE FOR: THE FIRST LADY

The President has reviewed the attached, and it is forwarded to you for your:

Information ☒X

Action ☐

Thank you.

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
(x2702)

cc:

Gene - group p.8
Health to Home

THE PRESIDENT HAS SEEN
10.1.93

WEEKLY ECONOMIC BRIEFING OF THE PRESIDENT OF THE UNITED STATES

Prepared by the Council of Economic Advisers
with the assistance of the Office of the Vice President

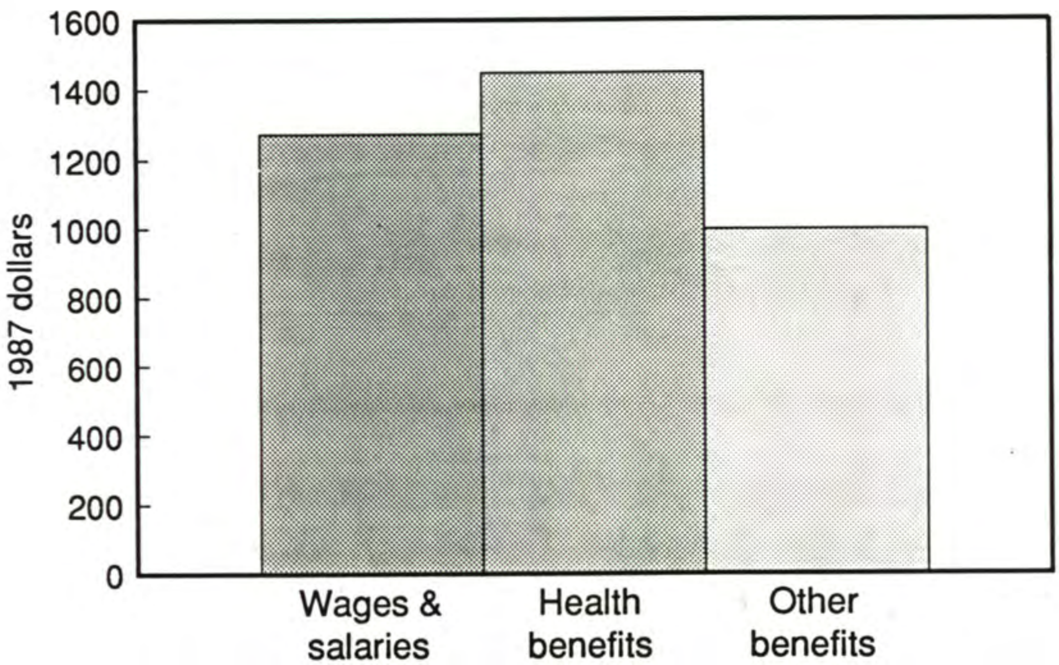
September 24, 1993

CHART OF THE WEEK

Increase in Real Compensation per Worker

Health benefits accounted for almost 40 percent of the increase in total compensation from 1970 to 1992.

Put - also for the same health care



Between 1970 and 1992, employer-paid health benefits grew at a 4.9 percent annual rate, while real wages and salaries grew at an annual rate of only 0.3 percent. Over this period, health benefits increased $1,448 (1987 dollars) while wages and salaries increased $1,274. Other benefits—mainly employer contributions to Social Security and Medicare—increased $998.

?

THE PRESIDENT HAS SEEN
10-1-93

BUSINESS, CONSUMER, AND REGIONAL ROUNDUP

cc: HRC

Rise in Health Care Costs Moderates. A private survey of the health benefit costs of 2,448 employers reports increases of 10 percent in 1992—to an average of $3,398 per employee. Cost increases for traditional indemnity plans averaged 14 percent, while HMO plans increased 9 percent. The overall increase was the smallest in 5 years.

For the first time, more than half of the covered workers were in managed care plans.

Manufacturers More Optimistic. The *Dun & Bradstreet* industrial sentiment index increased in August for the first time since March. The index is based on a monthly survey of 1,000 U.S. manufacturers and pertains to their attitudes for the next 3 months.

Lower Interest Rates Improve Consumer Buying Conditions. Consumer sentiment remained unchanged for the last 3 months at a level significantly below last January's peak. But buying conditions for durables remain at January's favorable level because of lower interest rates. When asked to explain their views about purchasing homes, autos, and large household durables, unusually large proportions of respondents cited lower interest rates. (NOT FOR RELEASE.)

The National Association of Realtors index of housing affordability—an index based on average housing price and mortgage rates—is at its highest level since the fourth quarter of 1973.

Competitiveness of U.S. Auto Industry Improves. In response to cost pressures from the strong yen, Honda announced it will accelerate the phaseout of exports from Japan of Accords and Civics. It will increase U.S. production instead. Also, Nissan and Mitsubishi announced large price increases on their imported models. Nissan currently produces 62 percent of its U.S. sales in Tennessee, up from 45 percent in 1991.

Ford has begun to produce right-hand-drive versions of its Probe coupe for the Japanese and British markets at its Flat Rock, Michigan, plant. Chrysler is expanding its small production of the right-hand-drive Jeep Cherokee.

THE WHITE HOUSE

WASHINGTON

Sent

93 OCT 1 P6:13

Sew

OFFICE OF THE STAFF SECRETARY

Fax Transmittal Sheet

219 7971

TO: TOM GLYNN

Fax Number: ~~219-6759~~ **Phone Number:**

FROM: John Podesta

SUBJECT:

DATE: 10/01/93

NUMBER OF PAGES (including cover sheet): 23

MESSAGE:

If all pages are not received, please call 202/456-2702

See President's note on next page --

'Looks like we should move to tighten the H-1B program even more.

Why do we need this at all now -- why can't we suspend it for awhile --

Why should they get 3yr, much less 6?

THE PRESIDENT HAS SEEN 9/20

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

SEP 15 1993

'15 P8:00

GS | Chasco | Rubin

MEMORANDUM FOR THE PRESIDENT

FROM: ROBERT B. REICH Robert B. Reich

SUBJECT: Immigration

— Looks like we need more to tighten the H-1B program even more — why do we need this at all now — why can't we suspend it for a while —

Following up on our recent conversation, attached are two memoranda discussing U.S. immigration policy, recent and related problems, and the pending 60 Minutes broadcast.

The first memorandum, which I sent to the NEC in early July, addresses certain labor market issues arising from current immigration policy. The second memorandum, sent to me by Deputy Secretary Thomas P. Glynn, is an update on the actions being taken.

Of course, we will be pleased to provide any additional information or assistance you may desire in this regard.

— why should they get 3 yrs, much less 6?

Attachments

cc: Robert Rubin, NEC
David Gergen
George Stephanopoulos
Mark Gearan

U.S. DEPARTMENT OF LABOR

DEPUTY SECRETARY OF LABOR
WASHINGTON, D.C.
20210

MEMORANDUM FOR THE SECRETARY

FROM: THOMAS P. GLYNN T. Glynn

SUBJECT: 60 Minutes Story on Immigration

Background

We understand that CBS' 60 Minutes is planning to air, perhaps as soon as September 19, a segment on how current U.S. immigration law harms U.S. workers, particularly in high-tech occupations. This segment will likely be quite critical and could further fuel the growing public interest in immigration issues. This is to describe what we know about the upcoming story, outline recent Department of Labor actions in the immigration area, and sketch a possible framework for the Administration's response to the story.

As best we have been able to ascertain, the 60 Minutes segment will suggest that even where workers are available in the U.S. labor market, foreign workers are being admitted legally to work in high-tech jobs, especially in the computer and engineering industries. This seems to occur most commonly in California and New England with foreign workers admitted for temporary stay as:

- "visitors for business" under B-1 visas, administered by the Departments of State and Justice's Immigration and Naturalization Service (INS), and as
- "professionals" to be employed in "specialty occupations" under H-1B visas, administered by the Department of Labor and INS.

60 Minutes Focus

We believe that 60 Minutes has spoken with U.S. workers who believe that they have been displaced or adversely affected by legal foreign workers, particularly those admitted for "temporary" employment which, in some cases, can be as long as six years. They also have spoken with industry associations, including the National Association of Computer Consulting Businesses, which likely have cited examples of unfair competition from employers of temporary foreign workers. The show may highlight the fact that under current law, certain foreign workers can be admitted without any prior test of the U.S. labor market and, perhaps, that U.S. employers can import these workers even where they have or are laying off U.S. workers in the same occupations and locations. (It is reported that Digital Equipment Corporation, for example, may have laid off as many as 1,600 U.S. employees and shortly thereafter filed applications to authorize the importation of about 1,100 foreign workers in the same occupations.)

60 Minutes requested an on-camera interview with you last May, but was satisfied with an off-camera background interview with staff, who described the efforts we are making to tighten the H-1B program regulations as well as our efforts to initiate legislative changes in this program. 60 Minutes has asked for periodic updates on our progress with these efforts, with special interest in legislation. They have not renewed their interview request, and we are not aware of any other interviews they may have conducted with Department of Labor staff.

Many of the current issues involving our system of legal immigration flow from the passage of the Immigration Act of 1990 when the national unemployment rate was 5.5 percent, and the unemployment rate in California was 5.6 percent. At that time, therefore, there may have been labor shortages in some high-tech occupations. Today, with a 6.7 percent national unemployment rate, and 9.0 percent unemployment in California, we are saddled with a law that is predicated on quite different economic conditions.

Department of Labor Actions

At your direction, the Department has been thoroughly reviewing its immigration responsibilities. We have identified steps that can be taken administratively, and through regulatory and legislative changes, to address the concerns and problems identified in your July 2 memorandum to the members of the National Economic Council (NEC).

To update the initiatives outlined in your memorandum to the NEC:

- The Department suspended further action on the rulemaking relating to our current legal obligation to implement a Labor Market Information (LMI) pilot program as a basis for admitting certain employment-based permanent immigrants until the Congress has an opportunity to act on the pending legislation which would eliminate this requirement. On May 14, 1993, you sent a letter to Congressional Members requesting action to eliminate the existing requirement relating to the pilot LMI program for selecting employment-based immigrants (copy attached).

- We are finalizing proposed regulatory changes for the H-1B program governing the admission of foreign "professionals" for temporary employment in "specialty occupations." Our proposed regulations would tighten up the H-1B program primarily by enhancing our ability to enforce employer compliance with the terms under which they obtain access to temporary foreign workers. In addition to the changes outlined in your memorandum to the NEC, we are also proposing regulatory changes to specify what payments can be credited as wages by employers and give the Department authority to investigate employer compliance where we have reason to believe that violations may be occurring, even absent a complaint from a potentially aggrieved party. The prior Administration had decided to limit the Department's authority, by regulation, to conduct such investigations only based on complaints. We are also proposing to limit the validity period of approved employer applications to three years (down from six). These proposed rules are currently at OMB, but we expect that they will be published within the next week.

at least that

- We developed the proposed technical legislative amendments to the H-1B program discussed in your memorandum to the NEC. These amendments are also in Administration clearance, being negotiated at present with the Office of the U.S. Trade Representative (USTR). They are also intended to tighten up the H-1B program by disallowing employers' applications for H-1B workers when the employer has laid off U.S. workers in the same occupation in the last year, and by requiring certain employers to take timely and significant steps to recruit, develop, and retain domestic workers in these jobs.

- We also developed a broader set of proposed amendments to the H-1B program legislation which is currently being coordinated and negotiated with the INS and USTR. The resulting package will soon be forwarded to the National Economic Council for decisions on its specific provisions.

- Last June, you communicated with the Secretary of State and Attorney General to urge coordinated interdepartmental action to review current immigration policy and take meaningful, timely steps to address apparent abuses of certain temporary foreign worker visa programs for which the Department of Labor does not have any operational responsibility. (Copies of those letters are attached.) In particular, you urged revision of the criteria for admission and employment of temporary foreign "visitors for business" admitted under B-1 visas. State has already published proposed changes to their B-1 regulations, and we understand that the INS soon will do so.

Framework for Response to <u>60 Minutes</u> Story

In framing the Administration's response to the story, we are aware of a number of actions that can be cited as evidence of our appreciation of and intention to address the problems likely to be highlighted, including:

- The publication by the Department of State and [soon] the INS of proposed new regulations tightening the criteria for admission and employment of visitors-for-business under B-1 visas;

- The publication by the Department of Labor of proposed new regulations tightening the criteria for temporary admission and employment of foreign professionals under H-1B visas;

- The incorporation in pending legislation (the technical amendments currently awaiting action by the House) of a measure to no longer require Labor to test an LMI pilot program for selecting permanent, employment-based immigrants;

- The President's proposal of new legislation to expedite deportation in certain circumstances and revise the system for granting asylum;

- The President's announcement of his intent to nominate Doris Meissner as Commissioner of the INS, and his charge to her in leading that agency; and,

- The President's proposal that the Administration, including the Department of Labor, be represented on the Commission on Immigration Reform which is tasked to evaluate the effects of the recent reform of our system of legal immigration by the Immigration Act of 1990.

While we still need to look more carefully at the question of employer sanctions, which raises a range of different considerations, the Administration's decisive actions in response to the problem of illegal immigration now make it possible for decisive action on the problems deriving from our current system of legal immigration.

Attachments

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

MAY 14 1993

The Honorable Joseph R. Biden, Jr.
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C., 20510

Dear Chairman Biden:

I am today requesting that the requirement for a Labor Market Information Pilot Project be removed from the Immigration Act of 1990. Since that Act became law, the Nation's economy has changed. Unemployment has increased, including in the highly technical fields, as a result of such things as the restructuring of some major U.S. corporations and defense reductions.

These changes have been demonstrated by the overwhelming adverse comments received during the rulemaking process. It has become readily apparent that such a project may adversely affect U.S. workers employed or seeking employment in highly skilled occupations.

This amendment, eliminating the labor market pilot project, will provide proper protection and increased employment opportunities for U.S. workers presently seeking employment. My staff will work closely with the Committee staff to provide any necessary assistance.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Robert B. Reich

Robert B. Reich

PLEASE NOTE: Identical letters were sent to:

Senators Kennedy, Simpson, Kassebaum, and Hatch

Congressmen Brooks, Mazzoli, Ford, Fish, McCollum, and Goodling

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

JUN 17 1993

The Honorable Janet Reno
Attorney General
Department of Justice
Washington, D.C. 20530

Dear Attorney General Reno:

Recently there has been considerable public interest and media attention in the matter of employers bringing foreign workers into the United States for employment under the B-1 visitor for business visa category. In light of current economic conditions, I ask that you suspend, in a manner consistent with our international obligations, the provision in the Operations Instructions of the Immigration and Naturalization Service governing B-1 visitor for business visas that relate to the admission of professionals as "B-1 in lieu of H-1B."

There is increasing unemployment of U.S. workers in professional and highly technical fields as a result of defense reductions and the downsizing and restructuring of some major corporations. The continued admission of B-1 professionals outside of the numerical limitations and labor market protections provided for under the H-1B visa classification may be adversely affecting job opportunities for U.S. workers.

I understand that the State Department recently sent a cable to all diplomatic and consular posts clarifying that it is inappropriate to use a B-1 in lieu of H-1B visa for professionals coming to work for a U.S. company which has merely contracted with a foreign company for their services. I believe this is a positive step, but more forceful action may be warranted. I am very concerned, especially in today's labor market, that we have adequate employment opportunities and protections in place for U.S. workers.

Your early consideration of this request will be much appreciated.

Sincerely,

Robert B. Reich

Robert B. Reich

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

JUN 17 1993

The Honorable Warren M. Christopher
Secretary of State
Department of State
Washington, D.C. 20520

Dear Secretary Christopher:

Recently there has been considerable public interest and media attention in the matter of employers bringing foreign workers into the United States for employment under the B-1 visitor for business visa category. In light of current economic conditions, I ask that you suspend, in a manner consistent with our international obligations, the provision in the Notes to State Department's Foreign Affairs Manual governing B-1 visitor for business visas that relate to the admission of professionals as "B-1 in lieu of H-1B."

There is increasing unemployment of U.S. workers in professional and highly technical fields as a result of defense reductions and the downsizing and restructuring of some major corporations. The continued issuance of B-1 visas to professionals outside of the numerical limitations and labor market protections provided for under the H-1B visa classification may be adversely affecting job opportunities for U.S. workers.

I understand that the State Department recently sent a cable to all diplomatic and consular posts clarifying that it is inappropriate to use a B-1 in lieu of H-1B visa for professionals coming to work for a U.S. company which has merely contracted with a foreign company for their services. I believe this is a positive step, but more forceful action may be warranted. I am very concerned, especially in today's labor market, that we have adequate employment opportunities and protections in place for U.S. workers.

Your early consideration of this request will be much appreciated.

Sincerely,

Robert B. Reich

Robert B. Reich

U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

MEMORANDUM FOR THE NATIONAL ECONOMIC COUNCIL

FROM: ROBERT B. REICH

Bob

SUBJECT: U.S. Immigration Policy and its Workforce Effects

I. The Problems

In assessing immigration policy, three labor market issues are paramount:

(1) There is concern that the large number of immigrants during a sustained period of high unemployment may be affecting the employment opportunities of U.S. workers. These concerns are sometimes exaggerated, but may be on target in areas or occupations in which immigrants are intensively concentrated. Labor market effects should be considered when evaluating the overall impact of immigration policies.

(2) Immigrants are often subjected to abusive working conditions. These conditions can be particularly deplorable for illegal immigrants but there is increasing evidence that legal temporary nonimmigrants are being subject to abuse as well.

(3) There is also increasing evidence that certain features of temporary nonimmigrant employment programs are functioning poorly and leading to unintended consequences. Because of the Department of Labor's administrative responsibilities for aspects of these programs, abuses associated with these programs are of particular concern to us. Many of the abuses have occurred under the H-1B program[1].

> In Massachusetts, one firm has filed applications for more than 1,100 H-1B computer programmers and analysts after having announced and started to lay-off more than 1,600 U.S. workers, many in the same occupations.

---

[1] The H-1B program allows admission of "professional" nonimmigrants for temporary employment in "specialty occupations."

- From October 1991 to May 1993, there were at least ten California computer companies that laid off from 100 to 2,000 workers but each applied for at least 25 H-1B visa slots.

- We have found systematic underpayments of required wages in most of the H-1B investigations we have conducted. Recent immigration reforms may have made it easier for such abuses to occur.

- While annual H-1B admissions are capped at 65,000, one university alone has filed applications for 10,000 such workers.

- We have also seen reports, especially from California, that individuals admitted as "visitors for business" under B-1 visas are circumventing the H-1B program and also are replacing U.S. workers in the computer industry in large numbers, mostly through out-sourcing arrangements with job contractors. This nonimmigrant program is administered by INS and the Department of State.

II. Background

In FY 1992, we estimate that at least several million people entered the United States who could become active labor market participants:

- There were nearly one million permanent immigrants, the vast majority of whom were adults. Most of these immigrants were not admitted through employment programs.

- There were 4.3 million temporary nonimmigrants admitted into the country who could potentially have some connection to the labor market. Of these, 2.8 million were temporary admissions for business (many of whom were in the country for very short periods of time or were repeat visitors). More than 400,000 of the temporary nonimmigrants were explicitly admitted as workers.

- In 1989, it was estimated that there were two million undocumented immigrants in the United States. This figure is almost certainly higher today. Some of these illegal migrants are children, but most are presumably part of the labor market.

- Overall, the proportion of immigrants legally admitted specifically for employment purposes is relatively small -- representing only about 10 percent of the 5.3 million legal permanent and temporary admissions -- but many more migrants are active in the labor market.

During the 1980s, as the economy grew and new (albeit relatively low wage) jobs were being created, the influx of large numbers of migrants to the U.S. caused relatively little public concern. Moreover, the economic activity, talents, and drive of these new entrants can substantially benefit the U.S. economy and create the potential for economic growth.

As the economy changed in recent years, however, and in light of current trends in downsizing of industries that require a relatively highly-skilled workforce -- exacerbated by the continuing shrinkage of defense-based industries -- we can expect immigration-related problems to continue to emerge and public concern to escalate in parallel. For example, in 1990 when our system for admitting legal immigrants and nonimmigrants was last revised, the national unemployment rate stood at 5.5 percent. It subsequently grew much higher and has -- despite recent improvements -- stubbornly remained at a level near 7 percent.

We have already begun to see signs of growing problems. We have read recurring reports involving lay-offs of highly-skilled U.S. workers -- e.g., computer programmers, analysts, and engineers -- who it appears are sometimes being replaced by lower cost foreign workers. These abuses often occur under non-immigrant programs which were supposed to be designed to preclude such employment (see attached news clips). CBS's <u>60 Minutes</u> is currently producing a story on just such effects. And Congressman Smith (R-TX) has recently introduced legislation (see attachment) to link the ceiling on admissions of immigrants to the national unemployment rate.

III. Department of Labor Response

To address these emerging problems, we are taking a number of steps to remedy abuses and strengthen protections for U.S. workers both in the short and longer terms.

In the short term:

- We have asked the Congress to change the Immigration and Nationality Act to allow us the discretion <u>not</u> to proceed with a controversial program (see attached news clip) to use general labor market information in determining the admissibility of certain employment-based permanent immigrants.

- We are also developing regulatory changes in certain employment-based immigrant and nonimmigrant programs for which we have some administrative responsibility to strengthen protection of U.S. workers. These include measures to:

- Require employers to disclose terms and conditions of employment to H-1B workers.
- Limit employers' labor condition applications (LCAs) to a single geographic area.
- Require employers to identify the source of the prevailing wage information they use as the basis for paying their H-1B workers.
- Limit the kinds of deductions allowed to be taken from workers' pay.
- Clarify what kinds of cash payments qualify, and which do not, toward meeting an employers' wage payment obligations.
- Clarify, to broaden, the sources from which complaints of violations can be accepted.

For the longer term:

- We are encouraging other Departments, particularly State and Justice, to work with us to strengthen controls on the admission of certain categories of nonimmigrants who are not supposed to engage in employment in the U.S., but appear to be doing so in increasing numbers, in some cases in deplorable conditions.
- We have also started working with our colleagues in the INS and the USTR to explore the feasibility of certain legislative changes we would like to see enacted to further strengthen protections for U.S. workers and discourage employers from seeking nonimmigrant workers in certain cases. In the H-1B program alone, these include:

  MEASURES TO MANAGE THE NUMBER OF ADMISSIONS

  - Reduce the H-1B cap of 65,000 admissions per year on an annual basis by 2,000 for each one-tenth of one percent that the national unemployment rate exceeds the rate when the current H-1B provisions were enacted (5.5%). The 65,000 cap would remain the ceiling if the national unemployment rate were to drop below 5.5 percent.
  - Establish a separate "cap" per employer to limit H-1B admissions so that the employer's use of nonimmigrant workers in all categories does not exceed a fixed percentage -- e.g., 10 percent -- of the employer's

total workforce, <u>or</u> its workforce at any single work site.

- Limit H-1B period of stay to three (3) year duration, as opposed to the current six year duration.

- Disallow H-1B workers to adjust status to permanent residency or adjust to another legal nonimmigrant status until the worker has left the country for a minimum period of time (six months to two years).

MEASURES TO MANAGE THE "MIX" OF WORKERS ADMITTED

- Establish a pre-admission requirement that employers seeking H-1B workers attest that they have unsuccessfully recruited for U.S. workers for the target position(s) for some period of time -- e.g., 60 days.

- Establish authority for DOL to reject H-1B LCAs for occupations in which a labor surplus can be shown to exist.

- Raise the qualifications for H-1B admission eligibility to require a Masters degree or equivalent, as opposed to a Bachelors degree.

MEASURES TO BETTER PROTECT U.S. WORKERS

- Add "no lay-off" (past and duration) attestation provisions.

- Add requirement for employer to attest to taking timely and significant steps to develop, recruit, and retain U.S. workers in the occupations for which H-1B admissions are sought.

- Add provision that employers using H-1B workers obtained through contract must file separate attestation and be jointly liable for compliance with all attestation elements.

- Provide subpoena authority for enforcement.

- Allow directed, as opposed to only complaint-based, investigations.

- Add debarment penalty for failure to cooperate in DOL investigations or discrimination against individuals cooperating in investigations.

- Authorize DOL to reject LCAs where the wage promised is clearly less than that which prevails for the occupation in the area of employment.
- Require employers to pay H-1B workers in U.S. currency in the U.S., and to pay the cost of round-trip travel for any H-1B workers.

While we intend to pursue these and likely other steps in coming months, we realize that this issue extends well beyond the Labor Department and poses potentially serious problems for the Administration. We stand ready to assist this process in any way we can.

cc: RAHM EMANUEL
DAVID GERGEN
BOB RUBIN
MARK GEARAN
GENE SPERLING
GEORGE STEPHANOPOLOUS

Visa Loophole Seen Costing U.S. Workers Computer Jobs

11/9 A1

By Al Kamen
Washington Post Staff Writer

A loophole in U.S. immigration laws is allowing thousands of foreign computer programmers and analysts to enter the United States each year on temporary business visas, enabling them to take jobs from American workers, according to industry and government officials.

"We are being crushed by this," said James Schneider, a spokesman for the National Association of Computer Consultant Businesses (NACCB), a trade group representing 130 companies and about 10,000 workers. "This practice can't validly occur, and yet no one can figure out why it is still going on."

The problem, according to State Department and immigration officials, is that a longstanding practice aimed at easing bureaucratic obstacles for short business trips is being abused by foreign companies—often called "job shops"—to bring technicians into this country. And the situation is not limited to the computer industry, officials said.

"The computer industry is an issue," one State Department official said, "but don't forget that's one piece of the action and not the totality of the problem. They [the

See VISAS, A4, Col. 1

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VISA - Cont'd

NACCB] think that is the only problem. Industry in general, anyone who buys heavy or high-tech equipment," is affected.

"We have to do something with it," said one Immigration and Naturalization Service official. "We don't know what exactly to do."

The problem is most pronounced in computers. This is how it works, according to NACCB officials:

Typically, the foreign companies bid to provide computer services for U.S. firms, and bring in workers under the business visas or use workers they have already brought in under those visas. The visas are granted for short periods, usually up to six months, but may be extended once the worker arrives.

The foreign companies, which may be affiliated with U.S. firms, pay only living expenses here—generally about $1,500 a month, said Schneider, who has a San Francisco computer consulting firm. Salaries—often amounting to less than $2 an hour for Asians—are paid in the workers' home countries.

The foreign companies are able to avoid paying any benefits, overtime or minimum wage and typically do not pay U.S. taxes, according to the NACCB.

The salary differential easily allows foreign recruiters to underbid American businesses, said William Campbell, who also runs a San Francisco consulting firm.

"They make more profit than us even underbidding by 50 percent," he said. Many of the programming jobs are billed at about $30 an hour, whereas the normal rate for U.S. companies for similar work can exceed $50 an hour.

The NACCB has been lobbying the State Department and the INS, insisting the practice is illegal. The visas are intended for business people coming here to negotiate contracts or to attend conferences, the trade group argues, or perhaps for highly specialized workers entering the country briefly to install special equipment—not for general computer work.

The State Department and INS agree that these computer consultants should be required to obtain another visa—for professional workers—which is harder to get and is limited to 65,000 a year under the 1990 immigration law.

The department, in the interests of speeding travel and trade, permits such professionals to come in under the much broader business visa, which is issued to nearly 3.5 million people a year. Officials say the department would have to go through formal rulemaking procedures to undo the practice.

Creating "job shops" for foreign professionals "is not what we wanted to create," said one State Department official, who said both the INS and the department "want to accommodate" the NACCB's concerns and have been working on new rules for several months.

"We are being crushed by this. This practice can't validly occur, and yet no one can figure out why it is still going on."

— James Schneider,
computer trade group spokesman

But it will be difficult to draw a line between working and "doing business," INS and department officials cautioned.

"We've been wrestling with this for 40 years," said another State Department official. Part of the problem, he said, is that "you need a set of rules that will stand judicial scrutiny and harmonize the interests of all parties in all industries, and that is not an easy thing to do."

Fred M. Shulman, who owns a large computer services company in Rockville, said he has lost "millions of dollars in business" to foreign competitors in the last few years because of the visa loophole.

"We have a hard time competing with them," he said, "because their workers are paid a fraction of what they would be paid for an equivalent job in this country."

Shulman said he is regularly solicited by representatives of foreign companies to bid jointly on contracts.

"They can supply large numbers of people," Shulman said. "My answer is I have to make them my employees," he said, but that is not accepted by the foreign companies.

The loophole not only hurts U.S. businesses and workers, NACCB representatives argue, but also may harm the foreign workers temporarily brought over. Despite their education and white-collar jobs, some of the workers are kept as virtual peons in situations reminiscent of those of illegal alien farm workers.

Alex Dubenko, for example, is a Ukrainian computer analyst recruited by a Kiev company to work in the United States. On arrival here last October he was met by the company's local recruiter, a Belgian, who put Dubenko and several Russians to work at firms in Maryland and Virginia.

Dubenko and three other men were lodged in a house near Manassas, driven to and from work, and fed. Dubenko said he was paid $20 a week, which, after conversion to rubles, he calculated as a proper wage for equivalent work in the Soviet Union.

Unsure of his legal status, Dubenko worked seven days a week, often morning to night. He was given a raise to $40 a week.

Finally, in frustration, he and one of the other men began calling local companies last February to look for another job. Although neither had a valid driver's license, they took the recruiter's car and found their way around the Beltway, out Interstate 270 to Shulman's company in Rockville.

They applied for work, passed a test and were hired, according to Dubenko.

When the recruiter found out, Dubenko said, he ripped the telephone from the wall, removed the battery from the car and said, "In two days you fly to Russia."

Dubenko said he found an extension phone and called Shulman's company, which sent someone to pick them up. Dubenko said he is now earning about $35,000 a year, working under a proper visa.

"But there are still people living in the house in Manassas," he said, still working for the foreign recruiter.

Wanted: *Foreign Workers*

Labor Dept. Proposes 'Green Card' Shortcut

5/17

By Boyce Rensberger
Washington Post Staff Writer

At a time when shrinking federal science dollars and spreading layoffs in high-tech industries are putting American scientists and engineers out of work, the Labor Department is trying to make it easier for employers to hire foreigners.

The department's plan is to declare shortages of scientists and engineers in various fields in certain states. Employers in those places then would no longer need to advertise openings to Americans—even though some states may have surpluses—before giving the job to a foreign scientist or engineer.

According to proposed rules published in the March 19 Federal Register, the Labor Department would automatically certify aliens for permanent residence in the United States if they were qualified for certain jobs in official shortage states. The proposed system would shortcut the current process whereby employers who wish to hire foreigners first must prove that they could not find a qualified American. Certification is a necessary step before foreigners can get "green cards" that allow a them to reside here permanently.

If the department's proposal survives the comment period, which will end June 1, it would declare that there are shortages of chemists in six states, chemical engineers in three states, computer scientists in seven states, and biologists in 17 states, including Maryland, home of the National Institutes of Health, the nation's largest employer of biomedical scientists. The department believes there are also shortages of materials engineers in four states and mechanical engineers in two states.

The proposal has baffled and outraged leaders in several scientific and engineering fields.

"I don't think there are shortages of anybody right now, aside from a few esoteric superspecialties," said Betty Vetter, head of the Commission on Professionals in Science and Technology, who opposes the proposal. "The timing of this thing absolutely blows the mind."

Vetter's group, which collects data on the supply of and demand for scientists in all fields, is sponsored by 27 scientific societies, including all the specialties in which the Labor Department study contends there are shortages.

"Shortage? I certainly don't see any shortage in biomedical science," said Robert D. Goldman, chairman of the department of cellular, molecular and structural biology at Northwestern University's medical school. "When we advertise for an assistant professor or something comparable, we regularly get over 500 applications from all over the country. That doesn't look like a shortage to me."

Goldman, who is an officer of the American Society for Cell Biology, one of the country's largest associations of biomedical researchers, said the supply of federal grant money for training and research has tightened so much in recent years and job opportunities have dwindled so much that many young people are quitting science for other fields.

Even young biomedical scientists who stay in the field, Vetter said, must usually be content with a series of temporary jobs that pay the least of any field requiring a doctorate. Starting salaries for PhDs in biology typically are in the low $30,000s.

"If there really were a shortage of biomedical PhDs," Vetter said. "You would think they'd be offering a lot more."

Martin Siegel of the American Institute of Chemical Engineers said there were so few jobs in his field that only two-thirds of the chemical engineers who will graduate this year have been offered jobs. Normally, he said, they all have positions by the time they leave school.

Individual scientists also have spoken out against the proposal.

"I wish to express my vehement objections to these completely specious conclusions," John G. Van Alsten wrote the Labor Department. A chemist with E. I. du Pont de Nemours & Co., Van Alsten said many of his colleagues are having trouble finding jobs. He said he had talked

more

cont'd

According to the Labor Department, there are shortages of workers in the following occupations, and the department lists the states where the shortages were found after each occupation:

BIOLOGICAL SCIENCE
California, Connecticut, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Washington

CHEMISTRY
California, Massachusetts, Missouri, New Jersey, New York, Texas

CHEMICAL ENGINEERING
Illinois, Massachusetts, Texas

COMPUTER SCIENCE
Alabama, Arizona, Georgia, Illinois, Michigan, Missouri, Texas

COOK/ASIAN FOOD
California, District of Columbia, Illinois, Maryland, Massachusetts, Pennsylvania, Texas, Virginia

MATERIALS ENGINEERING
California, Michigan, Ohio, Pennsylvania

MECHANICAL ENGINEERING
Arizona, Texas

MEDICAL TECHNOLOGY
California, Illinois, New York, Texas

PHYSICIAN, PRIMARY MEDICAL CARE
West Virginia

TEACHER, SPECIAL EDUCATION
New York

SOURCE: Federal Register

THE WASHINGTON POST

with placement officers at three major universities and all expressed incredulity that anyone could think there were shortages of scientists and engineers.

Rep. Collin C. Peterson (D-Minn.), chairman of the Government Operations subcommittee on employment, housing and aviation, thinks high-tech jobs should be kept open for Americans.

"It's inexplicable that Labor would view a possible shortage of, say, mechanical engineers in Pennsylvania as a reason for opening the doors to foreigners instead of expanding recruitment here at home," he said.

Pat Stange of the Labor Department's Division of Foreign Labor Certification, which made the proposal, said the ruling is not final.

The determination of shortages was made by Malcolm S. Cohen of the University of Michigan's Institute of Labor and Industrial Relations under a $50,000 contract with the Labor Department. Cohen said he relied on statistics such as the unemployment rates for each profession, the growth or decline in wages and the number of foreigners certified by the department using the procedure.

"In no case did I find there was an overall shortage throughout the country," Cohen said. "The shortage indications are confined to specific states."

Cohen also said he does not consider his findings conclusive. He noted that since he completed his study, several major employers of scientists and engineers have laid off large numbers of professionals. Also, he said, "I didn't actually talk to any employers or employee groups. That's what I'm hoping the comment period will bring out."

21ST DISTRICT, TEXAS
JOHN W. LAMPMANN
ADMINISTRATIVE ASSISTANT

422 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4321
(202) 225-4236

HOUSE REPUBLICAN
POLICY COMMITTEE
SELECT COMMITTEE ON
CHILDREN, YOUTH AND FAMILIES

Congress of the United States
House of Representatives

SUBCOMMITTEE ON ECONOMIC
AND COMMERCIAL LAW
SUBCOMMITTEE ON INTERNATIONAL LAW,
IMMIGRATION, AND REFUGEES
COMMITTEE ON SCIENCE, SPACE
AND TECHNOLOGY
SUBCOMMITTEE ON ENERGY
SUBCOMMITTEE ON SPACE

May 25, 1993

H.R.
2259

Dear Colleague,

Today I am introducing legislation to put a little common sense into immigration policy by linking the level of legal immigration to the national unemployment rate.

When Congress passed the Immigration Act of 1990, our economy was still expanding and the unemployment rate was 5.5%. The economic circumstances during debate of the bill influenced both the size of the increase in immigration and the vote on the legislation. Today's economic circumstances should have a similar, but opposite, effect on the number of immigrants admitted to our country until the economic picture improves.

The Labor Department recently announced that the nation's unempoyment remained at 7% in April.

Under this legislation, the level of immigration will increase or decrease inversely to changes in the unemployment rate. The base for the level of immigration would be the level set in the 1990 Act (700,000) and base the level of unemployment would be the average unemployment rate for 1990 (5.5%).

The bill is designed to make immigration law more responsive to America's ability to absorb immigration into the economy. When unemployment is high we should accept fewer, when unemployment is low we should accept more.

It is also important to note that the bill would not affect admissions of immediate relatives of citizens (who are not numerically limited) or refugees.

If you would like to cosponsor this common-sense bill, please call me or Lucy Weber at x54236.

Sincerely,

Lamar

Lamar Smith
Member of Congress

LS/lw

PLEASE REPLY TO:

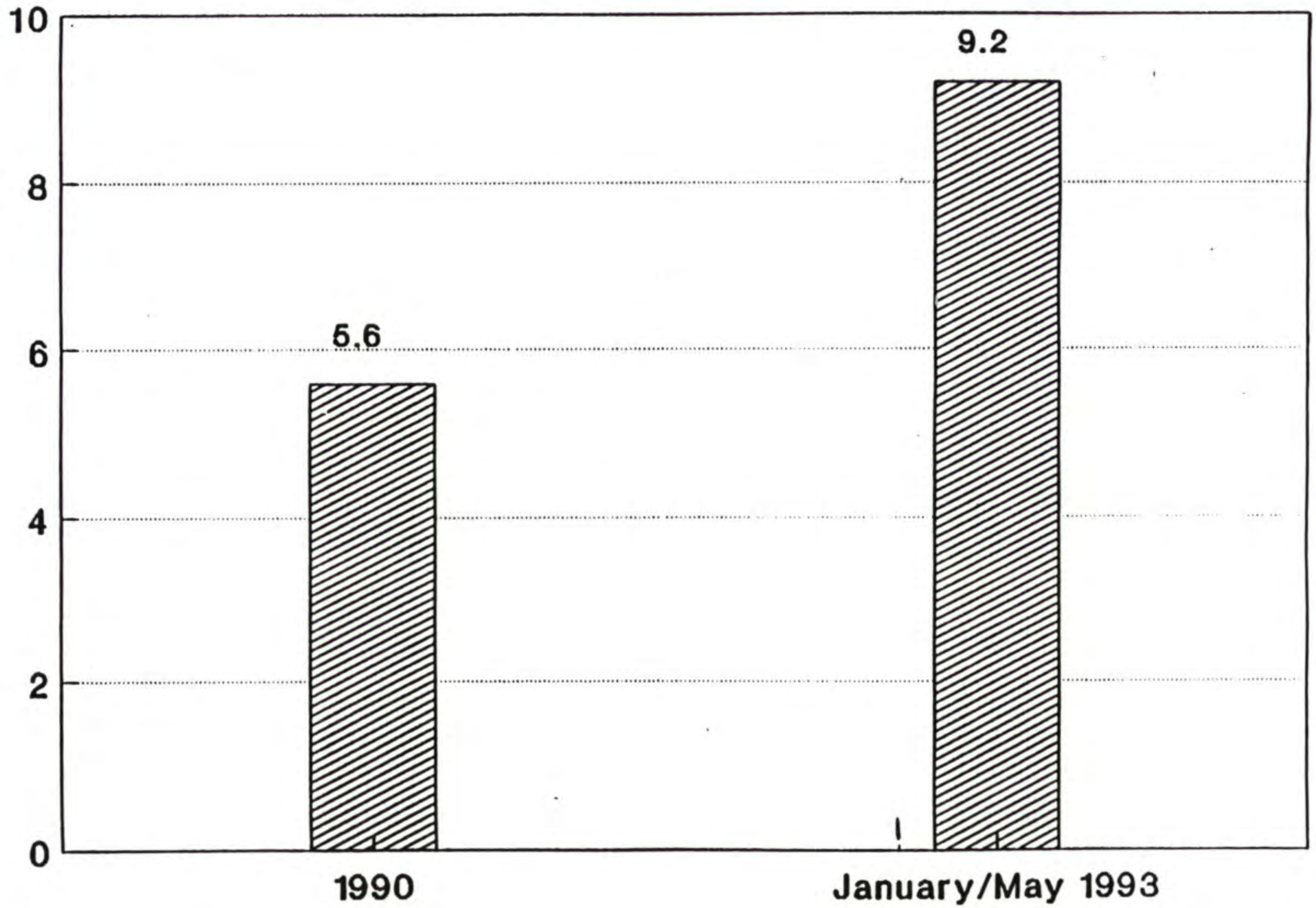
☐ 10010 SAN PEDRO AVENUE
SUITE 530
SAN ANTONIO, TX 78216
(512) 229-6860

☐ 1006 JUNCTION HIGHWAY
KERRVILLE, TX 78028
(512) 895-1414

☐ 33 EAST TWOHIG STREET
SUITE 302
SAN ANGELO, TX 76903
(915) 653-3971

☐ 201 WEST WALL STREET
SUITE 104
MIDLAND, TX 79701
(915) 687-5232

UNEMPLOYMENT RATE IN CALIFORNIA, 1990 AND 1993



Comparison of Protections under the H-1A and H-1B Programs

H-1A Foreign Nurses	H-1B Specialty Occupations
Employer must pay the higher of the prevailing or facility wage	Same requirement
Employment of foreign nurses cannot adversely affect working conditions of U.S. nurses	Same requirement
There can be no strike or lockout, and employment of foreign nurses cannot be intended to influence an election of a bargaining representative	Same requirement
Notice of the intended employment of foreign nurses must be provided to the employees or their representative	Same requirement
Employers may not obtain foreign nurses if they have laid off nurses in the last year	No such requirement
Employers have to show substantial disruption in delivery of health care services without the foreign nurse(s)	No such requirement
Employer must take "timely and significant steps" to recruit and retain U.S. nurses so as to reduce their dependence on foreign nurses as quickly as possible	No such requirement
Both the employer and user of foreign nurses (who are employed by nursing contractors) must attest to meeting all these requirements	No such requirement
Complaint and directed investigations authorized	ONLY Complaints may be investigated

MAJOR USERS OF THE H-1B PROGRAM IN COMPUTER RELATED OCCUPATIONS FOR THE PERIOD October 1, 1991 -- May 12, 1993

- Digital Equipment Corporation has requested certification to fill 1162 job openings nationwide, almost all of which are in Massachusetts.

- Tata Consultancy Services has filed for over 700 job openings in California. Certification also requested for workers in Arizona, Florida, Maryland, Massachusetts, New Jersey, Ohio, Pennsylvania, and Texas.

- Syntel, Inc. has requested certification of 1052 job openings in Michigan, New Mexico, California, and New Jersey.

- Large users in California include: Borland International (800); HCL America (700); VLSI Technology (458); Oracle Corporation (258); Tandem Corporation (242); and Intel Corporation (232).

- Large users in New York include: Zeitech, Inc. (413); Columbia University (203); Goldman, Sachs, & Co. (135); and Philips Laboratories (121).

- PSI Data Systems, Ltd. has requested certification of 579 job openings in Arizona.

- Other significant users include: Complete Business Solutions in California, Michigan and West Virginia (480); Reesan Information Management Resources in Florida (415); Infosys Technologies Ltd. in Massachusetts (405); Mastech Systems Corporation in Pennsylvania (302); Bell Northern Research in Texas (200); and Microsoft Corporation in Washington (191).

THE WHITE HOUSE THE PRESIDENT HAS SEEN

WASHINGTON 10 1 . 93

October 1, 1993

MR. PRESIDENT:

Attached for your signature is a proposed NPR Executive Order on creating labor-management partnerships.

The Order would establish a National Partnership Council of officials from certain executive agencies (such as Labor, OPM, OMB) and federal employee unions. The Council's duties would include advising on federal labor-management relations; supporting the creation of labor-management partnerships in the executive branch and working with the President's Management Council on NPR reforms.

If you approve, the NPR staff hopes that you can sign the Order today so that they can Fed-ex a copy to John Sturtevant of the American Federation of Government Employees for receipt prior to your AFL-CIO speech.

TDS

Todd Stern

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

October 1, 1993

THE PRESIDENT HAS SEEN
10-1-93

THE DIRECTOR

MEMORANDUM FOR THE PRESIDENT

FROM: Leon E. Panetta
Director

SUBJECT: Proposed Executive Order Entitled "Labor-Management Partnerships"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was prepared by the Office of Vice President and the Office of Domestic Policy. The proposed order would establish a federal labor and management Partnership Council.

BACKGROUND: The order would establish the National Partnership Council, as recommended by the National Performance Review. The Council would comprise senior representatives from the agencies and government employee unions. The Council would advise the President on matters involving labor-management relations in the Executive branch. Its activities would include: (a) supporting labor-management partnerships in the Executive branch; (b) utilizing experts both within and outside the Federal Government to foster partnership arrangements; and (c) working with the President's Management Council to achieve reform consistent with the NPR's recommendations. Administrative support would be provided by the Office of Personnel Management.

The order would direct the heads of Executive agencies to: (a) create labor-management partnerships at appropriate levels; (b) involve employees as full partners to better serve the agencies' customers; and (c) evaluate improvements in organizational performance resulting from the partnerships.

The order would also require agencies to negotiate with labor representatives over certain managerial actions, including the number of employees in an organization, employee work projects, assignments and grades, and the technology, methods and means of performing work. Currently, negotiation over these subjects is at the election of the agency. A number of departments and agencies have raised concerns that the requirement to negotiate could be a problem and may complicate the Administration's effort to downsize and streamline agency operations.

RECOMMENDATION: I recommend that you sign the proposed Executive order.

Attachment

U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

October 1, 1993

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive Order entitled "Labor-Management Partnerships." This proposed Executive Order was submitted by the Office of the Vice President and the Office of Domestic Policy. The Office of Management and Budget, with the approval of the Director, has forwarded it to this Department for review with respect to form and legality.

The proposed Executive Order is approved with respect to form and legality.

Respectfully,

Walter Dellinger

Walter Dellinger
Acting Assistant Attorney General
Office of Legal Counsel

U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

October 1, 1993

MEMORANDUM

Re: Proposed Executive Order Entitled
"Labor-Management Partnerships"

The attached proposed Executive Order was submitted by the Office of the Vice President and the Office of Domestic Policy. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to form and legality.

The proposed Order would establish a National Partnership Council ("Council"), as recommended by the National Performance Review. The Council would comprise senior representatives from the executive branch departments and agencies as well as government employee unions. The Council would be charged with advising the President on matters involving labor-management relations in the executive branch. More specifically, its duties would include supporting the creation of labor-management partnerships in the executive branch; utilizing experts to foster partnership arrangements; working with the President's Management Council to achieve reform consistent with the National Performance Review's recommendations; and proposing to the President statutory changes necessary to achieve the objectives of the Order.

The Order also would direct agency heads to create labor-management partnerships at appropriate levels; negotiate with labor representatives over certain managerial actions; and evaluate progress and improvements in organizational performance resulting from the partnerships.

The proposed Order is approved with respect to form and legality.

Walter Dellinger

Walter Dellinger
Acting Assistant Attorney General
Office of Legal Counsel

EXECUTIVE ORDER

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LABOR-MANAGEMENT PARTNERSHIPS

The involvement of Federal Government employees and their union representatives is essential to achieving the National Performance Review's Government reform objectives. Only by changing the nature of Federal labor-management relations so that managers, employees, and employees' elected union representatives serve as partners will it be possible to design and implement comprehensive changes necessary to reform Government. Labor-management partnerships will champion change in Federal Government agencies to transform them into organizations capable of delivering the highest quality services to the American people.

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, and in order to establish a new form of labor-management relations throughout the executive branch to promote the principles and recommendations adopted as a result of the National Performance Review, it is hereby ordered:

Section 1. The National Partnership Council. (a) Establishment and Membership. There is established the National Partnership Council ("Council"). The Council shall comprise the following members appointed by the President:

(1) Director of the Office of Personnel Management ("OPM");

(2) Deputy Secretary of Labor;

(3) Deputy Director for Management, Office of Management and Budget;

(4) Chair, Federal Labor Relations Authority;

(5) Federal Mediation and Conciliation Director;

(6) President, American Federation of Government Employees, AFL-CIO;

(7) President, National Federation of Federal Employees;

(8) President, National Treasury Employees Union;

(9) Secretary-Treasurer of the Public Employees Department, AFL-CIO; and

(10) A deputy Secretary or other officer with department- or agency-wide authority from two executive departments or agencies (hereafter collectively "agency"), not otherwise represented on the Council.

Members shall have 2-year terms on the Council, which may be extended by the President.

(b) Responsibilities and Functions. The Council shall advise the President on matters involving labor-management relations in the executive branch. Its activities shall include:

(1) supporting the creation of labor-management partnerships and promoting partnership efforts in the executive branch, to the extent permitted by law;

(2) proposing to the President by January 1994 statutory changes necessary to achieve the objectives of this order, including legislation consistent with the National Performance Review's recommendations for the creation of a flexible and responsive hiring system and the reform of the General Schedule classification system;

(3) collecting and disseminating information about, and providing guidance on, partnership efforts in the executive branch, including results achieved, to the extent permitted by law;

(4) utilizing the expertise of individuals both within and outside the Federal Government to foster partnership arrangements; and

(5) working with the President's Management Council toward reform consistent with the National Performance Review's recommendations throughout the executive branch.

(c) Administration. (1) The President shall designate a member of the Council who is a full-time Federal employee to serve as Chairperson. The responsibilities of the Chairperson shall include scheduling meetings of the Council.

(2) The Council shall seek input from nonmember Federal agencies, particularly smaller agencies. It also may, from time to time, invite experts from the private and public sectors to submit information. The Council shall also seek input from companies, nonprofit organizations, State and local governments, Federal Government employees, and customers of Federal Government services, as needed.

(3) To the extent permitted by law and subject to the availability of appropriations, OPM shall provide such facilities, support, and administrative services to the Council as the Director of OPM deems appropriate.

(4) Members of the Council shall serve without compensation for their work on the Council, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law, for persons serving intermittently in Government service.

(5) All agencies shall, to the extent permitted by law, provide to the Council such assistance, information, and advice as the Council may request.

(d) General. (1) I have determined that the Council shall be established in compliance with the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2).

(2) Notwithstanding any other executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, that are applicable to the Council, shall be performed by the Director of OPM, in accordance with guidelines and procedures issued by the Administrator of General Services.

(3) The Council shall exist for a period of 2 years from the date of this order, unless extended.

(4) Members of the Council who are not otherwise officers or employees of the Federal Government shall serve in

a representative capacity and shall not be considered special Government employees for any purpose.

Sec. 2. Implementation of Labor-Management Partnerships Throughout the Executive Branch. The head of each agency subject to the provisions of chapter 71 of title 5, United States Code shall:

(a) create labor-management partnerships by forming labor-management committees or councils at appropriate levels, or adapting existing councils or committees if such groups exist, to help reform Government;

(b) involve employees and their union representatives as full partners with management representatives to identify problems and craft solutions to better serve the agency's customers and mission;

(c) provide systematic training of appropriate agency employees (including line managers, first line supervisors, and union representatives who are Federal employees) in consensual methods of dispute resolution, such as alternative dispute resolution techniques and interest-based bargaining approaches;

(d) negotiate over the subjects set forth in 5 U.S.C. 7106(b)(1), and instruct subordinate officials to do the same; and

(e) evaluate progress and improvements in organizational performance resulting from the labor-management partnerships.

Sec. 3. No Administrative or Judicial Review. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

William J. Clinton

THE WHITE HOUSE,