

CATEGORY II

CETA Transcript

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**EVALUATION OF COMPREHENSIVE EMPLOYMENT
AND TRAINING PROGRAMS, 1981 : *v***

HEARING
BEFORE THE
U.S. Congress, COMMITTEE ON
LABOR AND HUMAN RESOURCES.
UNITED STATES SENATE
NINETY-SEVENTH CONGRESS
FIRST SESSION
ON
OVERSIGHT INTO THE SELECTION, PERFORMANCE, AND
EVALUATIONS OF GRANT AND CONTRACT Awardees UN-
DER THE COMPREHENSIVE EMPLOYMENT AND TRAINING
ACT OF 1973

OCTOBER 20, 1981

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EVALUATION OF COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAMS, 1981

TUESDAY, OCTOBER 20, 1981

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C.

The committee met, pursuant to notice, at 9 a.m., in room 4232, Dirksen Senate Office Building, Senator Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Hatch, Quayle, Kennedy, and Pell.

OPENING STATEMENT OF SENATOR HATCH

The CHAIRMAN. Today the Senate Labor and Human Resources Committee opens its hearings into the selection, performance, and evaluations of grant and contract awardees under the Comprehensive Employment Training Act of 1973, often called CETA.

We are also going to examine how certain awards were made to contractors in the closing days of the last administration. There is special concern for how discretionary funds are utilized and spent in such situations, and we hope to cast some light on this entire area.

The CETA legislation established a framework in which programs could be set up to provide for the employment and training of underemployed and economically disadvantaged persons around the country. Most such undertakings are carried out by prime sponsors such as State and local governments.

Congress granted special consideration in this legislation to persons struggling against excessive disadvantages or for labor markets rated as extremely depressed. These programs were to be overseen and administered by and through the Office of National Programs of the Labor Department in Washington.

A good many of these programs have been efficiently administered and have, to a certain extent, fulfilled the expectations of the sponsors of the act. Regrettably, this is not true across the board, as the committee's inquiry has established.

While the administration has announced its intent to terminate the CETA program, there are billions of dollars outstanding at this time in its various elements around the Nation. Also, the abuses in the program have been publicized often and consistently. Our review of the audits of these ventures, plus the fine work of the GAO in these areas, leads the committee to feel that some public airing of the situation is required; hence this hearing.

Our review efforts, which have had the full cooperation of the Labor Department, have uncovered one serious situation after an-

other. Waste and abuse of many kinds have emerged. The audits of the program conducted by contract auditors around the country reveal that the abuses are widespread, that the Department was being informed on a regular basis of these findings, and that nothing was done to correct the situation.

As a result, many programs fell far short of expectations, substantial sums of money were lost, and many people the program was designed to assist were deprived of the intended assistance.

The committee is especially concerned by evidence that specific Federal rules and regulations governing how Federal funds are committed to grantees and contractors have been violated often and with impunity. Such requirements are put in place not to hinder benign attempts to aid people but to insure that the undertakings are carried out as intended.

There is a need for certain programs, and I shall continue to support such efforts, but on a selected basis.

Today we shall examine how such abuses did take place and how CETA was in many ways brought into disrepute.

In March of this year, after hearing numerous allegations of serious deficiencies, I asked the General Accounting Office in my capacity as chairman to review the Labor Department's Office of National Programs award selection process and to report their findings to the committee. Several such reports have been received and have been released. Copies of them are being made available today.

The Washington Post, among other papers, in a March 9 article, reported on further findings concerning "last minute" or "midnight" contract awards funded by lame duck administrations in the closing days of the last administration.

Specifically, these involved: one, overcommitment of appropriated funding; two, absence of negotiations with, or evaluations of, prospective contractors; three, authorization of several additional contracts contrary to the informed judgments of the Department's representatives; and, four, unjustified sole source awards which ignored rules governing competition.

In the March 9 "Washington Post" article, the former Assistant Secretary of Labor for Employment and Training explained away such last minute funding commitments with this quote: "My view of the job was to see that these organizations could continue to operate long after we left office," because it was clear to him that the philosophy of the new administration was not one of support for the new kinds of training and job programs that minorities need.

It could be argued and perhaps excused if a contractor or grantee up for funding renewal could be granted a one-time exception in the form of a telegram authorizing them to temporarily continue a project, if all negotiations had been completed and documented, if the Department's program representatives had given some formal, documented seal of approval, or if it were merely a matter of preventing paperwork requirements from severely disrupting a project with an unquestioned positive record of performance.

It is quite another matter when, as GAO discovered, required negotiations had not even begun, let alone been completed. This was found in many cases. It is still another matter when, as GAO

found, negotiations had actually occurred and specific recommendations by the Department's program representatives were totally ignored or specifically contradicted by higher-ups. This was found to be the case in numerous instances.

And it is again another matter entirely when it is discovered that the performance records of many contract awardees were ignored when certain awards were made. In each of these many situations large sums of public monies were awarded. The GAO contends that the office involved would have overspent its CETA budget by at least \$42 million, which of course would be a violation of the law.

During the last 4 months of the last administration, GAO found that 287 training grants and contracts were awarded worth more than \$115 million. During that time period, at least 70 telegrams were sent to potential contractors telling them to go ahead and start spending money on CETA contracts that would be negotiated later. This compares with only 20 such telegrams sent during all the fiscal year of 1979, according to the GAO findings.

For example, on January 15, 1981, Mr. Green's office notified Dr. Benson E. Penick, a Washington researcher, that he could spend an initial \$20,000 on a proposal to study the job prospects of disadvantaged teenaged mothers. But the Labor Department's own contracting officer had recommended against the award, GAO said, because the proposal was deemed too vague and the objectives found to be a "mishmash * * * of services." GAO also stated that Penick had submitted bills to Labor that were highly questionable.

Similarly, on January 5 Green personally ordered a \$150,000 contract renewal for the National Association for the Southern Poor in Roanoke, GAO said. Green's subordinates had reported that the job training program was having a negligible impact on youth unemployment and could not properly supervise its young trainees in Virginia and North Carolina.

GAO, saying that Labor officials rarely monitored the financial performance of these contractors, called for more inspections and written assessments. Labor also handed out noncompetitive contracts without justification in nearly half the cases they surveyed, according to GAO.

One such contract, for \$199,000, went to Southern Vocational College in Tuskegee, Ala., on January 19, even though Labor auditors had accused the college of improperly spending \$550,000.

The list could go on and on, but the GAO reports will speak for themselves. The committee used the GAO in order to obtain an objective evaluation and avoid any accusations of nonobjectivity.

As the GAO work went on, the committee began to review all appropriate materials, in the process interviewing Labor Department personnel who possessed first-hand knowledge of what had transpired. Thousands of documents were examined. Several other Federal agencies and their officials rendered assistance. Today we will make public many of the findings of our inquiry.

We will hear today from the GAO; the current Assistant Secretary of Labor for the Employment and Training Administration, Mr. Albert Angrisani; a panel of Labor officials with first-hand knowledge of the situation under review; the Inspector General of the Labor Department, Mr. Tom McBride; a former Assistant In-

spector General for Audit at Labor who presently occupies the same position at the Agriculture Department, Mr. Gerald Peterson; the former Assistant Secretary of Labor for Employment and Training, Mr. Ernest Green; and the former Director of the Office of National Programs, Mr. Lamond Godwin.

GAO will elaborate on their findings, which I have alluded to already. The current Assistant Secretary of Labor will report on the situation he inherited when he assumed office on January 20 of this year, the immediate actions he was required to take, and the directive he recently issued to deal with GAO's findings and those of his own internal task force. He will also answer questions on new guidelines and procedures he will be implementing designed to assign responsibility and guarantee accountability.

We are also going to explore with Mr. Angrisani certain mysteries of grant termination. One case of immediate interest involves a \$20-million grant to PUSH For Excellence of Chicago.

As we found out in our inquiry into the National Cancer Institute, Federal grants, unlike contracts, cannot be unilaterally terminated at the Government's convenience. To terminate, detailed negotiations are required, culminating in the grantee agreeing to termination.

Since this April, Labor has sought just such a goal in a diligent manner in regard to this particular grant to PUSH For Excellence. All to no avail until the committee wrote that organization on September 24, 1981. The committee received a response from Chicago, dated October 2, 1981, informing the committee that PUSH had, on its own, terminated the grant on September 29, 1981. A salutary conclusion.

What makes this conclusion so unique is that committee staff, after receipt of this letter from PUSH, was informed by the Labor Department's Solicitor's Office that termination negotiations were still going on. Evidently PUSH notified the committee but had perhaps forgotten to notify the Department of Labor that no further reason existed for additional negotiations.

Our panel of Labor Department officials will be representative of all levels of the program office, including the acting administrator of the Office of National Programs, program directors, and Government authorized representatives frequently referred to as "program reps." Their evaluations are the only effective link to provide vital day-to-day assessments on an awardee's capabilities or past performance. Only in this way can we assure that allocated public funds go to those who have shown a "demonstrated effectiveness"—a phrase we will certainly hear more about as this hearing progresses.

It is vital to underscore this criterion, established by the Labor Department and reinforced by its Solicitor's Office in an opinion to the General Accounting Office—page 3, HRD81-145.

We will hear from Labor's Inspector General regarding certain criminal inquiries his office is presently pursuing.

We will also hear from a former Assistant Inspector General of Labor for Audit, now with the Agriculture Department, concerning his efforts, begun in 1979, to implement a system of surveillance auditing to target, discover, and prevent the very type of program deficiencies we will be discussing.

His efforts, at first praised by a former Inspector General, were cut short without substantive justification when he announced his first test example—an example, by the way, which had already received substantial notoriety here in Washington—Pride, Inc. He was told to halt and kill his professional work for fear that it would embarrass and expose political allies of higher-ups.

Finally, we will hear from two former Labor Department officials, Mr. Ernest Green, former Assistant Secretary for Employment and Training, and Mr. Lamond Godwin, former Director of the Office of National Programs.

We wish to inquire of them about their professional roles and specific actions as Government officials concerning selection of contract awardees. We are especially concerned about sole source contracting. We wish to hear their views on the General Accounting Office's findings regarding last-minute contracting.

As chairman of the committee, I have already asked the General Accounting Office, the Inspector General's Office, and the current Assistant Secretary to continue their scrutiny of several specific cases. Also, I have asked them to provide additional evaluations of work performed by a number of current awardees.

This brings me to a most disturbing area of our inquiry. At 9 a.m., on January 20, 1981, articles of incorporation filed with the Office of the Recorder of Deeds in Washington were filed, forming a corporation under laws of the State of Delaware, for Green-Herman & Associates, for the purposes of conducting business as a consultant and marketing analysis service.

In a letter dated June 23 of this year, I asked Mr. Green to provide the committee with a list of any and all contracts, grants, or subgrants that his firm had received since its incorporation. To avoid any misunderstanding, I further asked Mr. Green to provide an accounting of all funds received from prime contractors, subcontractors, or special projects utilizing Labor Department funds, directly or indirectly.

This letter was hand-delivered by the professional staff of the committee to Mr. James Christian, attorney for Green-Herman & Associates. Mr. Christian, authorized to respond for Green-Herman & Associates replied in a letter dated July 2, 1981, with regard to Green-Herman, that: one, "It has not received any contracts, subcontracts, grants or subgrants from the U.S. Department of Labor under the Comprehensive Employment Training Act;" two, "It has not received any funds from prime or subcontractors under any other Federal grant or contract program;" and, three, "It has not set up any service projects utilizing Labor Department funds directly or indirectly." The letter goes on to say, "We trust that the foregoing is responsive to your request."

However, the committee has discovered in its review of Labor Department files that a prime sponsor, Mobile County Consortium in Mobile, Ala., had awarded a subcontract to Mel Harris Associates, a management consultant firm of Crystal, Minn.

Mel Harris, in its turn, executed a consultant subcontract on April 6, 1981, with Green-Herman & Associates for the sum of \$75,000. This seems to contradict the contents of Mr. Christian's July 2 communication to the committee.

Naturally, this gives rise to certain questions in the mind of any reasonable person. These include: one, are there any other such contracts that may have accrued to Mr. Green and his firm that we still know nothing about? two, if so, in what amounts of money? and, three, does the Green-Herman firm possess any other contracts of any kind, with any organizations which to their knowledge are the recipients of Labor Department CETA contracts and funds?

Unfortunately, the Employment and Training Administration has no way of retrieving such information at this time, except by asking awardees themselves. We will have to await complete audits that itemize each subcontractor's accounts, and until such time as the Inspector General can complete his investigation and report to us.

Finally, we must at least address the principle of stewardship. The worst abuses in government are almost always done in the name of altruism and with an allegedly benign intent. Everyone wants to do the right things and often views the Government as the appointed tool with which to do the job.

I am not seeking out any special program, group, or contract to make an example of in a hearing situation. Rather, the committee is attempting to show that even the most altruistic, sincere efforts can run afoul of the legitimate institutional safeguards the Government must erect to protect itself and the public. That is what we are seeking to highlight today.

Because of the nature of this inquiry, we will place all witnesses under oath with regard to questions the committee members have.

We will now turn to Senator Kennedy, the ranking minority member.

OPENING STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. Thank you very much, Mr. Chairman.

One of the hallmarks of employment and training policies over the decades has been a bipartisan cooperation. All of us recognize that a healthy economy requires a trained and productive work force. There has also been consensus that the Federal Government has a special responsibility to assist disadvantaged youth and adults who have missed out on other opportunities to become skilled and employed.

I know Senator Hatch has been a strong supporter of Job Corps; and I have often heard him express his high regard for the program run by OCI, RTP, and SER. We are continuing this bipartisan effort as we consider the reauthorization of CETA and vocational education.

Because of the importance of these programs, it is essential that they be administered efficiently and fairly, with full public confidence. Today's hearing will cast serious doubt as to whether the administration of these programs during the Carter administration met this test.

Serious allegations will be made about the conduct of senior Federal officials in the last days of the Carter administration. The charges imply that millions of Federal dollars were squandered on hundreds of last minute contracts with organizations of question-

able merit. There is the even more troubling report that the individuals responsible for these contracts have benefited personally from these awards since leaving the Government. ✕

In addition, we will hear allegations that program audits were blocked or discontinued for political reasons, in spite of evidence of wrongdoing.

If these allegations are true, they represent the most serious possible betrayal of the public trust.

This committee has an obligation to determine where the truth lies, to hear from all sides—the accused as well as the accusers. To do less would be a betrayal of our public trust and might permanently damage the reputation of innocent individuals.

I believe the committee needs to determine the answers to the following questions:

Were I.G. audits and reviews blocked for political reasons; and, if so, who blocked them, and why?

Were millions of dollars inappropriately committed during the final days of the Carter administration? If they were, who was responsible, and what chain of command was involved?

Did anyone benefit personally and improperly from these end-of-year awards?

To what extent were the problems identified by GAO institutional, procedural problems; and to what extent were they problems caused by particular individuals acting inappropriately?

Mr. Chairman, I believe we ought to take the time necessary to get to the truth. We ought to hear from all those who may be accused today. We ought to hear from the Secretary of Labor at that time, Mr. Marshall. And we ought to pursue this expeditiously, so that the record can be complete.

Finally, Mr. Chairman, whatever we find, I hope we will not lose sight of the real goals and objectives of the CETA program. As we meet here today, unemployment stands at 7.5 percent. Only 2 days ago the President acknowledged that the country is in a recession. For the disadvantaged youth and adults whom CETA serves, it is a depression.

Part of making Government work requires rooting out corruption wherever it is found. Equally important is the need for Government to respond compassionately and effectively to those in most distress. Today in America, that requires getting people back to work. I hope we will pursue both goals vigorously in the weeks ahead.

The CHAIRMAN. Thank you, Senator Kennedy.

We will now turn to Senator Quayle, who is chairman of the Employment Subcommittee and who has done a tremendous job as chairman and certainly is responsible for stopping the funds until we can get a handle on where we are. I agree with Senator Kennedy, we have to look at this matter as objectively as we possibly can.

Senator Quayle?

OPENING STATEMENT OF SENATOR QUAYLE

Senator QUAYLE. Thank you very much, Mr. Chairman.

I certainly want to compliment you for having these oversight hearings. I think one of the most important functions of a commit-

tee in the Congress is to have these types of hearings and an airing in public of concerns that you have and that others have.

I would also like to compliment Senator Kennedy on his statement, particularly on the bipartisan approach that we have had in the past in employment and training policies.

As Chairman Hatch pointed out, it is my subcommittee that has been dealing with the CETA reauthorization. We have had a number of hearings here in Washington and some around the country.

It is my intent to be able to produce a bipartisan package that will be introduced in December or January. We can have hearings on that systems delivery. I do not think it should be partisan.

I certainly commend your comments in that direction. We have worked together, and our staffs have worked together. Senator Hatch, who is an active and supportive member of my subcommittee, has been very, very helpful in this. His past experience with Job Corps and some of the other training programs should not go unnoticed.

I guess the question, Mr. Chairman, is: Where do we go from here? Based on conversations I have had with Mr. Angrisani and others I expect that we are going to get better management in the Employment and Training Administration, I fully expect that a number of the irregularities that will be and have been identified will be studied and corrective action will be taken.

I assume that we will ask the question: How did we get into this mess, and how are we going to get out of it? I think that is the challenge that lies before this committee.

I do not think anyone wants to do away with the Federal role of employment and training programs. I think it is vital, particularly with the economic considerations that we have and, more particularly, for the youth and minority youth that have this disastrous unemployment rate.

Mr. Chairman, we need to take a long, hard look at what has happened in CETA, what works, what did not work, and why. This certainly provides a backdrop for both the Congress and the administration to go ahead and make the necessary changes to see that the problems and mistakes are not repeated.

I assure you of my full cooperation, and I look forward to working with other members of this committee—both the majority and minority—in producing a bipartisan package that will enhance the availability of employment and training policies in this country.

The CHAIRMAN. Thank you, Senator Quayle.

Without objection, we will insert at this point the statement of Senator Gordon Humphrey.

[The prepared statement of Senator Humphrey follows:]

PREPARED STATEMENT OF SENATOR HUMPHREY

Senator HUMPHREY. Mr. Chairman, I'm sorry that other committee responsibilities will prevent me from attending the hearing on the oversight of CETA. I have had a longstanding concern with problems connected with CETA and have found particularly troublesome the many complaints concerning the administration of CETA grants and programs. I applaud the efforts of this administration to correct the errors of the past and commend the committee for its investigations of allegations of wrongdoing by CETA administrators. I will look forward to reading the testimony of the witnesses who will testify at today's hearing.

The CHAIRMAN. Our first witness is Mr. Gerald Peterson, a former Inspector General for Audit at Labor and currently in the same capacity at the Department of Agriculture.

Mr. Peterson, we are happy to have you with us today.

Would you prepare to be sworn? Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. PETERSON. I do.

The CHAIRMAN. Thank you, Mr. Peterson. Please go ahead.

STATEMENT OF GERALD PETERSON, ASSISTANT INSPECTOR GENERAL FOR AUDIT, DEPARTMENT OF AGRICULTURE; FORMER ASSISTANT INSPECTOR GENERAL FOR AUDIT, DEPARTMENT OF LABOR

Mr. PETERSON. Mr. Chairman, I have no prepared statement. I would like just to answer the questions the committee may have.

The CHAIRMAN. Mr. Peterson, in your position as Assistant I.G., Audit, at the Department of Labor, what was your reaction in 1979 when the forming of the I.G. Office appeared to make the auditor's role significantly different?

Mr. PETERSON. I was disappointed, to say the least. We were just at that point in time trying to get the I.G. concept implemented, and of course the fact that I was almost immediately taken off the job of auditing Youth Pride was a source of great disappointment to me.

The CHAIRMAN. What was her reaction?

Mr. PETERSON. Well, maybe I should just set the stage a bit.

Senator KENNEDY. Can we find out who "her" is, please?

Mr. PETERSON. Yes. The I.G. at that time was Ms. Marjorie Knowles.

For about a year prior to this the audit organization within the Department of Labor had been working on a new audit guide. To that point, auditors had not been much involved in fraud. The typical audit statement is the verification of a financial statement, and as such it did not involve itself in fraud or had not involved itself in fraud.

For about a year we had been working on a new instrument that would specifically look at fraud, and we had referred to it as a "surveillance audit guide."

Ms. Knowles came into the Department of Labor; and on May 18, I, in a memorandum, notified Ms. Knowles of the surveillance guide and our intention to use it, and to use it in the Washington, D.C. area. I spelled out to her in that memorandum the reason for using it in the Washington, D.C. area was that I wanted to be able to personally supervise the first usage of that guide.

Then on June 11 I specifically spelled out to Ms. Knowles the specific auditee that we were going to be testing this on, and this was Youth Pride, for a number of reasons—No. 1, it was a large, nonprofit known to have management as well as accounting problems; and No. 2—and maybe equally important—it was in the Washington, D.C. area where I could personally supervise the usage of that guide.

The CHAIRMAN. So you selected basically a Washington, D.C. CETA program as your first audit?

Mr. PETERSON. That is correct.

The CHAIRMAN. Did you have any other reasons for selecting CETA?

Mr. PETERSON. No, I think those were the primary reasons, Mr. Chairman.

The CHAIRMAN. What was that organization you decided to investigate?

Mr. PETERSON. Youth Pride.

The CHAIRMAN. This is a CETA-funded organization?

Mr. PETERSON. That is correct.

The CHAIRMAN. Did Ms. Knowles approve your suggestion to audit Youth Pride?

Mr. PETERSON. She did not. As a matter of fact, I have the original memo. She did not respond to that memo but instead called me into her office and—

The CHAIRMAN. Did she give any reasons why she did not respond to that memo?

Mr. PETERSON. She called me into her office and told me it was not very smart selecting Youth Pride and that in fact Mayor Washington's inauguration initiated from Youth Pride and that I should select another grantee for the purposes of testing the guide.

The CHAIRMAN. Did she explain any reasons why?

Mr. PETERSON. No, she would not explain anything beyond—

Senator KENNEDY. Are you talking about Mayor Washington?

Mr. PETERSON. Yes, that is correct.

Senator KENNEDY. On Youth Pride?

Mr. PETERSON. Yes, that is correct.

The CHAIRMAN. Did you try to explain to her why you wanted to do this?

Mr. PETERSON. I had explained in memos. She fully understood why we wanted to.

Senator KENNEDY. Could I interrupt? Just so we get the names, because these accusations are terribly important—are you talking about Mayor Washington or Mayor Barry? Mayor Barry was the one who was involved initially in Youth Pride.

Mr. PETERSON. I am sorry. It was Mayor Barry.

Senator KENNEDY. I think it is terribly important, now, that we be very careful about people's names that we are using and the facts that surround them. These are serious allegations; we want to come to grips with them; but you have just mentioned a person's name now—Mayor Washington—and that was a mistake. I think it is very important.

There is a lot of attention being given to these accusations. They are extremely serious. If we are going to conduct these hearings, they are going to be done with fairness and equity with regard to all of these people.

I just want to caution the witness. If you want us to give credence to your testimony, be very careful about whose names you mention and the circumstances that surround them.

Thank you.

The CHAIRMAN. Fine. So we are clear then that it was Mayor Barry?

Mr. PETERSON. Yes, it was Mayor Barry.

The CHAIRMAN. What did she say? Did she give you any reason at all why she did not want you to look into this?

Mr. PETERSON. No, she would not go beyond that. When I tried to discuss it in terms of management requirements and the requirement to test this new guide locally, she simply told me that the case was closed and that I should select another target for the surveillance audit guide.

The CHAIRMAN. What did you do?

Mr. PETERSON. What did I do?

The CHAIRMAN. What did you do about that?

Mr. PETERSON. Well, I went back, and we selected another non-profit in Milwaukee to test the guide on. We were unable to find another nonprofit activity in the Washington area that was suitable for testing the guide.

The CHAIRMAN. It is my understanding that you left your position during that very same year. Is that correct?

Mr. PETERSON. Yes, I did.

The CHAIRMAN. When was that?

Mr. PETERSON. I think I actually left the position in September of that year, but I believe I accepted the job in the Department of Agriculture in July of that year.

The CHAIRMAN. Did Ms. Knowles or officials in the Department of Labor pressure you to leave in any way?

Mr. PETERSON. No, they did not pressure me to leave. That was my decision.

The CHAIRMAN. Did their restrictions on your activities as an I.G. auditor have any influence on your leaving at all?

Mr. PETERSON. They very definitely did.

The CHAIRMAN. Would you explain that to us?

Mr. PETERSON. I just did not believe that I could be an active participant in installing and implementing the I.G. concept with that type of supervision. I felt that I needed to move to another agency if I was going to be effective.

The CHAIRMAN. When Ms. Knowles turned you down on your request to audit Pride, Inc., did she do so—what actually did she say to you?

Mr. PETERSON. I have a statement that I made to an investigator sometime after that. Maybe I should just read it.

The CHAIRMAN. Go ahead.

Mr. PETERSON. She said, "This is not too smart," referring to the memorandum of June 11, 1979, to her, from both myself and a Paul Lehrman, concerning the proposed audit of Youth Pride within the District of Columbia.

When I questioned her as to what she meant, she replied, "Don't you know that the mayor's (Marion Barry) inauguration parade started at Pride?" When I expressed ignorance to the fact that it did, and if so what possible effect it could have on the mayor, she advised me that, we're not going to do it.

I responded to the effect that we were only going to audit within the last year or two and it should have no effect on Mayor Barry. She then stated that, "He's still closely related to it (Pride)," and then advised me that we would have to come up with something else.

That was the gist of the entire conversation.

The CHAIRMAN. Was it your impression that Ms. Knowles' decision was judgmental—was a judgment decision—or was it a political decision, in your belief?

Mr. PETERSON. I did not at that point in time and have not since made that judgment. I do not know the reason for the comment. I just knew that I could not work in that environment.

The CHAIRMAN. Do you believe it was a management decision made from the top down?

Mr. PETERSON. She was the manager, and she made the decision. It was not based on management information, because the management information that was on hand would have suggested, as it did to me, that Youth Pride was an appropriate place to test the guide. But I do not know the considerations that were in Ms. Knowles' mind when she made that decision.

The CHAIRMAN. I see.

At the Department of Agriculture, it is my understanding that Thomas McBride was your immediate superior as Inspector General.

Mr. PETERSON. That is correct.

The CHAIRMAN. He is the same individual who is now the Inspector General of the Department of Labor. Is that correct?

Mr. PETERSON. That is correct.

The CHAIRMAN. Did Mr. McBride allow you to work without interference at that time in that position?

Mr. PETERSON. He certainly did, yes.

The CHAIRMAN. Senator Kennedy?

Senator KENNEDY. You are telling this committee that you were blocked from conducting investigations in areas you considered critical for political reasons?

Mr. PETERSON. I am not telling them, Senator, that it was for political reasons. As I have said, I did not make that judgment. All I can do is relate to this committee the facts and circumstances surrounding it.

Senator KENNEDY. Do you have any reason to believe that the order came from higher up?

Mr. PETERSON. I have no reason to believe that at all.

Senator KENNEDY. Do you have any knowledge whether other audits were being conducted in the D.C. area at that time?

Mr. PETERSON. There were no audits being conducted in the D.C. area to my knowledge at that particular time. There was one audit scheduled for later in the summer of the summer youth employment program, but it was not in any way involved in Pride. Pride was not one of the targets of that audit.

Senator KENNEDY. As I understand, these allegations first became public in an article in the Washington Post of December 5, 1979. Is that correct?

Mr. PETERSON. That is correct.

Senator KENNEDY. Were investigations conducted then?

Mr. PETERSON. Yes, they were.

Senator KENNEDY. What is the nature of those investigations, and who conducted them?

Mr. PETERSON. I am not totally sure, sir, what the nature of the investigation is.

Senator KENNEDY. Do you know, from your own knowledge, if the Justice Department looked into these allegations?

Mr. PETERSON. Yes, I do know that the Justice Department looked into it.

Senator KENNEDY. Then tell us what you know about that.

Mr. PETERSON. What I know is that the Justice Department did look into the allegations and did take a statement from me.

Senator KENNEDY. The allegations that you are making here today?

Mr. PETERSON. That is correct.

Senator KENNEDY. OK. What do you know about that investigation?

Mr. PETERSON. And the Justice Department concluded from that investigation that no criminal activity had taken place.

Senator KENNEDY. Do you have that information, Mr. Chairman?

The CHAIRMAN. I am sorry, I missed that, Senator Kennedy.

Senator KENNEDY. That the Justice Department looked into these allegations that first came out in the newspaper some time ago, and that the witness is saying that the Justice Department looked into them, and that the Justice Department made a judgment about it that there was not an adequate basis for investigation, or they did not believe there was sufficient information for investigation.

The CHAIRMAN. We are aware of that, but the authority, of course, really goes right to Ms. Marjorie Knowles to make the decision for the Justice Department. That is what is wrong over there.

Be that as it may, please go ahead.

Senator KENNEDY. She worked for the Labor Department.

The CHAIRMAN. I understand, but she worked in conjunction with the Justice Department, as I understand it.

Senator KENNEDY. They were investigating her. They were investigating her.

I would like to know, since these allegations have been made against her, if she has been invited to this hearing.

The CHAIRMAN. No, but we will be happy to do it.

Senator KENNEDY. We will be happy to do it? You mean we are going to hear allegations and charges that Marjorie Knowles was involved in a coverup—serious allegations and charges directed against her as an individual, whom I do not know and whose name I had not heard until last evening and again this morning—allegations and charges that she was involved in some kind of a coverup, as has been stated here by Mr. Peterson? We have not invited her to come before this committee after an allegation or charge as serious as that has been made, with all of these cameras focusing on Mr. Peterson, and all of the tables full of the press sitting out here before us?

I have just been handed the notes here this morning that the Justice Department—and I just found this out 5 minutes ago—had done a review. Mr. Keeney, the Deputy Assistant Attorney for the Criminal Division of the Department of Justice, said today, "The allegations by Gerald Peterson against Marjorie Knowles have been investigated by the Department of Justice." Mr. Keeney said the information provided did not give adequate basis for further

consideration and the case was closed. A letter was sent to Ms. Knowles to that effect by the Justice Department.

It just seems to me when we are laying this case out—and I am interested in rooting out the corruption as well as the chairman is, but I am also interested in being fair to Mr. Peterson, to Marjorie Knowles, and to the programs.

If we are going to conduct an investigation that is going to be fair and just and have any credibility, it is imperative that we hear from those who are going to be accused and that we make a complete and full record of the allegations and charges.

I think that is the only way this committee is going to maintain any credibility and we will have any kind of impact in terms of the legitimate interests with which this hearing has been developed; and that is to try and find out if there is corruption within that particular Agency, the nature of it, what can be done to root it out, and what steps have to be taken, whether legislatively or through the Department of Justice, to prosecute those who have violated that trust.

I would like to find out, again, why we have not asked Marjorie Knowles to testify—when we are going to get charges and allegations as serious as this—so that she could defend herself, not 3 months from now, 3 weeks from now, or 3 days from now.

The CHAIRMAN. We may very well do that, Senator.

Senator KENNEDY. "May very well do it"?

The CHAIRMAN. Yes. We may not. But what is called into question here is her judgment on making that decision, when the Inspector General wants to go forward with an investigation.

Senator KENNEDY. You do not think she is entitled to be heard?

The CHAIRMAN. I do not doubt her right to be heard, and we will certainly—if you want her called, we will call her; we would be very happy to.

The question is not whether she covered it up but whether her judgment was right in allowing this to go on when an Inspector General wanted to investigate this matter. That is what we brought this out for. If you want her called, we will be happy to call her.

Senator KENNEDY. I would suggest, quite frankly, Mr. Chairman—and I know you are very concerned about the protection of the people and their rights. I think all of us are. But when we have allegations and charges about the coverup or halting audits and whether it has political implications, and what all of that means in terms of those individuals' basic integrity and their lifelong careers, it seems to me that we have some responsibility.

When we know from our own information that the Justice Department has reviewed it, an individual is entitled to appear and face the accusers with a basic sense of fairness and equity in this. As I said, I want to cooperate with the committee in getting to the basic root of it.

Do you have information about what the Justice Department's investigation of these kinds of charges have been?

The CHAIRMAN. I do not have that information. What we are questioning is the management decision. We are not saying Ms. Knowles tried to cover this up. We are saying this is a management decision that is typical of management decisions made at the

Department of Labor during this period of time. I think that is all he said.

You did not accuse her of covering it up, did you?

Mr. PETERSON. I did not.

The CHAIRMAN. I did not hear it that way. If you heard it that way, I think you heard it wrong. But he did accuse her of stopping an Inspector General's investigation, and I think that is pretty important to bring out.

Senator KENNEDY. Of course it is.

The CHAIRMAN. If you want her called, we will hold subsequent hearings and call her; and we will find out whether she covered it up. Maybe that is worthy of an investigation. We did not choose to think it was to this point, because that is the testimony. But if you want her called as ranking minority member, we will be happy to do that. I would be more than happy to, under oath.

Senator KENNEDY. Mr. Chairman, this story that was reported in the newspaper some time ago—December 5, 1979—almost 2 years ago—I would ask that those articles be put into the record. What they smack of is political coverup.

The CHAIRMAN. Without objection, they will be put in the record at this point.

[Material to be supplied follows:]

[From the Washington Post, Dec. 5, 1979]

EX-LABOR AIDE SAYS PRIDE AUDIT VETOED

That review, which was concluded without finding any discrepancies, was ordered after The Washington Post reported in a series of articles that top officials of P.L. Properties Inc., a real estate spinoff of Youth Pride headed by Barry's former wife, Mary Treadwell, diverted, misappropriated and stole at least \$600,000 from the U.S. Government while running the Clifton Terrace apartments.

Treadwell, leader of Youth Pride since its founding, has denied any wrongdoing.

Knowles denied in an interview this week that she had instructed Peterson to drop the Labor Department's planned Pride investigation for political reason. "I know I didn't," she said. Knowles said she vetoed the Pride investigation because the Labor Department was conducting two audits in the District of Columbia and "that was enough."

Peterson and Paul Lehrman, a senior Labor Department investigator, had formally notified Knowles in a memorandum June 11 of plans to begin a comprehensive investigation of Youth Pride Inc. on June 21 with a team of three auditors and two investigators.

The Decision to investigate the organization followed earlier reviews of Youth Pride books by Labor Department auditors who in examining the period from 1967 to 1976, found records missing, ledgers kept in pencil with numerous erasures, and at least \$275,000 in questionable expenditures.

An examination of Labor Department records on Youth Pride showed that:

Auditors examining a \$2,561,470 contract with Youth Pride reported on Oct. 4, 1971 that they "could not locate a budget prescribing in detail amounts and purposes for which federal funds were made available." They said they found, however, "lack of control over payroll advances," "failure to reconcile bank accounts on a current basis," and "inadequate inventory control over federal property and equipment."

Two private accounting firms attempting to audit a \$1,470,848 Labor Department contract with Youth Pride found the records in such disorder that the audit could not be conducted. Officials of one of the firms, Opalack and Co., wrote on Dec. 28, 1977: "The general ledger is handwritten in pencil; many of the accounts show erasures and rewriting of complete pages; numerous postings could not be traced from the cash disbursements journal to the general ledger; a chart of accounts was not available."

Labor Department auditors questioned \$85,379.66 in Youth Pride expenditures out of federal funds including \$7,064 for 29 employees to attend the Congress of African

Peoples Conference in Atlanta in September 1970, and \$10,338.21 for unsupported or unauthorized supplies in 1969 and 1970.

This was the backdrop to the recommendation by Peterson and Lehrman that Youth Pride be audited starting June 21.

"We chose Pride because, based on past audits, we believed there was something wrong there," said a former top member of the inspector general's staff.

In notifying Knowles of their intentions to launch the investigation, they added that they would inform Barry's office and the D.C. Department of Manpower and included a letter of notification to Treadwell, the head of Pride, for Knowles to sign.

Knowles' response, according to Peterson's affidavit, was to tell him: "We're not going to do it."

The Labor Department subsequently found another program to audit instead, in Milwaukee.

One of Knowles' special assistants, Sheldon D. Repp, implied that Peterson had a personal ax to grind in charging that the Pride audit was vetoed for political reasons.

"Peterson is an ex-employee who didn't get the top audit job" on a permanent basis, he said. "You can draw your own conclusions."

Peterson, who had served almost a year as acting audit chief, was passed over for permanent appointment to the job a month after proposing the Pride investigation. He subsequently took his current position as acting audit chief in the Agriculture Department.

Several other current members of Knowles' staff at the Labor Department also say that Peterson told them the Pride investigation was being killed for political reasons immediately after he met with her.

"He had no reason at that point to be disgruntled or to lie because it wasn't for another month that he learned he was being passed over as chief auditor," one of these staff members said.

Wendy Rhea, a former program analyst on Knowles' staff, said in an interview that Knowles was "politically extremely sensitive."

"The auditors had already been in touch with Marion Barry," Rhea said. "He was already touchy because of a case about improper hiring by the City Council. Then we raised Youth Pride and we were told by Knowles that 'it looks like you're picking on Marion Barry and we're trying to work with him.'"

"At that point, Barry was doing well with Congress and the [Carter] administration and Knowles didn't want to come up against him," Rhea said.

Peterson, contacted by The Post, declined to go beyond his affidavit regarding the Pride audit.

Senator KENNEDY. When we are talking about the kinds of statements that are being made here today—"Did I want to audit?" "Yes, I wanted to audit." "Were you permitted to audit?" "No, I wasn't permitted to audit?" "Why not?"—and the record will speak for itself in terms of correspondence—that smacks to me as political coverup. Others can make their own judgments. I think, very frankly, that that is the way it is going to go out on the airwaves and in the press reports.

When we have an investigation that was initiated as a result of that newspaper article by the Justice Department, that is related to that kind of incident, I think we have some responsibility to make that a part of the record at this point.

I also think that when we have that kind of allegation and charge against an individual, who has spent some period of her life—I have no idea, but some period of her life—in an enforcement and auditing career, she is entitled to be heard at the time when individuals are accusing her.

The CHAIRMAN. Senator Quayle?

Senator QUAYLE. Thank you, Mr. Chairman.

Let me try to get this in summary for myself. You were the Deputy Inspector General in the Department of Labor for how long?

Mr. PETERSON. I was the Assistant Inspector General for Audits at that time.

Senator QUAYLE. And your boss was Marjorie Knowles?

Mr. PETERSON. That is correct.

Senator QUAYLE. She was the Inspector General?

Mr. PETERSON. That is correct.

Senator QUAYLE. How long was she Inspector General?

Mr. PETERSON. I am not sure of the exact dates, but I believe she became Inspector General sometime either in February or March of 1979—early in 1979.

Senator QUAYLE. February of 1979?

Mr. PETERSON. I believe so.

Senator QUAYLE. How long was she in that position?

Mr. PETERSON. I left in September 1979, and she continued in that position until, I believe, sometime in 1980; but I am not sure of those dates.

Senator QUAYLE. When in 1979 did you recommend to her that we ought to have an audit of Youth Pride?

Mr. PETERSON. In June—June 11, 1979.

Senator QUAYLE. You recommended that we have an audit of Youth Pride. When did she say no?

Mr. PETERSON. My memory is that it was within a week of the recommendation, although she did not respond to my written memorandum in writing; she simply called me into the office.

Senator QUAYLE. Within a week she said no.

What is the procedure when you request an audit? Does it just go to the Inspector General, and that individual makes the determination, or do they converse with the Secretary of Labor? What was it before? Was there any change in the procedure of prior Inspectors General before Ms. Knowles?

Mr. PETERSON. On a normal audit I would not even have notified the Inspector General; but because we were in fact developing a new tool and it was rather sensitive in terms of the surveillance part of it, I thought she needed to know that we were going to be using it and where we were going to be using that instrument. That was the reason for my notifying her that we were about to start this audit in Youth Pride.

Senator QUAYLE. How long were you with the Department of Labor, did you say? How long were you the Assistant Inspector General?

Mr. PETERSON. I was the Director of Audit for about 10 years. You have to understand, however, that the Inspector General concept was only initiated in 1978 or 1979. I was only in the Inspector General's office from the time of its inception, but I was the Director of Audit for almost 10 years.

Senator QUAYLE. How many other requests for audit were turned down?

Mr. PETERSON. I have never had a request for audit turned down.

Senator QUAYLE. This is the only case where an audit was ever turned down?

Mr. PETERSON. That is right.

Senator QUAYLE. Why did you want to audit Youth Pride?

Mr. PETERSON. As I said, we had developed a new approach to audit. The approach was specifically designed to look for fraud. The

typical audit did not specifically look for fraud. This particular instrument was designed to look specifically for fraud. It was designed to be used in a CETA subrecipient setting.

Pride was a known problem subrecipient with a large amount of money from the Department of Labor, and Pride was here in Washington, D.C., where I could pay particular attention to that ongoing audit.

Senator QUAYLE. Was there a subsequent audit of Youth Pride by the Department of Labor?

Mr. PETERSON. Not while I was at the Department of Labor.

Senator QUAYLE. Has there been a subsequent audit?

Mr. PETERSON. I do not know.

Senator QUAYLE. You do not know?

Mr. PETERSON. No.

The CHAIRMAN. I do not think there has been, but we would like to know.

Senator QUAYLE. OK. This was not any special case; it was just a mechanism for detecting fraud and abuse; and you decided that Youth Pride, for local reasons—I mean there was not one particular fact or any knowledge you had on why you would want to focus in on Youth Pride at this time?

Mr. PETERSON. No specific knowledge. I had knowledge of Youth Pride. We had other reports where CPA firms had reported that Youth Pride was unauditible—that is to say that the basic books and records would not reconcile to the financial statements. I knew that Youth Pride was a problem sponsor of Department of Labor programs, but I did not have one specific thing that I wanted to look at. We wanted to use the guide on the total of that entity.

Senator QUAYLE. Did you share this information with Marjorie Knowles that Youth Pride was a problem?

Mr. PETERSON. Yes, I did.

Senator QUAYLE. Thank you, Mr. Chairman.

The CHAIRMAN. Let me just finish with this: You are not accusing Ms. Knowles of any impropriety here, are you?

Mr. PETERSON. I am not accusing Ms. Knowles of any impropriety, nor have I at any point in time.

The CHAIRMAN. You did question her judgment?

Mr. PETERSON. I did question her judgment—yes, sir—and I would continue to question her judgment today.

The CHAIRMAN. In other words, you felt that Youth Pride should have been investigated and you should have been allowed to go in and investigate it without question?

Mr. PETERSON. Yes, that is correct.

The CHAIRMAN. That is all I have. Thank you.

Our next witness will be Thomas F. McBride, Inspector General at the Department of Labor.

Mr. McBride, would you raise your right hand? Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. McBRIDE. I do.

The CHAIRMAN. Thank you. I will turn the time over to you.

**STATEMENT OF HON. THOMAS F. McBRIDE, INSPECTOR
GENERAL, DEPARTMENT OF LABOR**

Mr. McBRIDE. Mr. Chairman and members, it is a pleasure to be here today.

As this committee is aware, earlier this year numerous allegations began to surface regarding contracts awarded in the months immediately preceding January 20, 1981. As soon as these allegations came to the attention of the Office of Inspector General, we reviewed all of the Office of National Programs contract files for the contracts during that period and interviewed most of the Office of National Programs employees who had responsibility for the contracts in question.

As a result of those initial reviews, we scheduled several areas for further investigation. In April 1981, certain of these matters were discussed with the U.S. Attorney's Office for the District of Columbia, and grand jury investigation is continuing.

As you know, matters before the grand jury are protected by rule 6(e) of the Federal Rules of Criminal Procedure—that is, grand jury proceedings are secret, and as a result I am not at liberty to discuss matters under grand jury consideration.

The committee staff asked whether we had any information unrelated to the grand jury inquiry as to whether any Department of Labor contractor or grantee had any business relationship with Green-Herman & Associates subsequent to Mr. Green's resignation as Assistant Secretary.

We have learned of two such instances. One of those instances involves the Mel Harris contract which was referred to earlier; another, a small contract with the National Council of Negro Women.

I have also been advised that the committee was particularly concerned with our audit coverage of two grantees—Green Thumb and Southern Vocational Community College.

First on Green Thumb—we have issued since 1973 11 audit reports covering about \$200 million in grant or contract expenditures by Green Thumb. Generally these basically financial audits have disclosed only minor discrepancies, with one exception.

Green Thumb had established what was called a "Green Thumb Employees' Non-Fraudulent Errors and Omissions Self-Insurance Fund." Basically, this fund was established by Green Thumb to protect them from uncollectable losses resulting from Green Thumb employee errors and omissions.

What they did was take grant funds and put them into a special self-insurance fund, if you will, and also retained the interest earned on that fund. Our most recent audit, as of December 31, 1979, showed that the fund had a balance of about \$1.1 million.

We called that to the attention of the Office of National Programs, and they wrote Green Thumb in January 1979 and said that this procedure was—I forget the exact word—"improper" or "inappropriate" and also said that all interest earned on those moneys should be refunded to the Department of Labor.

The CHAIRMAN. That was January 17, 1979?

Mr. McBRIDE. That is correct.

We checked up on it later and found that no further action had been taken to carry out the directions of that letter but that in

June 1981 another letter was sent, basically with the same instruction.

The CHAIRMAN. Has the interest been refunded?

Mr. McBRIDE. It has not, as of this date.

The CHAIRMAN. Why would they put the funds in an interest-bearing account rather than utilizing it for the purpose of their proposed grant?

Mr. McBRIDE. They treated it as an insurance fund. Just as they would insurance premiums, they paid them into a special imprest or separated fund.

The CHAIRMAN. What do you mean by that?

Mr. McBRIDE. The notion would be that they would set up a separate bank account in a separate fund.

If we audited and we found, let us say, \$800,000 in disallowed costs due to error—not fraud; administrative errors of various kinds—then they would use that fund to pay back the Department of Labor for the management or employee errors resulting in that audit finding.

Obviously, our problem with it was that they were using our grant funds to pay costs incurred as a result of maladministration of our grant funds.

I should note that the Employment and Training Administration recently issued a memorandum to all its regional administrators and through them to all prime sponsors and grantees advising them that costs for premium payments or these self-insurance payments would not be an eligible grant expenditure.

The CHAIRMAN. To your knowledge, as of today, have the costs been refunded to the Department?

Mr. McBRIDE. They have not. Funding continues to Green Thumb, and we are initiating an audit this week of Green Thumb. Obviously, any interest earned on that fund and the question of the separate maintenance of that fund will be dealt with again in that audit report, and I think ultimately the Government's interest will be protected, from unexpended grant balances.

The CHAIRMAN. Let me ask you this. I am having a little bit of difficulty understanding this. First of all, why should they not be allowed to put that money at interest if they are not utilizing that money? Would that not be an appropriate way of utilizing the funds during the interim while they are gradually drawing down on those funds? Should they not put it at interest? And if they do, why can they not keep the interest?

Mr. McBRIDE. Basically, the grant is set at a dollar figure after whatever negotiation or competitive process in the case of contracts occurs. That is the figure that is to fund the activity described in the grant or contract. Interest earned on those moneys belongs to the Government. Otherwise, by excess drawing down, let us say, on a letter of credit, a grantee could accumulate millions of dollars and use it for nongrant purposes.

The CHAIRMAN. That is what they had been doing then. In other words, the interest they had been using to pay insurance premiums.

Mr. McBRIDE. No, they did not pay premiums; what they did was set up their own self-insurance fund, and the interest on that fund simply reverted into the fund itself and then accumulated.

The CHAIRMAN. And they have been informed that that is not right?

Mr. McBRIDE. They have been informed to cut it out.

The CHAIRMAN. And they have been informed to refund the funds after January 17, 1979, and then again on June 1, 1981—almost 3 years later—and they still have not done it?

Mr. McBRIDE. That is correct.

The second grantee that the committee had particular interest in was Southern Vocational College. We very recently—yesterday, I believe—issued an audit report to ETA on Southern Vocational College in which we noted their demonstrated inability to properly administer an \$870,000 Labor Department grant for the period ending March 31, 1980.

This grant was basically a grant to provide classroom training and services to migrant workers in three Southern States.

We took exception—of the \$870,000—to about \$628,000, of which \$280,000 was costs recommended for disallowance. In other words, that is a fairly firm auditor finding that those costs should simply be disallowed—that they were not appropriately charged to the grant. That is about one-third of the total grant funds.

In addition, we questioned \$242,000—about 29 percent of the grant. "Questioned" may mean that some will be disallowed; it may mean that inadequate documentation has been provided to support the expenditure. It is a somewhat gray area which, after review and negotiation, will probably result in some disallowance short of that total of \$242,000.

Finally, we noted that they had charged the participants in the program \$105,000 in tuition and other fees for books, and so forth, and did not report this as program income. In effect, we paid for that tuition and book money, and then they charged the participants. So they obtained a profit, if you will, equivalent to \$105,000.

The CHAIRMAN. And that was not part of the grant approach that they were obligated to follow?

Mr. McBRIDE. The grant would have to have been clear one way or the other. Any income of that sort generated for services to be provided under the grant would be treated as income and offset the grant expenditures, thus reducing the Federal Government total grant expenditure.

I should note that in March 1979, because of the audit problems we found, one of our audit staff actually went to Southern Vocational with a member of the ETA staff and did an onsite assessment of the fiscal integrity of the grantee and its administrative ability under the grant.

We reported to the head of the migrant program in ETA that the financial management system was very poor, and frankly we believed that the grantee was incapable of administering the DOL grant and that ETA should suspend funding or, more accurately, consider suspending funding.

ETA was at the same time made aware of similar findings by the Alabama State Department of Education, by the HEW Audit Office—the I.G.'s Audit Office—and by certain allegations that had been conveyed to ETA by the Federal Bureau of Investigation.

ETA, rather than cutting off the grant, simply revoked their letter of credit but put them on a cost-reimbursable basis, which

really made little difference because they were still being paid in response to their own vouchers as to costs incurred under the grant.

The CHAIRMAN. When did ETA do that?

Mr. McBRIDE. That was, I believe, in mid-1979. I do not have the exact date.

We are, as I mentioned, undertaking an additional audit right now of Southern Vocational College, and we will be looking at the expenditures under the continuing grant. There is also a fairly serious indirect cost question which we will directly be addressing in that audit.

Those are the areas in which the committee expressed particular interest. I am quite willing to answer any questions you or the members may have, Mr. Chairman.

The CHAIRMAN. Mr. McBride, we appreciate your position with respect to the grand jury proceeding and those areas covered under the Rules of Criminal Procedure.

Upon completion of the grand jury consideration or whenever appropriate, would you be kind enough to forward to the committee a complete report on these matters?

Mr. McBRIDE. We certainly would—on the disposition of whatever criminal action ensues.

The CHAIRMAN. Thank you.

Can you identify those two instances of grant or contract relationships that your office has learned of independent of the grand jury investigation?

Mr. McBRIDE. The two that we are aware of are the Mel Harris Associates—as I understand it, Mel Harris Associates, which is a consulting firm specializing in the employment and training area, was retained by the Mobile, Ala., prime sponsor to help the phase-out of the public service employment program in that area.

They retained, in turn, Green-Herman & Associates at a fee of approximately \$75,000 to assist them in that public service employment phaseout contract.

The CHAIRMAN. Do you attribute the \$75,000 as an indirect payment as a result of ETA funds being paid to Mel Harris?

Mr. McBRIDE. Yes. Those would be directly supported by the Federal grant to the CETA prime sponsor.

The CHAIRMAN. Then I take it you would disagree with the attorney's letter which we received from Green-Herman stating that there were no funds directly or indirectly given to Green-Herman from any grantee?

Mr. McBRIDE. It appears to me to be a case of indirect Federal funding, passing through to Green-Herman & Associates.

The CHAIRMAN. In your experience do you know of any other way it could be characterized, having done the audit work that you have done?

Mr. McBRIDE. We have not audited the particular Mobile or Mel Harris contract; but based on what I understand as I have just described, I know no other way to characterize it than as an indirect payment of Federal grant funds.

The CHAIRMAN. Are you planning on auditing those two contracts?

Mr. McBRIDE. Yes, we will.

The CHAIRMAN. Then at that point you will report to us and let us know—confirm or unconfirm—whatever your findings are?

Mr. McBRIDE. Certainly, Mr. Chairman.

The CHAIRMAN. But your present belief is that literally that was an indirect payment as a result of contract award?

Mr. McBRIDE. Yes.

The CHAIRMAN. In fairness, is it true that these two matters—Mel Harris Associates, and I believe you mentioned the National Council of Negro Women?

Mr. McBRIDE. Yes. That was a small training contract.

The CHAIRMAN. In all fairness, is it not true that these are not matters presently being considered by the grand jury?

Mr. McBRIDE. Oh, no; they are not. They are totally separate, and I would certainly not be testifying concerning them were they under the coverage of the U.S. Attorney's Office.

The CHAIRMAN. With regard to the Green Thumb self-insurance fund to cover future disallowed costs, you have stated that the Office of National Programs informed the grantee in January 1979 that this was improper and that this June—1981—ETA reiterated this point. So I assume, as you have said today, even up to today the practice is still continuing and they have ignored the letters.

Mr. McBRIDE. We verified it as of yesterday. It is still continuing.

The CHAIRMAN. What does the Department expect to do about this?

Mr. McBRIDE. I would expect that the new leadership at ETA—and I have had the opportunity to work quite closely with Assistant Secretary Angrisani—will take affirmative steps, one, to collect the interest on that account; and, two, to make sure that such an account is not maintained. As I mentioned, ETA has issued policy instructions to all its field people and through them to the prime sponsors, stating that policy.

Since they are receiving continuing funding at a fairly substantial level, I do not expect that the Government will have lost any money when we finally do the close-out audit, and any interest earned on that account will be offset against grant funds.

The CHAIRMAN. I see.

With regard to Southern Vocational College—and we will be exploring this in more detail later—you stated that this audit, although released as a final report yesterday, covers the period of September 1978 through March 1980. Is that right?

Mr. McBRIDE. That is correct.

The CHAIRMAN. A preliminary report we will be discussing later, dated March 29, 1979, from Gerald Peterson would be concerned with the same grant, the same funding, and the same allegations now confirmed in your final report?

Mr. McBRIDE. It would be dealing with the same grantee, but it would be dealing with a different grant period—an earlier grant period.

The problem is that the financial mismanagement practices obviously began under a prior grant and continued during the grants which we recently audited.

The CHAIRMAN. Would it be fair to say that the indirect cost question in your final report lacks document and support to this day—all \$116,000?

Mr. McBRIDE. The indirect cost issue, which is really the smallest dollar issue—we had much more serious dollar findings—is a somewhat technical issue. Every grantee has an indirect cost percentage—40 or 50 percent, I think, in the case of Southern Vocational. That is initially audited in this case by HEW, which is another Federal funding agency.

- We had serious questions as to whether the basis on which that indirect cost rate was set were accurate. We are going back in to that grantee to cover the indirect cost element as well as the other financial management issues we dealt with before.

The CHAIRMAN. You have stated that as a result of the March 1979 visit to your office—this was Gerald Peterson's memo to Lindsay Campbell, head of the Migrant Office in ONP—you recommended suspension of funding, but ETA chose only to put the grantee under a cost reimbursable system requiring monthly reports and invoices—both drafted, by the way, entirely by the grantee itself.

Your office never sent any preliminary report prior to April 1980 to the director of ONP which exonerated the grantee or stated that in essence the allegations were not true?

Mr. McBRIDE. We did not.

The CHAIRMAN. We would appreciate your reporting to the committee on the final update of the \$697,000 spent from March 1980 to the present.

Mr. McBRIDE. We will certainly do that.

The CHAIRMAN. Let me just say this: As I understand it, with regard to this grantee, you questioned some 62 percent of the grant; 29 percent you characterized as "questioned," and 33 percent you recommended for disallowance. And there is some question about the \$103,000 for tuition and book fees.

Mr. McBRIDE. It is up to 70 percent almost.

The CHAIRMAN. That you seriously question?

Mr. McBRIDE. Yes.

The CHAIRMAN. We appreciate your personal appearance here today. We may have some further written requests of you. We understand the grand jury problem and will of course try to understand it in the future.

Senator Kennedy?

Senator KENNEDY. I have no question.

The CHAIRMAN. Senator Quayle?

Senator QUAYLE. I would like to back up to the previous testimony. Were there any subsequent audits of Youth Pride after the one turned down?

Mr. McBRIDE. There was what I would characterize as a somewhat routine subsequent audit. That is, the prime sponsor—in this case the D.C. prime sponsor—under contract had audits conducted of Youth Pride, which was a subgrantee.

More importantly, however, as you are probably aware, a fairly large-scale investigation under the aegis of the U.S. Attorney's Office for the District of Columbia was conducted of Youth Pride. My understanding is that the records, such as they were—unauditable, as characterized by Mr. Peterson—have been very thoroughly examined in the course of that investigation; and that is still ongoing.

Basically for that reason, we have not conducted any subsequent audit. That is, the U.S. Attorney really has taken over the matter and is thoroughly auditing and investigating all the Youth Pride operations.

Senator QUAYLE. So the investigation is still ongoing by the Department of Justice? Is that your understanding?

Mr. McBRIDE. That is my understanding.

Senator QUAYLE. You said, "The Employment and Training Administration recently issued a memorandum to Prime Sponsors advising them that costs for premium payments for Errors and Omissions Insurance would not be an eligible grant expenditure."

Mr. McBRIDE. That is correct.

Senator QUAYLE. What would be an eligible grant expenditure along the lines of liability for employees, boards of directors, and others? Are they allowed to purchase any insurance from these moneys or not?

Mr. McBRIDE. Not using grant moneys.

Senator QUAYLE. No insurance at all?

Mr. McBRIDE. No. The basic problem we have with it, Senator, is that to the extent one is insured against mismanagement, you may be creating incentives to mismanagement. So we have adamantly opposed the expenditure of grant funds for that purpose.

The question as to whether from their own funds they wish to procure insurance, as you would a fidelity bond, poses a different set of questions; and I do not feel quite as strongly about that.

Senator QUAYLE. But from Federal funds there can be no expenditure for any kind of insurance for personal liability?

Mr. McBRIDE. That is correct. Federal grants funds can be used to purchase fidelity bonds, automobile liability for bodily injury and property damage, or other insurance covering liability to third parties but not for purchase of insurance to cover mismanagement or personal liabilities.

Senator QUAYLE. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. In fairness to Green-Herman, I have a letter dated Apr. 3, 1981, signed by Green-Herman. In fact, it is signed by Alexis Herman and Mel Harris. It is to Mel Harris, and it says this:

This document serves as a formal letter of agreement between Mel Harris & Associates, Inc., and Green-Herman & Associates, Inc. Green-Herman & Associates will enter into a subcontracting arrangement with Mel Harris & Associates to assist with the transitioning of 700 EOPP Public Service Employment (PSE) participants and the administrative and close-out technical assistance for the Mobile County Consortium . . .

Are you aware of this letter?

Mr. McBRIDE. Yes, I am. We have that in our investigative files.

The CHAIRMAN. It does happen to do with the Mobile County Consortium, and I take it that is the reason that you have tied this in—the \$75,000—as an indirect payment out of grantee funds?

Mr. McBRIDE. Yes.

The CHAIRMAN [reading].

Specifically, Green-Herman & Associates, Inc., agrees to provide the following services in its subcontracting relationship:

In the transition phase Green-Herman & Associates, Inc. will:

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- (1) Assist EOFP in implementing necessary procedures to accommodate smooth transitioning of participants;
- (2) Coordinate an advertising campaign directed to the general public and potential employers;
- (3) Assist EOFP in developing a feedback mechanism of participant information from the various sites and support staff;
- (4) Assist in convening a meeting of the PIC, ES, other employment and training programs such as WIN, Job Corps, Title III projects, business and labor groups to write the local re-employment plan;
- (5) Assist with documenting the termination of PSE participants.

In the administrative and close-out technical assistance phase Green-Herman & Associates, Inc., will:

- (1) Assist in the close-out of the administrative structure and staff;
- (2) Conduct an evaluation of the Mobile project;
- (3) Submit a written evaluation report.

Green-Herman & Associates, Inc., understands that the time framework for the prime and subcontracts.

Are they referring to this contract that you were referring to?

Mr. McBRIDE. Yes, that would be the subcontract.

The CHAIRMAN. So that is how you tie it in, then?

Mr. McBRIDE. Yes.

The CHAIRMAN. OK. Is it possible that Mel Harris & Associates actually had other moneys that they gave to Green-Herman, other than the \$75,000 from the grantee?

Mr. McBRIDE. Until the audit is completed I cannot be absolutely certain. It appears to me from the documentation that you have, which I have also seen, that this was to be paid for out of the Federal grant funds received by the prime sponsor.

The CHAIRMAN. That is the way it does look, but you will check on that and let us know?

Mr. McBRIDE. We certainly will.

The CHAIRMAN [reading].

Green-Herman & Associates, Inc., will accomplish all of the listed tasks during this time period. Green-Herman & Associates, Inc., will require 2,880 hours of staff and consultant time at a total fixed personnel cost of \$63,070. The evaluation and report will be a fixed cost of \$11,930. Thus, the total fixed cost of Green-Herman & Associates, Inc., subcontract with Mel Harris & Associates, Inc., is \$75,000.

Green-Herman & Associates, Inc., will require one-third (\$25,000) of the \$75,000 subcontract in a single advance payment, due upon signing of this agreement. The remainder of the fixed cost contract (\$50,000) will be invoiced in accordance with the billing process of the prime contractor over the life of the contract.

By "prime contractor," whom did they mean there?

Mr. McBRIDE. That would be the Mobile consortium.

The CHAIRMAN. Which they name earlier in this letter?

Mr. McBRIDE. Yes.

The CHAIRMAN. OK.

Green-Herman & Associates, Inc., is pleased to enter into this subcontracting agreement with Mel Harris & Associates, Inc., effective this date.

So that is one of the reasons that you have come to the conclusion that they have had at least indirect funds knowingly from the contractee?

Mr. McBRIDE. That is correct.

The CHAIRMAN. Thank you, Mr. McBride. We appreciate your appearance here today. We would appreciate your following up and sending us any followup materials you possibly can.

Mr. McBRIDE. We certainly shall. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. McBride and additional material supplied follow:]



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STATEMENT OF THOMAS F. McBRIDE
INSPECTOR GENERAL FOR THE
DEPARTMENT OF LABOR
BEFORE THE

COMMITTEE ON LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

October 20, 1981

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you today to testify concerning certain contracts awarded by the Employment and Training Administration in the final months of the prior Administration.

As this Committee is aware, earlier this year numerous allegations began to surface regarding these contracts shortly after January 20, 1981. As soon as the allegations came to the attention of the Office of Inspector General an investigation was begun. Numerous contract files administered by the Office of National Programs (ONP) and all of the 8A contract files were reviewed by the Office of Inspector General agents. Most of the ONP employees with administrative responsibility for the contracts in question have been interviewed. As a result of these interviews and file examinations several areas were identified for further investigation.

In April 1981 we discussed certain of these matters with the Office of the United States Attorney for the District of Columbia. A grand jury investigation is presently underway.

As you know, matters before the grand jury are required by the Federal Rules of Criminal Procedure to be kept secret and I am therefore precluded from discussing those matters. Committee staff asked whether we had any evidence, which we could disclose, as to whether any DOL contractors or grantees had any business relationship with Green-Herman Associates subsequent to Mr. Green's resignation as Assistant Secretary of Labor. We have learned, independent of the grand jury investigation, of two such instances.

I cannot predict how much longer this investigation will take since the length of the investigation will be determined by results of the work presently underway.

I have also been advised that the Committee was particularly concerned with our audit efforts pertaining to two grantees, Green Thumb and Southern Vocational Community College.

First, Green Thumb. The Office of Inspector General has issued 11 audit reports on Green Thumb covering over \$200 million in expenditures since 1973. Generally only minor exceptions were noted. For example, in our last report, issued in September 1980, we covered the expenditure of \$62 million and only questioned \$34,000. ETA subsequently disallowed \$16,000.

Each of the last four audit reports, however, noted that the Grantee, with DOL approval, established a "Green Thumb Employees Non-Fraudulent Errors and Omission Self Insurance Fund." This fund was established by Green Thumb to protect the Grantee from uncollectible losses resulting from non-fraudulent errors and omissions of Green Thumb employees. The fund's assets are generated entirely from charges to DOL grants/contracts and from interest earned on the fund balance.

Our audit report showed that as of December 31, 1979, the fund had a balance of \$1.1 million. The audit report states that the Director of the Office of National Programs for Older Workers, in a letter dated January 17, 1979, advised Green Thumb that this procedure was improper. The letter further stated that all interest earned on DOL monies should be refunded to the Department. These directions were reiterated in a June 1, 1981 letter from ETA to the grantee.

Recently, several CETA Prime Sponsors requested the Department to allow CETA funds to be used to purchase "errors and omissions insurance." This type of insurance is similar to the Green Thumb Errors and Omission Fund in that it provides indemnification to cover the grantees' liability to

the Department for audit disallowances. We took strong exception to the use of pooled grant funds in the form of premiums to pay back disallowed costs to the Federal Government. Errors and Omissions Insurance and similar reserve funds do not represent sound government financial management practices as it would permit grantees to do indirectly what cannot be done directly under the Act and regulations.

The Employment and Training Administration recently issued a memorandum to Prime Sponsors advising them that costs for premium payments for Errors and Omissions Insurance would not be an eligible grant expenditure.

We recently awarded a contract to a CPA firm to audit \$172 million in DOL grant funds provided to Green Thumb since the period covered by our prior audits. This financial and compliance audit is just beginning. The audit will take exception to any current or past charges for reserves for audit disallowances. The report will also require that all interest earned on the fund be treated as program income and offset against grant costs.

Lastly, Southern Vocational College. Yesterday, we issued a very critical audit report to ETA concerning Southern Vocational Community College's inability to properly administer an \$870,000 DOL grant for the period September 1, 1978 through March 31, 1980. The primary purpose of this CETA Title III

Section 303 grant was to provide classroom training and services to migrant and seasonally employed farmworkers in the States of Alabama, Georgia and Mississippi who suffered chronic seasonal unemployment and underemployment in the agriculture industry. The objective was to train the participants in health occupations and place them in gainful employment in the health-care industry.

The auditors took exception to \$628,000, or about 75% of the grant expenditures. The financial management weaknesses noted were of such severity that it is clear that this grantee did not have the capability to administer Federal funds. The audit disclosed \$280,000 in costs recommended for disallowance (33% of total reported costs) and \$242,000 of questioned costs (29% of total reported costs). In addition, the auditors noted that the grantee improperly charged \$103,000 in tuition and book fees to participants yet failed to report this as program income and offset this against the costs charged to the grant.

The disallowed costs (clear violation of the grant requirements) resulted from such findings as the grantee having ineligible participants, making improper allowance payments, and charging instructors salaries to the grant when CETA participants were not in the instructors' classes.

The major cause of the questioned costs included costs charged to the grant without sufficient documentation and the

questioning of all \$116,000 in indirect costs. All indirect costs were questioned as a result of indications of the unsupportability of the established indirect cost rate of 46% of direct salaries and wages. This rate was previously negotiated by HEW, the Grantee's cognizant Federal agency, and used as the basis for the indirect costs charged under this contract.

Mr. Chairman, in March of 1979, a representative of the Office of Inspector General, along with an ETA representative, visited Southern Vocational Community College to assess the fiscal integrity of this grantee and its ability to administer the DOL grant. We reported to the head of the Migrant program that the financial management system at the College was extremely poor and we believed that the College was incapable of administering the DOL grant. Furthermore, we recommended that ETA consider suspending funding pending the results of an audit.

The file shows that ETA was aware that similar findings were noted by the staff of the Alabama State Department of Education, the FBI, and the HEW Regional Audit Office. The file further shows that HEW froze all funds but that ETA chose, instead, only to revoke the College's letter-of-credit and put the College on a cost reimbursable basis.

Finally, the CPA that performed the audit just discussed will shortly start an audit specifically directed to the

indirect cost question as well as an audit of the costs expended by Southern Vocational College under a \$697,000 Youth Employment and Training Grant during the period April 1980 to September 1981.

Mr. Chairman, I would be pleased to respond to any questions you or the Committee members have.

UNITED STATES SENATE
 COMMITTEE ON LABOR AND HUMAN RESOURCES
 WASHINGTON, D.C. 20510

United States Senate

COMMITTEE ON LABOR AND
 HUMAN RESOURCES
 WASHINGTON, D.C. 20510

June 23, 1981

Mr. Ernest Green
 Green-Herman and Associates, Inc.
 1120 Connecticut Avenue, N.W.
 10th Floor
 Washington, D.C. 20036

Dear Mr. Green:

The Committee on Labor and Human Resources is currently conducting an oversight inquiry into Labor Department contracts and grants let under the Comprehensive Employment Training Act since June 30, 1980. To assist us in this inquiry, I would appreciate your providing the committee a list of any and all contracts, subcontracts, grants or subgrants that your firm has received since its incorporation in January, 1981. Where subcontracts or subgrants are involved, please specify the prime contractor or prime grantee; also specify the date that contracts or subcontracts, grants or subgrants were received and list the dollar amount of each.

In addition, please provide the committee with an accounting of all funds received from prime or subcontractors under any and all other federal grant or contract programs, i.e., Social Security, Small Business Administration, Department of Education, et al. If your firm has set up any service projects utilizing Labor Department funds, directly or indirectly, please specify.

I hope to receive your response by the close of business Thursday, July 2. Any inquiry regarding this request should be directed to Mr. Dan Gill of the committee staff at 224-9285.

Your cooperation is greatly appreciated.

Sincerely,

Orrin G. Hatch

Orrin G. Hatch
 Chairman

OCH/dgc

FINLEY, KUMBLE, WAGNER, HEINE, UNDERBERO & CASEY
150 CONNECTICUT AVENUE, N.W.

WASHINGTON, D. C. 20036

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July 2, 1981

¹ **WARRANTS IN THE SERVICE OF JUSTICE**

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The Honorable Orrin G. Hatch
Chairman
Senate Committee on Labor and
Human Resources
302 Senate Courts Building
United States Senate
Washington, D.C. 20510

Dear Senator Hatch:

As Counsel for Green-Herman and Associates, Inc. ("Green-Herman") we are authorized to respond to your letter request to Green-Herman asking that the Committee on Labor and Human Resources ("Committee") be provided with (1) "a list of any and all contracts, subcontracts, grants or subgrants that [the] firm has received since its incorporation in January, 1981" from the U.S. Department of Labor under the Comprehensive Employment Training Act; (2) "An accounting of all funds received from prime or subcontractors under any and all other federal grant or contract programs;" and (3) an enumeration of "any service projects utilizing Labor Department funds, directly or indirectly."

Green-Herman is most willing to be of whatever assistance it can to the Committee as it conducts an oversight inquiry into the Labor Department's letting of con-

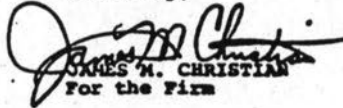
FINLEY, KUMBLE, WAGNER, BEINE, UNDERBERG & CASEY

The Honorable Orrin G. Hatch
July 2, 1981
Page Two

tracts under the Comprehensive Employment Training Act. In keeping with this willingness, Green-Herman has conducted a thorough review of all its contractual undertakings since January, 1981 and can state unequivocally that: (1) it has not received any contracts, subcontracts, grants or subgrants from the U.S. Department of Labor under the Comprehensive Employment Training Act; (2) it has not received any funds from prime or subcontractors under any other federal grant or contract program; and (3) it has not set up any service projects utilizing Labor Department funds, directly or indirectly.

We trust that the foregoing is responsive to your request. Green-Herman will gladly provide any additional appropriate information that the Committee might require. If you or your staff have any further questions regarding any aspect of this matter please contact me.

Sincerely,


JAMES M. CHRISTIAN
For the Firm

JMC/alg

GREEN-HERMAN & ASSOCIATES, INC.

1125 Green-Herman Building, N.W.

Atlanta, GA

P.O. Box 1000, D.C. 20009

Telephone: (404) 767-7206

April 3, 1981.

Mel Harris
 Mel Harris & Associates, Inc.
 3226 Mayada Avenue North
 Crystal, Georgia 30547

Dear Mel:

This document serves as a formal letter of agreement between Mel Harris & Associates, Inc., and Green-Herman & Associates, Inc. Green-Herman & Associates will enter into a subcontracting arrangement with Mel Harris & Associates to assist with the transitioning of 700 LOPP Public Service Employment (PSE) participants and the administrative and close-out technical assistance for the Mobile County Consortium.

Specifically, Green-Herman & Associates, Inc., agrees to provide the following services in its subcontracting relationship:

In the transition phase Green-Herman & Associates, Inc., will:

- (1) Assist EOPP in implementing necessary procedures to accommodate smooth transitioning of participants;
- (2) Coordinate an advertising campaign directed to the general public and potential employers;
- (3) Assist LOPP in developing a feedback mechanism of participant information from the various sites and support staff;
- (4) Assist in convening a meeting of the PIC, ES, other employment and training programs such as WIN, Job Corps, Title III projects, business and labor groups to write the local re-employment plan;
- (5) Assist with documenting the termination of PSE participants.

In the administrative and close-out technical assistance phase Green-Herman & Associates, Inc., will:

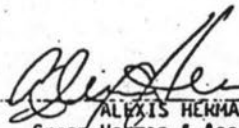
- (1) Assist in the close-out of the administrative structure and staff;
- (2) Conduct an evaluation of the Mobile project;
- (3) Submit a written evaluation report.

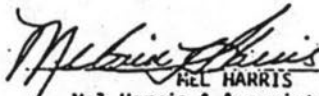
-2-

Green-Herman & Associates, Inc., understands that the time framework for the prime and subcontracts is April 2, 1981-September 30, 1981. Green-Herman & Associates, Inc., will accomplish all of the listed tasks during this time period. Green-Herman & Associates, Inc., will require 2,380 hours of staff and consultant time at a total fixed personnel cost of \$63,070. The evaluation and report will be a fixed cost of \$11,930. Thus, the total fixed cost of Green-Herman & Associates, Inc., subcontract with Mel Harris & Associates, Inc., is \$75,000.

Green-Herman & Associates, Inc., will require one-third (\$25,000) of the \$75,000 subcontract in a single advance payment, due upon signing of this agreement. The remainder of the fixed cost contract (\$50,000) will be invoiced in accordance with the billing process of the prime contractor over the life of the contract.

Green-Herman & Associates, Inc., is pleased to enter into this subcontracting agreement with Mel Harris & Associates, Inc., effective this date.


ALEXIS HERMAN
Green-Herman & Associates, Inc.
April 6, 1981


MEL HARRIS
Mel Harris & Associates, Inc.
April 6, 1981

Office of Recorder of Deeds
CORPORATION DIVISION
WASHINGTON



This is to certify that the pages attached hereto constitute a full, true, and complete copy of CERTIFICATE AND APPLICATION OF CERTIFICATE OF AUTHORITY OF GREEN-KERMAN & ASSOCIATES, INC., AS RECEIVED AND FILED FEBRUARY 17, 1961, TOGETHER WITH EXHIBITS ATTACHED THERETO,

as the same appears of record in this office.

In Testimony Whereof,

I have hereunto set my hand and caused the seal of this office to be affixed, this

the _____ 10th _____ day of

_____ June _____ A. D. 1961.

MARGURITE C. STOKES

Recorder of Deeds, D.C.

By Phyllis A. Pratt

Assistant Superintendent of Corporations
 Form H-1 3-59

OFFICE OF RECORDER OF DEEDS
 Corporation Division
 Sixth and D Streets, N. W.
 Washington, D. C. 20001

CERTIFICATE

THIS IS TO CERTIFY that all applicable provisions of the District of Columbia Business Corporation Act have been complied with and ACCORDINGLY this Certificate of Authority
is hereby issued to GREEN-HERMAN & ASSOCIATES, INC.

as of February 17 1981



MARGURITE C. STOKES
 Acting Recorder Of Deeds, D.C.

By

John M. Dwyer
 John M. Dwyer
 Assistant Recorder of Deeds

OFFICE OF RECORDER OF DEEDS, D.C.

Corporation Division
 Sixth and D Streets, N.W.
 Washington, D.C. 20001

EFFECTIVE OR DEREGULATE State's General Certificate of Authority and All Amendments Filed For _____ TO Issued For _____ TO Date _____ D. C. REGISTRATION	APPLICATION FOR CERTIFICATE OF AUTHORITY Corporation Name <u>Green-Herman & Associates, Inc.</u>
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To the Recorder of Deeds, D.C.

Pursuant to the provisions of the Code of Laws for the District of Columbia and the Business Corporation Act, the undersigned corporation hereby applies for a Certificate of Authority to transact business in the District of Columbia, and for that purpose submits the following statement:

1. Name of Corporation <u>Green-Herman & Associates, Inc.</u>	2. Address, including street and number, of its principal office in the State or District where organized <u>229 South State Street Dover, Delaware 19901</u>
3. Name of agent to act in the District <u>Green-Herman & Associates, Inc.</u> (Add "corporation", "company", "incorporated", "limited" or an abbreviation thereof, if same does not appear in corporate name. Otherwise, answer same as 1.)	4. Address, including street and number of its principal registered office in the District <u>1120 Connecticut Avenue, N.W. 10th Floor Washington, D.C. 20036</u> <u>Representative Agency, Inc.</u>
5a. Incorporated under the laws of the State of <u>Delaware</u> b. Date of incorporation <u>January 20, 1981</u> c. Term of existence <u>Perpetual</u>	7. A brief statement of the business or services to be rendered in the District <u>Consulting and marketing analysis service.</u>
6. Date commenced or will commence conducting business in the District <u>January 30, 1981</u>	

8. Names and respective addresses, including street and number, of its directors and officers.

NAME	OFFICE	ADDRESS
<u>Ernest Green</u>	<u>Director</u>	<u>21 'S' Street, NW, Washington, DC 20001</u>
<u>Alexis Herman</u>	<u>Director</u>	<u>700 7th Street, SW #626 Washington, D.C. 20024</u>
<u>Ernest Green</u>	<u>President</u>	<u>See above</u>
<u>Alexis Herman</u>	<u>Vice Pres.</u>	<u>See above</u>
<u>Alexis Herman</u>	<u>Secretary</u>	<u>See above</u>
<u>Ernest Green</u>	<u>Treasurer</u>	<u>See above</u>

Form RD-C4
 Rev. April 1979

(1)

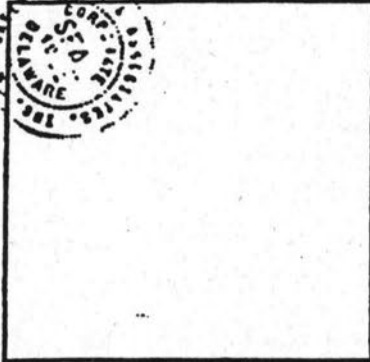
FILED FEB 17 1981

(Over)

BY SJA

Dated 2/10/81

Copyright Sec.



Attest:

[Signature]
Secretary of American Economy

Green-Herman & Associates, Inc.

[Signature]
Secretary of President or Vice President

RECEIVED
FEB 17 3 29 PM '81
RECORDED OF DEEDS
D.C.

Filed
By

Form 80-C6

CERTIFICATE OF INCORPORATION

THIS IS TO CERTIFY THAT:

FIRST: The name of the corporation (hereinafter referred to as the "Corporation") is Green-Serman & Associates, Inc.

SECOND: Its registered office in the State of Delaware is to be located at 229 South State Street, City of Dover, County of Kent; and the name of the registered agent of the Corporation in the State of Delaware at such address is The Prentice-Hall Corporation System, Inc.

THIRD: The period of its duration is perpetual.

FOURTH: The nature of the business, and the objects and purposes proposed to be transacted, promoted and carried on, are to do any or all of the things herein mentioned, as fully and to the same extent as natural persons might or could do, and in any part of the world; viz:

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware, including but not limited to, the following:

(a) To own and operate a consulting and marketing analysis service which will design for those in the field of employment and training a productivity package which will provide broad-based marketing strategies, utilizing predictive tools such as economic forecasting and econometric models.

Law Offices
of
Robert S. Greenman
attorneys at law
Dover, Delaware

FEB 17 1961	
FILED	
BY	<i>[Signature]</i>

(b) To act as consultant and adviser with respect to the most beneficial configuration of public/private sector alliances to maximize the utilization of the services provided by those in the field of employment and training.

(c) To provide diagnostic services and implementation assistance with respect to labor resource maximization by designing and implementing work force training and retraining programs.

(d) To act as consultant and adviser with respect to labor relations, on-site and off-site relocation assistance, and operating methodology to improve the quality and efficiency of employee work life.

(e) To enter into partnership agreements in furtherance of the purposes of the Corporation and for the production of income and to promote its business, and to be a general partner in such partnerships;

(f) To purchase, acquire, hold, improve, sell, convey, exchange, assign, release, mortgage, encumber, lease, hire and deal in real, fixed and personal property, of every nature and description, wherever situated, and any and all rights therein, including, but without limitation, improved and unimproved land, stocks, bonds, commercial paper, mortgages and mortgage notes, deeds of trust and deed of trust notes, and other securities;

(g) To employ such persons as it deems necessary or proper to carry on the business of the Corporation;

(h) To engage in and carry on any other business which may conveniently be conducted in conjunction with any of the business of the Corporation;

(i) To acquire all or any part of the good will, rights, property and business of any person, firm, association or corporation heretofore or hereafter engaged in any business whether or not similar to any business which the Corporation has the power to conduct, and to hold, utilize, enjoy and in any manner dispose of the whole or any part of the rights, property and business so acquired, and to assume in connection therewith any liabilities of any such person, firm, association or corporation;

(j) To apply for, obtain, purchase or otherwise acquire, any patents, copyrights, licenses, trademarks, trade names, rights, processes, formulas, and the like, which may seem capable of being used for any of the purposes of the Corporation; and to use, exercise, develop, grant licenses in respect of, sell and otherwise turn to account, the same;

(k) To acquire by purchase, subscription or in any other manner, take, receive, hold, use, employ, sell, assign, transfer, exchange, pledge, mortgage, lease, dispose of and otherwise deal in and with, any shares of stock, shares, bonds, debentures, notes, mortgages or other obligations, and any certificates, receipts, warrants or other instruments evidencing rights or options to receive, purchase or subscribe for the same, or representing any other rights or interest therein or in any property or assets, issued or created by any persons, firms, associations, corporations,

- 3 -

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GOVERNMENT

syndicates, or by any governments or subdivisions thereof; and to possess and exercise in respect thereof any and all rights, powers and privileges of individual holders;

(1) To aid in any manner any person, firm, association, corporation, or syndicate, of which any shares, bonds, debentures, notes, mortgages or other obligations, or any certificates, receipts, warrants, or other instruments evidencing rights or options to receive, purchase or subscribe for the same, or representing any other rights or interests therein, are held by or for this Corporation, or in the welfare of which this Corporation shall have any interest, and to do any acts or things designed to protect, preserve, improve and enhance the value of any such property or interest, or any other property of this Corporation;

(m) To guarantee the payment of dividends upon any shares of stock or shares in, or the performance of any contract by, any other corporation or association in which this Corporation has an interest, and to endorse or otherwise guarantee the payment of the principal and interest, or either, of any bonds, debentures, notes or other evidences of indebtedness created or issued by any such other corporation or association;

(n) To carry out all or any part of the foregoing objects as principal, factor, agent, contractor, general partner, limited partner or otherwise, either along or through or in conjunction with any person, firm, association or corporation, and in carrying on its business and for the purposes of attaining or furthering any of its objects and purposes, to make and perform any

contracts and to do any acts and things, and to exercise any powers suitable, convenient or proper for the accomplishment of any of the objects and purposes herein enumerated or incidental to the powers herein specified, or which at any time may appear conducive to or expedient for the accomplishment of any of such objects and purposes;

(o) To carry out all or any part of the aforesaid objects and purposes, and to conduct its business in all or any of its branches, in any or all states, territories, districts and possessions of the United States of America and in foreign countries; and to maintain offices and agencies in any or all states, territories, districts and possessions of the United States of America and in foreign countries;

(p) To conduct any other business which may lawfully be conducted under the General Corporation Laws of the State of Delaware.

The foregoing enumeration of the purposes, objects and business of the Corporation is made in furtherance, and not in limitation, of the powers conferred upon the Corporation by law, and is not intended, by the mention of any particular purpose, object or business, in any manner to limit or restrict the generality of any other purpose, object or business mentioned, or to limit or restrict any of the powers of the Corporation. The Corporation is formed upon the articles, conditions, and provisions herein expressed and subject in all particulars to the limitations relative to corporations which are contained in the General Laws of the State of Delaware.

FIFTH: The amount of the total authorized capital stock of this Corporation is two thousand shares of Common Stock without par value. Such Common Stock being all of one class and bearing one vote per share which vote shall be noncumulative.

In addition, such Common Stock shall have such voting rights, limitations, preferences, qualifications, as shall be stated and expressed in the resolution of the Board of Directors providing for the issuance of the Common Stock. The Board of Directors is hereby expressly vested with the authority to adopt such resolutions.

SIXTH: The names and mailing addresses of each incorporator is as follows:

<u>Name</u>	<u>Mailing Address</u>
James M. Christian	1120 Connecticut Avenue, N.W. Washington, D.C. 20036
Cory M. Aaron	1120 Connecticut Avenue, N.W. Washington, D.C. 20036

SEVENTH: The powers of the incorporator[s] shall terminate upon the filing of this Certificate of Incorporation, and the names and mailing addresses of persons to serve as directors until the first annual meeting of stockholders or until their successors are elected and qualify are:

<u>Name</u>	<u>Mailing Address</u>
Ernest Green	21 E Street, N.W. Washington, D.C. 20001
Alexis Herman	700 7th Street, S.W. Apartment #626 Washington, D.C. 20024

EIGHTH: It is the intention that the objects, purposes and powers specified in the Fourth paragraph hereof shall, except where otherwise specified in said paragraph, be nowise limited or restricted by reference to or inference from the terms of any other clause or paragraph in this certificate of incorporation, but that the objects, purposes and powers specified in the Fourth paragraph and in each of the clauses or paragraphs of this charter shall be regarded as independent objects, purposes and powers.

We, the undersigned, for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate, and do certify that the facts herein stated are true; and we have accordingly hereunto set our respective hands and seals.

Dated at January 19, 1981

Larry M. Ammon [SEAL]
James M. Christian [SEAL]

DISTRICT OF COLUMBIA, SS:

Be it remembered, That on this 19th day of Jan 1921.

James M. Christian, and Cory M. Aaron personally appeared before me Sheila M. Fallon a notary public, parties to the foregoing Certificate of Incorporation, known to me personally to be such, and I having first made known to them and each of them the contents of said Certificate, they did each severally acknowledge that they signed, sealed and delivered the same as their voluntary act and deed, and each deposed that the facts therein stated were truly set forth. at

Given under my hand and seal of office the day and year aforesaid.



Sheila M. Fallon
Notary Public

My Commission Expires June 22, 1922

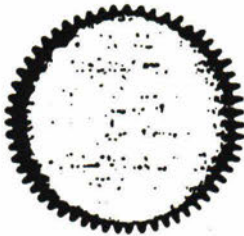


State of DELAWARE

Office of SECRETARY OF STATE

*I, Glenn C. Kenton Secretary of State of the State of Delaware,
do hereby certify that the above and foregoing is a true and correct copy of
Certificate of Incorporation of the "Green-Herman & Associates, Inc.", as received
and filed in this office the twentieth day of January, A.D. 1961, at 9 o'clock A.M.*

In Testimony Whereof, I have hereunto set my hand
and official seal at Dover this twentieth day
of January in the year of our Lord
one thousand nine hundred and eighty-one.



FORM 100

Glenn C. Kenton
Glenn C. Kenton, Secretary of State

G. Evans Dunney
G. Evans Dunney, Assistant Secretary of State

The CHAIRMAN. We will call the next four witnesses together in a panel: Gregory J. Ahart, the Director of the Human Resources Division of the General Accounting Office—these are all General Accounting Office witnesses—Charles I. Patton, supervisor; Chris Crissman; and Jim Ratzenberger.

We would be happy to have all of you come up.

As I understand it, Mr. Ahart is sick; so, Mr. Densmore, you are going to replace him?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. OK. Would all four of you raise your right hands? Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DENSMORE. I do.

Mr. CRISSMAN. I do.

Mr. PATTON. I do.

Mr. RATZENBERGER. I do.

The CHAIRMAN. Thank you.

Mr. Densmore?

STATEMENT OF EDWARD A. DENSMORE, JR., GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY CHARLES I. PATTON, SUPERVISOR; CHRIS CRISSMAN, AND JIM RATZENBERGER

Mr. DENSMORE. Thank you, Mr. Chairman.

We have a statement that we would like to submit for the record, and I will summarize that statement if I may.

The CHAIRMAN. That will be fine. Without objection, all statements given here today will be made a part of the record in full.

Mr. DENSMORE. We are pleased to be here today to discuss our two recent reports on Labor's administration of its employment and training activities under titles III and IV of CETA.

The first report, issued on August 28, 1981, was our first comprehensive look at how the Office of National Programs administers its grant and contract awards. Our second report, sent to you on August 31, 1981, discussed how Labor made many awards during the closing months of the past administration.

To meet the objective of our August 28 report, we reviewed a statistical sample of awards made in fiscal year 1979. We did not visit awardees as part of our work. We found a number of weaknesses in ONP's procedures and practices throughout the award process.

First, ONP did not make extensive use of competition and seldom adequately justified its sole source awards. Overall, ONP considered more than one applicant only 21 percent of the time.

For the special project awards made on a sole source basis, the records seldom indicated why ONP did not consider other potential awardees.

Second only 27 percent of the 479 awards in our sample contained evidence of the cost evaluation, and only 30 percent documented technical aspects. Award files also indicated that negotiations were conducted for only one-third of the awards. Where these activities did occur, they were often poorly documented and poor negotiating techniques were used.

In addition, many of the awards approved by ONP did not adequately describe what the awardee proposed to do or justify the planned use of funds.

One of ONP's program offices often provided its potential awardees with preaward work authorization letters allowing them to start work and incur costs before the actual awards were finalized.

None of the ONP preaward authorization letters contained sufficient language to protect the Government's interest.

The award files showed little evidence of active monitoring through trips, correspondence, or other Labor-initiated contacts with awardees of the awardees' progress in accomplishing the funded activities.

Also, 31 percent of the awardees failed to submit most—70 to 80 percent—of the required progress and fiscal reports for the latest performance period.

When ONP representatives identified awardee problems, they did not always attempt to resolve them.

Finally, ONP did not require that awardees' performance be evaluated before the awards were renewed. Based on our sample, 82 percent of ONP's awards were renewals and only 13 percent had any meaningful evaluation.

Most of ONP's problems stemmed from Labor's failure to separate grant and contract management responsibilities from program responsibilities. Consequently, most of the award activities, such as evaluating and negotiating proposals, were handled by program staff who placed little emphasis on following good grant and contracting practices.

As a result of the problems we found, we recommended that the Secretary direct ONP to: Make greater use of competitive awards for its special projects and fully justify any sole source awards, require program offices to fully carry out and document all evaluations of proposals and negotiations with applicants, require that preaward authorization letters specifically state what the Government and awardees have agreed upon to protect the Government's interest, place a greater emphasis on its monitoring activities, and prepare written assessments of an awardee's performance under prior awards before refunding the awardee.

We also recommended that the Secretary separate ONP's grant and contract management functions from its program management responsibilities.

Labor has responded positively to our recommendations and is taking actions to implement them.

The primary objective of our August 31 report was to address concerns relating to Labor's CETA titles III and IV awards from September 1, 1980, through January 31, 1981.

The sample chosen for detailed analysis consisted only of awards administered by ONP and the Office of Youth Programs, because these offices administered 89 percent of the titles III and IV discretionary funds during the specified timeframe.

We analyzed 15 ONP and 19 Office of Youth Programs awards. Detailed analysis of these 34 awards further substantiated the findings contained in our earlier report and showed that good grant and contract procedures were not always adhered to during the award process.

For example, one award for \$175,790 was to study alternatives for increasing the employability of disadvantaged adolescent mothers by identifying resources and developing resource directories to provide career information and guidance.

Our review showed that the Office of Youth Programs representative responsible for this contract recommended against the award and never completed the negotiation because: One, the proposed statement of work failed to present a sufficiently understandable and defensible approach; and two, the objectives were a mishmash of evaluation, technical assistance, and direct provision of services.

Another awardee was a design, engineering, and analysis firm specializing in solar environmental systems, energy technology studies, and product servicing and marketing.

One of the contracts this awardee received during the specified timeframe was for \$455,570 covering the period October 15, 1980, to October 24, 1981. The award was finalized on December 9, 1980, for the purpose of establishing an Hispanic referral and recruitment system to increase the employment opportunities for professional Hispanics in the Federal Government.

Our review showed, even though the ONP representative responsible for the contract was concerned about the contractor's capability, the project was funded at the insistence of the former Administrator of ONP.

According to the ONP representative, the negotiations took place on December 5, 1980, about 2 months after the effective date of the award. According to the ONP representative, as of August 13, 1981, no one had received employment as a result of this award.

In a July 10, 1981, telegram, the awardee was informed that the contract will not be refunded or extended when it expires in October 1981.

Another concern related to the operation of a special departmental committee established to review grant and contract proposals. We contacted each of the four committee members to discuss their role and responsibilities. One member declined to talk with us. The other three generally thought that their role and responsibilities were to review the award proposals for merit from their respective organizational positions and to ensure some measure of accountability of the funds being spent. The decisions they made on the award proposals were done on a consensus basis and not by voting.

We found no written criteria to explain why these individuals were appointed, no dates for their terms of appointments, and no written operating procedures detailing how they were supposed to carry out their responsibilities.

Also, minutes of meetings were not well maintained. The title III minutes do reflect what proposals were considered and what actions were taken but do not show who was present, what was discussed about each proposal, or how the decisions were made.

Meetings regarding title IV had no recorded minutes. We were told that only handwritten notes were kept on the proceedings and these were destroyed once the appropriate title IV program staff were notified of the committee's actions.

Labor's Employment and Training Administration has established a task force to address the problems we found. The task force is developing a directive designed to establish procedures for improving the awards process.

We have met and discussed the proposed directive with Labor officials on several occasions. Although at the time of our last meeting the directive had not been finalized, the actions Labor officials told us they planned to take appeared to be an effective means of improving the administration of its award activities.

Mr. Chairman, that concludes our statement. We will be happy to respond to any questions you or other members of the committee may have.

The CHAIRMAN. Mr. Densmore, as a general practice, your office would agree, I take it, that sole source or noncompetitive awards should be made only as an exception rather than as a general rule?

Mr. DENSMORE. Yes, sir; that is correct.

The CHAIRMAN. You would recommend that we have competitive awards from here on in?

Mr. DENSMORE. To the extent possible and feasible—yes, sir.

The CHAIRMAN. I see. And those exceptions where it is not feasible—they should be justified fully?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Justification would most certainly address itself to providing documentation for the contract or grant file as to why this specific contractor or grantee should be named—is that right?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. More important, where arguments or specific deficiencies are presented as a result of a program representative's negotiations, those points should be addressed item-by-item before a favorable decision on funding is decided in favor of that awardee?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. As a result of your statistical sample there was no more than one awardee considered almost 80 percent of the time?

Mr. DENSMORE. That has to be qualified to this extent, Mr. Chairman: There were a number of awards that were awarded on a formula basis. In other words, a specific formula determines that awards are going to go to eligible and qualifying organizations based on criteria such as population size, income, and unemployment levels. There were also a number of awards under the farm-worker program that were made competitively.

If you eliminate those awards, there are 160 left of 479; and about 80 percent of those 160 which went for other types of projects were awarded on a noncompetitive basis.

The CHAIRMAN. I see.

With regard to the vague descriptions of proposals, do you mean that even if the awardee had in mind specific targets with regard to the number of participants to benefit and specific skills, the proposal did not reflect that kind of information so anyone analyzing, like a program representative, could make an educated guess as to the accuracy of the proposed budget—is that right?

Mr. DENSMORE. That is correct, sir.

The CHAIRMAN. We are talking about hundreds of thousands, if not millions, of dollars in these award situations.

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. With regard to your overall report—HRD-81-111—you said that you did not evaluate awardees' programs because your objective was to review ONP's award practices.

Could your office provide us with an outline of an approach that would assess an awardee's program for delivering employment and a review training services?

Mr. DENSMORE. Yes, sir. Let me ask Mr. Patton to address that further.

Mr. PATTON. Mr. Chairman, as you know, we are currently initiating work at your request on the Recruitment and Training Program Inc., and also the Opportunities Industrialization Centers of America Inc. In the design phase of these assignments we will be working with your staff to develop such an approach, and the results should provide the type of information that you will need with respect to program impact and how awardees are currently operating.

The CHAIRMAN. I suspect if we had this information at our disposal or at least at the disposal of awarding officers or the appropriate people at the Department of Labor, it would help them to help the awardees to do a better job. Is that correct?

Mr. DENSMORE. Most certainly.

The CHAIRMAN. And in the end the taxpayer dollars would be more beneficially spent, and perhaps we might even get some more young people to work in effective ways. Would you agree with that?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Example A that you cited in your statement—this \$175,000 award for studying alternatives for increasing employability—refers to which award?

Mr. DENSMORE. Dr. Benson Penick, sir.

The CHAIRMAN. The program representative responsible for evaluating the proposals gave several reasons, and prominent among those given is his assessment that the objectives presented a mish-mash of provisions. Yet the former Administrator for ONP, Mr. Godwin, approved this project. Is that correct?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Did your study, however, discover any information provided by the Administrator that countered the program rep's evaluation?

Mr. DENSMORE. No, sir; it did not.

The CHAIRMAN. Did you look to see if there was any additional material or information that would have countered that evaluation and justified that particular award?

Mr. CRISSMAN. Mr. Chairman, we were unable to find anything in the file.

The CHAIRMAN. So you did look?

Mr. CRISSMAN. Right—in the files.

The CHAIRMAN. Was there ever any evidence in the award files other than the program rep's?

Mr. CRISSMAN. No, sir.

The CHAIRMAN. Example B was which awardee?

Mr. DENSMORE. Solar America.

The CHAIRMAN. The purpose of this contract was to establish a referral and recruitment system to place Hispanics in Federal positions. Is that right?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Yet this firm is a design and engineering firm that is also a custom manufacturer of energy systems. Is that right?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. What does this have to do with an expertise in Federal recruitment; or, rather, what did the program rep offer as to this firm's experience in this field?

Mr. DENSMORE. There were no written evaluations, justifications, or information with regard to the firm's capabilities in this particular field.

The CHAIRMAN. Was there anything in the file at all concerning the firm's capabilities, other than that they were an engineering firm working in the solar contracting area?

Mr. CRISSMAN. Mr. Chairman, all we had to go on when we talked to the representative responsible for the award was that he expressed concern about the contractor's capability to do this particular project.

The CHAIRMAN. Did he give the award out anyway?

Mr. CRISSMAN. He was the person charged with monitoring the award, but he had doubts, so he split the project in two phases so he could better monitor the situation to see how well they were doing.

The CHAIRMAN. What information did the Administrator for ONP provide for the benefit of the files to indicate that that particular firm would get almost a half-million dollars to perform this service?

Mr. DENSMORE. We found no information in the files, sir, to indicate any input from him.

The CHAIRMAN. As I understand it, as of August of this year no one had received employment as a result of the expenditure of this amount of taxpayer dollars.

Mr. DENSMORE. That is correct.

The CHAIRMAN. Not one person?

Mr. DENSMORE. No, sir.

The CHAIRMAN. How long had that contract gone, do you know?

Mr. CRISSMAN. It had been underway about 10 months, Mr. Chairman.

The CHAIRMAN. How much of the money was spent?

Mr. CRISSMAN. I do not know at this time, sir. I would assume that most of it had been spent up to that point.

The CHAIRMAN. That was \$455,570 for the total award.

Mr. CRISSMAN. Yes.

The CHAIRMAN. Let us go to Southern Vocational College. You heard the Inspector General's earlier testimony with regard to this Southern Vocational grant. I note that your review discovered the same concerns, on pages 25 and 26 of report HRD-81-145. Your report also mentions that the program representative was told to negotiate the award by the ONP director, Mr. Godwin, who told him that the allegations were not serious. Is that right?

Mr. DENSMORE. Yes, sir; that is correct.

The CHAIRMAN. Was the program rep able to produce any preliminary report from the Inspector General that the former director of ONP could have been reading from?

Mr. DENSMORE. He indicated that he was aware of a report but that he did not have a copy of any report.

The CHAIRMAN. Did you ask him to get you a copy?

Mr. CRISSMAN. We did not ask him to get us a copy at the time and he was unable to provide it.

The CHAIRMAN. Would you ask him to get you one? I think we have got to have a copy of it.

Mr. CRISSMAN. We will, Mr. Chairman.

The CHAIRMAN. Will you provide that for the committee?

Mr. CRISSMAN. We will.

The CHAIRMAN. OK.

Now, a different program representative was sent by the ONP director to perform a site visit in the fall of 1980, prior to award of this final grant, and basically gave them a clean bill of health in spite of all these investigations and audits.

In your interview with this program rep, Mr. Barnes, did he resolve any of the allegations yet outstanding?

Mr. CRISSMAN. No, Mr. Chairman. Because he had not been officially informed of any of these allegations, his role on his particular award was only to be concerned with that award and not with allegations made on any prior awards from any other source.

The CHAIRMAN. He was aware of them though—right?

Mr. CRISSMAN. He said he was informally aware; he had not been officially notified.

The CHAIRMAN. He knew of the I.G. audit, is what I am saying—right?

Mr. CRISSMAN. Unofficially, yes, sir.

The CHAIRMAN. Is it true then that he limited his review to whatever the grantee provided?

Mr. CRISSMAN. That is true, Mr. Chairman.

The CHAIRMAN. So unless the awardee tells him of problems that exist, in this case, to your knowledge, he relied strictly on his own tour of the site and these monthly reports and invoices which we list as exhibits 4A and 4B—is that right?

Mr. CRISSMAN. That is correct, Mr. Chairman.

The CHAIRMAN. Will the staff give our panel a copy of all of these examples of monthly reports and invoices?

[Panel receives documents.]

[The material referred to follows:]

GAO Exhibit 3A

SOUTHERN VOCATIONAL COLLEGE
YOUTH EMPLOYMENT
AND TRAINING PROGRAM
IN ALLIED HEALTH OCCUPATIONS
AND SERVICES

Contract Number 99-0-1801-92-16
October 20, 1980

I. Accomplishments during reporting period

- A. The classroom training component continued to move forward in high gear.
- B. Participants without high school diplomas continued to get courses in reading, writing and computation.
- C. Participants are well on the way in occupational training.
- D. Participants who are neither in classroom training are being given health services such as occupational and career information, counseling, job development, job placement, and job readiness.
- E. Participants continued to be provided transportation services as needed.
- F. Daily counseling of enrollees have been properly documented.
- G. Participant folders have been designed for each enrollee and all folders are current and up-to-date. The 30-day review has been made according to the mandate of the Federal Register.
- H. Outreach, recruitment, intake and assessment, and selection of participants continued to be ongoing functions of the overall program.
- I. Participants were paid incentive allowances on a timely and accurate basis. Time sheets have been properly kept, evaluated and approved for each incentive allowance receiving participant.

- J. Training sessions were held in classroom instruction, outreach, counseling, job placement and occupational information during the reporting period.

II. Indication of current problem

There are no current problems which will delay our performance. Several students dropped from the program due to health and relocation reasons. However, they were replaced with backup participants.

III. Program Status

The program has served 250 participants to date. A number of applicants continue to be reviewed so that additional enrollees might be selected to participate in the overall program.

IV. Program activities to be accomplished next reporting month.

- A. Participant folders will be updated.
- B. Classroom training will continue.
- C. Clerical training will continue.
- D. Special courses in reading, writing, and computation will continue.
- E. Outreach, counseling, job development and job placement functions will continue.
- F. Overall program will be evaluated.
- G. Additional participants will be selected to participate in the overall program throughout the national geographical area.

COST CONTRACTOR'S INVOICE

INSTRUCTIONS: See MA Form 1

My File

CONTRACTOR'S NAME AND ADDRESS: Southern Vocational College P. Box 688 Stages, Alabama 36087 CONTRACTOR'S PHONE NO. & AREA CODE (205) 727-5220 - Ex 4		INVOICE NO.: 4 DATE OF INVOICE: October 20, 1980 CONTRACT NO.: 99-0-1801-92-16 PERIOD COVERED BY CONTRACT:
☐ DUT ☒ R. C. E		

1 - Total costs incurred from April 21, 1980 to October 20, 1980 \$ 12,859

2 - Estimated costs to be incurred
from October 21, 1980 to November 20, 1980 \$ 31,565

3 - Total actual plus estimated costs \$ 244,424

4 - Less payments received to date \$ 198,736

5 - Net amount of this request \$ 45,688

Invoice Certification

The amounts claimed on this invoice constitute allowable costs in accordance with the terms of the contract.

Lawrence F. Hays Nov. 5, 1980
Authorized Signature Date

Amount needed, by period, for initial advance

\$ _____
\$ _____
\$ _____

Project Officer Certification

OF&MS USE

Total

\$ _____

1. RECOMMENDATION PERFORMANCE SATISFACTORY FOR PAYMENT PURPOSES <u>yes</u>		1. APPROPRIATION NUMBER _____	
2. SIGNATURE <u>Paul Barnes</u>		2. AMOUNT TO BE PAID _____	
3. DATE SIGNED <u>11-5-80</u>	3. EXAMINER SIGNATURE _____	4. DATE APPROVED _____	

U DEPARTMENT OF LABOR - MANPOWER ADMINISTRATION

MA 3100-11-87

DEPARTMENT OF LABOR Employment and Training Administration				CONTRACT GRANT NO.
COST CONTRACTOR'S/GRANTEES' DETAILED STATEMENT OF COSTS				99-0-180-92-16
CONTRACTOR'S/GRANTEES' NAME Southern Vocational College P.O. Box 688 Tuskegee, AL 36083				INVOICE NO. #4
Cost Category	Contract/Grant Budget	Cumulative Costs 4/21/80 10/20/80	Costs for Report Month Oct	Estimated Costs 10/20 11/20/80
	(1)	(2)	(3)	(4)
Salaries and Wages	200,400	100,218	16,702	16,703
Fringe Benefits	20,040	7,948	1,244	1,244
TOTAL PERSONNEL COSTS	220,440	108,166	17,946	17,947
Other Expenses: (Specify & list below)				
Travel	6,600	4,760	357	600
Consultant	10,000	5,001	834	834
Material & Supplies	23,115	16,617	1,307	-0-
Supportive Services	146,423	32,213	4,393	4,500
Indirect Cost	92,184	46,102	7,684	7,684
TOTAL OTHER EXPENSES	276,322	104,693	14,575	13,618
TOTAL CONTRACT/GRANT COSTS	496,762	212,859	32,521	31,565

Replaces MA-3-2 (11/67) which may be used until supply is exhausted.

ETA 32 (Nov 1979)

GAO Exhibit 3B

PROGRESS REPORT

SOUTHERN VOCATIONAL COLLEGE
YOUTH EMPLOYMENT
AND TRAINING PROGRAM
IN ALLIED HEALTH OCCUPATIONS
AND SERVICESContract Number
August 10, 1981

99-0-1801-92-16

I. Accomplishments during reporting period

- A. The classroom teaching was carried out according to our timetable.
- B. Participants were given special group counseling.
- C. Participants continued to be provided transportation services as needed.
- D. Enrollees were given daily individual counseling.
- E. Participant folders have been set up on each enrollees, and each folder is up-to-date.
- F. A thorough review was made on all participant folders.
- G. Outreach, recruitment, intake and assessment, and selection of participants continued to be carried out by the program staff.
- H. Health services such as occupation career information, counseling, job development, job placement, and job readiness were carried out.
- I. Incentive allowances were paid on a timely and accurate basis to all eligible youth.
- J. Staff training was carried out in recruitment and outreach.

II. Indication of current problem

There are no current problems which will delay our performance.

III. Program Status

The program has served 300 participants to date. A number of applicants continue to be reviewed so that additional enrollees might be selected to participate in the overall program.

IV. Program activities to be accomplished during next year:

- A. Folders will be kept up-to-date.
- B. Classroom training will continue.
- C. Clinical training will continue.
- D. Outreach, counseling, job development and job placement will continue.
- E. Project staff will evaluate the basic components of the program.
- F. Additional participants will be selected to participate in the program.

COST CONTRACTOR'S INVOICE

INSTRUCTIONS: See MA Manual
(Para 3161.71)

CONTRACTOR'S NAME AND ADDRESS: Southern Vocational College P.O. Box 688 Diskege, Alabama 36083		INVOICE NO. #13
CONTRACTOR'S PHONE NO. & AREA CODE (205) 727-5220		DATE OF INVOICE August 10, 1981
		CONTRACT NO. 99-0-1801-92-16
PERIOD COVERED BY CONTRACT April 21, 1980 - September 30, 1981		

1 - Total costs incurred from April 21 to July 20, 1981 \$ 525,462

2 - Estimated costs to be incurred
from July 21 to August 20, 1981 \$ 40,305

3 - Total actual plus estimated costs \$ 565,767

4 - Less payments received to date \$ 525,637

5 - Net amount of this request \$ 40,130

Invoice Certification

The amounts claimed on this invoice constitute allowable costs in accordance with the terms of the contract.

Lawrence F. Flygord 5-10-81
Authorized Signature Date

Amounts needed, by period, for initial advance

\$ _____
\$ _____
\$ _____

Project Officer Certification		OF&MS USE		Total	\$ _____
1. RECOMMENDATION PERFORMANCE SATISFACTORY FOR PAYMENT PURPOSES		1. APPROPRIATION NUMBER			
		2. AMOUNT TO BE PAID			
3. SIGNATURE	4. DATE SIGNED	5. EXAMINER SIGNATURE	6. DATE APPROVED		

U.S. DEPARTMENT OF LABOR - MANPOWER ADMINISTRATION

MA 3100-1 (11-87)

U.S. DEPARTMENT OF LABOR Employment and Training Administration				CONTRACT/GRANT NO
COST CONTRACTOR'S/GRANTEE'S DETAILED STATEMENT OF COSTS				99-0-1801-02-16
CONTRACTOR'S/GRANTEE'S NAME Southern Vocational College P.O. Box 688 Tuskegee, Alabama 36083				INVOICE NO #13
Cost Category	Contract/Grant Budget	Cumulative Costs 4/21/80 to 7/20/81	Costs for Report Month July	Estimated Costs 7/21/81 to 8/20/81
	(1)	(2)	(3)	(4)
Salaries and Wages	283,956	250,554	16,704	16,704
Fringe Benefits	26,250	20,368	1,448	1,448
TOTAL PERSONNEL COSTS	310,206	270,922	18,152	18,152
Other Expenses: (Specify A list below)				
Travel	14,805	6,888	486	2,800
Consultant	14,165	12,505	834	834
Materials & Supplies	23,664	19,853	250	-0-
Supportive Services	194,970	87,512	5,477	10,000
Indirect Cost	139,452	127,782	8,519	8,519
TOTAL OTHER EXPENSES	387,056	254,540	15,596	22,153
TOTAL CONTRACT/GRANT COSTS	697,262	525,462	33,748	40,305

Rep "A-3-2 (11/67) which may be used until supply is exhausted

ETA 37 15791

The CHAIRMAN. As I understand it, these are examples of submissions from Southern Vocational College. On the invoice section at the bottom left, we have the recommendations signoff and signature of this program rep. In your opinion, does this substitute for a complete, objective review?

Mr. PATTON. No, sir. While this is helpful and the information can certainly be used to monitor the program to a degree, you have to at least engage in some form of verification of what you find on these documents.

The CHAIRMAN. Is this program representative an accountant or a contract officer—in this case?

Mr. PATTON. Not to our knowledge.

The CHAIRMAN. On page 11 of your statement, you discuss the role of the steering committee. This committee approved or disapproved awards, as I understand it; so they are taking responsibility for crossing t's and dotting i's. It seems that they can have it on one side of the fence or the other: Either they are not responsible, because they cannot accommodate all the details and recommendations from program reps; or if the decision is made to award, they should possess information not available to program reps. At least, these are my observations.

Mr. CRISSMAN. Your observations are correct, Mr. Chairman.

The CHAIRMAN. If this steering committee mechanism is supposed to substitute for normal Government award procedures, then should not its own internal records and documents reflect this themselves?

Mr. CRISSMAN. That was the only problem with the steering committee. As evidenced in our report, we found very little information available on what was discussed about each particular award, who was present, and why a decision was made as to whether an award was approved or not.

The CHAIRMAN. So you are saying that one of the recommendations you were making here or have made to the Department of Labor is that there should have been written operating procedures and a record of these procedures made in the case of every award or grant?

Mr. CRISSMAN. To provide an adequate audit trail, that is true, Mr. Chairman.

The CHAIRMAN. I see. And that would of course help the Department, would justify the file, would justify the award, and in the end you would be able to see how effective that particular awardee was with the use of taxpayer funds?

Mr. CRISSMAN. That is correct.

The CHAIRMAN. Senator Kennedy?

Senator KENNEDY. I do not think you would get any argument out of any of us about the importance of competitive bidding in the granting of various contracts.

Could you just review again what your information was with regard to the sole source contracts that were granted? I think you said about 80 percent, did you not?

Mr. DENSMORE. In our sample in the first report, Senator, there was a total of 479 awards in the universe. We eliminated about 319 of those, because they were awarded on a formula basis or because

they were farmworker programs for which competitive bidding procedures were followed.

Of the 160 awards that remained, these were special projects—one-of-a-kind types of awards. Approximately 80 percent of those 160 were awarded on a sole source basis.

Senator KENNEDY. I see. And how many of those were continuing programs?

Mr. PATTON. The percentage, as I recall, was about 80 percent.

Senator KENNEDY. Of those 80 percent were just ongoing and continuing programs—is that right?

Mr. PATTON. Yes, sir; I think that is the correct figure.

Senator KENNEDY. So 80 percent of the 80 percent were just ongoing and continuing grants. Is that correct?

Mr. DENSMORE. Yes, sir.

Senator KENNEDY. How typical is that in other agencies of Government—for example, in the Defense Department?

Mr. DENSMORE. I cannot answer that, because we have not been involved with Defense Department programs, Senator. I do not know the answer.

Senator KENNEDY. I am just trying to get information myself on it, and I am just interested in how unique or unusual that is.

Mr. DENSMORE. There are a number of grants or contracts that would be on a continuing basis. What we cannot answer is what the percentage would be in other places.

Senator KENNEDY. Let me ask you just a subjective question. That is, to the extent that you believe that the problems that the GAO has identified here are basically institutional and procedural, and to the extent that they are basically subjective or part of inappropriate behavior I would be interested in your assessment.

Mr. DENSMORE. Yes, sir. What we did was look at the system—the policies, procedures, and practices—and we found that they were poor; they were not good; there was not a good contracting system; there were not good policies and procedures that require what we consider to be good contracting principles.

Senator KENNEDY. I see.

Mr. DENSMORE. That is why our recommendations were addressed to improving the management of the administration of grants and contracts.

Senator KENNEDY. To the system's change?

Mr. DENSMORE. Yes, sir.

Senator KENNEDY. Most of these recommendations are aimed at I guess what you would characterize as sloppiness at best and perhaps mismanagement, or whatever. I gather from what you are saying that basically they did not within this Department have the kind of discipline, the kind of auditing, and the kind of management procedures which you feel are in the best interest of protecting the taxpayers' money and achieving the objectives of the legislation.

Mr. DENSMORE. That is correct, sir.

Senator KENNEDY. I think that is important for us to know. Obviously, those are matters which we in this committee have to address and the Department itself has to address.

Do you have any idea whether those procedures have been changed since you made your recommendations?

Mr. PATTON. Yes, sir; we do. We have worked with the administration. They are developing a directive designed to implement most of our recommendations.

Senator KENNEDY. Fine. That is certainly important.

In conducting your review of the CETA awards, did you interview the former Secretary, Ray Marshall, or determine what the policies were in connection with such awards and whether he thought the procedures that were being followed were proper?

Mr. PATTON. No, sir; we did not.

Senator KENNEDY. Why did you not?

Mr. PATTON. Normally it is our practice, when we are evaluating particular projects or programs, to deal with the officials that are in the current administration. Obviously, we were reviewing the files at Labor, looking at documents that were there, and dealing with the individuals that are currently handling those programs and those particular awards.

Senator KENNEDY. He was Secretary of Labor then. He bore the responsibility for that Department, did he not?

Mr. PATTON. Yes, sir.

Senator KENNEDY. When you saw the failure to develop procedures which you have identified here, would you not go to the head of the Department and ask him what was going on and say, "How do you respond to these concerns that we have developed?"

Mr. DENSMORE. Our policy is that when we do complete our work and we prepare a draft report, we do send it to the agency for comments.

Now, you have a situation here where the report was prepared after Secretary Marshall had left; so the report went to the then-current Secretary of Labor; and he commented on the policies, procedures, and findings.

Senator KENNEDY. While you were doing the review itself, you did not feel compelled to talk to him, in spite of the fact that you had found what you considered to be flawed procedures? You did not feel compelled, prior to the time you were going to make the report to the Congress, to talk to Mr. Marshall?

Mr. DENSMORE. Very seldom, sir, do we have the opportunity to deal directly with a Cabinet-level official with regard to a particular report.

Senator KENNEDY. Did you request it, or did you not request it?

Mr. DENSMORE. No, sir; we did not.

Senator KENNEDY. Did you in the course of your review interview Lamond Godwin, the former director of the Office of National Programs?

Mr. PATTON. No, sir; we did not.

Senator KENNEDY. Did you request such an interview?

Mr. PATTON. No, sir; we did not.

Senator KENNEDY. Why did you not?

Mr. PATTON. Again, as I mentioned, we dealt with the Acting Administrator who was handling the programs. For that reason, we did not contact Lamond Godwin.

Senator KENNEDY. I suppose what we are basically talking about in this hearing is criticizing the procedures which were established under his responsibility. That is what I am hearing this morning. I am just wondering, in your outline of these procedures, why you do

not go up and talk to him and hear him out. Maybe he has got answers; maybe he has not. I would think it would be useful to our evaluation to hear what that response would be.

Mr. DENSMORE. Senator, generally it is not our practice to look for particular individuals. What we are dealing with is the system.

Senator KENNEDY. That is right. And he has a responsibility for that system, I would expect.

The CHAIRMAN. Maybe we need some procedural changes at the General Accounting Office as well, so that we go to these people and let them know what is wrong. Of course, we have to presume our Administrators are doing their jobs too and that they understand the percentages and the figures they are given.

Mr. DENSMORE. We are looking at systems, policies, and procedures that have been in effect over a period of time. Those do not always change with a change in administrations. So what we saw after the change in administration was pretty much the same policies and procedures that we saw before.

Senator KENNEDY. I see. For what period of time before?

Let me say before we go any further that I am a strong supporter of the GAO and I think they have done very effective work for the Congress in a variety of areas in which I have been interested. I want to mention that.

How long have these procedures or lack of procedures been in effect, to the best of your information?

Mr. PATTON. To the best of our knowledge, I would say since, I guess, the inception of the CETA programs.

Senator KENNEDY. Some 2, 3, 4, 5, or 7 years?

Mr. PATTON. About 5 years.

There is one point we would like to emphasize, too. While it would be important to talk to the past Administrator, I think in all cases we have to point out that you would expect to be able to find adequate documentation for the type of decisions that we were looking at—I think that is very important, and it relates to the system—such that, as these people move on, we do have evidence of what has occurred in the past.

Senator KENNEDY. Continuity and consistency, so you can make evaluations and judgments—I would think you would have to have that.

In your review, did you interview the former head of the Office of Youth Programs?

Mr. PATTON. No, sir; we did not.

Senator KENNEDY. Was there any reason for that?

Mr. PATTON. It would be the same explanation.

Senator KENNEDY. Did you interview Ernest Green, the former administrator of ETA?

Mr. CRISSMAN. Senator, we attempted to contact Mr. Green regarding his role as a member of the titles III and IV steering committee. At that point he declined through his attorney, to talk with us.

Senator KENNEDY. Did you ask him at all about his actions as the administrator of ETA or merely concerning his work on the steering committee?

Mr. CRISSMAN. Just with the steering committee.

Senator KENNEDY. Would it have been helpful if you had asked him about his work as the administrator of ETA?

Mr. CRISSMAN. It might have been helpful.

Senator KENNEDY. But that was not done?

Mr. CRISSMAN. It was not done because most of the analysis on this review was performed after Mr. Green had left office.

Senator KENNEDY. After he left office?

Mr. CRISSMAN. That is right.

Senator KENNEDY. The only point I would make is this: I would think there would be some value to interview the former ETA officials responsible for program awards, at least to hear from them in terms of making the judgment.

I have no further questions.

The CHAIRMAN. Senator Quayle?

Senator QUAYLE. Thank you, Mr. Chairman.

You have made a number of recommendations for changes in procedure. Can these changes be made administratively, or are we going to need some statutory changes?

Mr. DENSMORE. They can be made administratively, Senator.

Senator QUAYLE. In other words, you are saying that it has been bad administration and management inefficiency that have brought on these problems and there are no defects in the present legislation that we have?

Mr. DENSMORE. There are no defects in the legislation. I think what we are talking about is poor grant and contract administration—lack of policies and procedures to adequately protect the interests of the Government.

Senator QUAYLE. As we rewrite the CETA law next year, would it be your recommendation not to change any of the contract procedures for employment and training programs?

Mr. PATTON. I do not think we would be in a position to comment on that at this time.

Senator QUAYLE. Oh, come on. Help us out.

Let me ask the question again. Is it just crummy administration, or are there some structural changes in the law that we are going to have to deal with? I think it is important for this committee to know. If you do not want to answer today, maybe the chairman could request you to submit it in writing for the record, but I think this is very fundamental. Are we just talking about administration, or are we talking about some legislative remedies?

The CHAIRMAN. I agree with Senator Quayle. I think it is a fundamental question. Is the law directed too broadly, because it does not put in enough restraints, restrictions, or suggestions; or does it give too much power to the Department of Labor to do whatever it wants to do?

Mr. DENSMORE. To the best of our knowledge, Mr. Chairman, there is no problem with the grant and contracting provisions in the legislation as it relates to the Department of Labor. It is the administration—the policies and procedures.

Senator QUAYLE. Just policies and procedures. So it would be your recommendation, in dealing with the legislation next year, that we do not need to really be that much concerned about changing the statutory language on contracting procedures for employment and training programs. Is that correct?

Mr. DENSMORE. That is correct, Senator.

I think that if we felt legislative changes were required to correct the problems identified in our 2 reports we would have made recommendations to the Congress in that regard. Our recommendations were directed to the Secretary of Labor so that they could be made administratively.

Senator QUAYLE. I would say the administration has got a lot of work to do then.

Thank you, Mr. Chairman.

The CHAIRMAN. You are welcome, Senator Quayle.

What you indicated, Mr. Densmore, is that you feel as though—well, all of you feel the procedures and the administration need to be tightened up.

Mr. DENSMORE. Yes, sir; that is correct.

The CHAIRMAN. You are talking about the Department of Labor's Office of National Programs which administers about \$600 million each fiscal year in grant and contract awards under the Comprehensive Employment and Training Act and the Older Americans Act for Employment, Training, and Related Services.

As I understand it, you undertook this review to assess how well the office carried out its administrative processes. Mr. Patton, you indicated that you felt that these mistakes, or these excesses, or these mismanagement activities took place over the last 5 years.

Mr. PATTON. Yes, sir; it could have been over that period of time.

The CHAIRMAN. Could it have been longer than that?

Mr. PATTON. I could not be certain on that.

The CHAIRMAN. I agree with Senator Kennedy: If you found that there was a mismanagement problem, I would hope you would refer this back to the Labor people. If there is a mismanagement problem, I think you ought to chat with the managers themselves to point it out.

Did you think that you really needed to do that in this case, or was this so easy to understand that any manager should be looking at it?

Mr. DENSMORE. We did not think, Mr. Chairman, that it was necessary to go back to the people that had been in the prior administration, because we were dealing with systems policies, procedures, and practices that have been carried out over a period of time.

The CHAIRMAN. In other words, when you did this review for me, it was after Mr. Godwin and Mr. Green had left?

Mr. DENSMORE. That is true on the CETA III and IV report—yes, sir.

The CHAIRMAN. I see. So there is no reason to go back to them with regard to that?

Mr. DENSMORE. That is correct.

The CHAIRMAN. Were you investigating them and doing general analysis while they were in office?

Mr. DENSMORE. We were not investigating any specific individuals. What we were looking at was the system by which Labor awarded its grants and contracts.

The CHAIRMAN. I see. Are you telling me that the GAO really desires to stay out of those political decisions or decisions that regard management decisionmaking?

Mr. DENSMORE. No, sir. I think we are talking about management and decisionmaking that did take place. However, what we are pointing out is that there were a number of deficiencies in the way the decisions were made. They did not have good contracting policies and procedures.

The CHAIRMAN. Can you give us any reason, in your opinion, why they did not?

Mr. DENSMORE. No, sir.

I might say that some of the things that we are talking about here we have found in other Government agencies and other grant and contract work that we have done—the type of thing such as lack of justification for sole source awards, inadequate monitoring of performance, lack of evaluation of performance by the awardee, lack of submission of progress reports, and so forth. These are typical of other findings that we have had in other work throughout the Government. So this is not unique to the Department of Labor.

Senator KENNEDY. What was the answer to that last question? What were you saying?

Mr. DENSMORE. What we said, sir, was that the types of problems we have identified are not unique to the Department of Labor. We have seen them in other agencies and departments throughout the Federal Government where we have done contract work.

In answer to the question that you asked before, what I could not give you was the percentage.

The CHAIRMAN. You mean to tell me this is a widespread approach toward contract management in the Federal Government?

Mr. DENSMORE. In a number of instances, if you go into other departments and agencies, you will find these and similar problems.

The CHAIRMAN. What you are saying then is that the taxpayers of America are basically being ripped off because of a lack of good management and controls. Are you not characterizing it that way?

Mr. DENSMORE. What we are saying is that there is a need to improve contracting policies and practices not only in the Department of Labor but in other Government agencies.

The CHAIRMAN. All right. You back that up with some statistics. You say that of the 479 awards in your sample universe only 130—27 percent—contained evidence of cost evaluation. Would you think that to be a serious defect?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Do you think any manager in any business in this country would fail to look at cost evaluation aspects of his business?

Mr. DENSMORE. He should not.

The CHAIRMAN. Should any manager in the Federal Government?

Mr. DENSMORE. No, sir.

The CHAIRMAN. You say that 143 awards—30 percent of your sample—had documented technical aspects, that is, work statements and evaluations. That is a pretty small percentage, is it not?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. And you are saying this is similar in other departments throughout this Government?

Mr. DENSMORE. I am saying that you would find these and similar problems; but we cannot, once again, relate the percentages.

The CHAIRMAN. Do you consider this serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Very serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. So do I.

The award files you say also indicated that negotiations were conducted for only one-third of the awards. Costs were negotiated for 153 awards—32 percent. Is that serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Very serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Does any of this shock you?

Mr. DENSMORE. No, sir. [Laughter.]

The CHAIRMAN. Why does it not shock you, Mr. Densmore? It shocks the heck out of me, I will tell you. Why does it not shock you?

Mr. DENSMORE. Because we have seen similar situations in other places, Mr. Chairman.

The CHAIRMAN. Overall, this is somewhat shocking?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. You are doggone right, it is.

Let me ask you this: You say that negotiation on technical aspects occurred in 151 awards—32 percent. Where these activities did occur, they were often poorly documented and poor negotiating techniques were used.

What you are saying here is what this thing is all about—that is, we do not want this to happen again. In other words, the individuals may be incidental in this matter. We are not out here to try and malign anybody. We want to stop this stuff. We want to get the Government under control and get people so that they work in a dedicated fashion. There are many people in the Government, you are saying, who do work; but apparently there are some who are not doing it either in a dedicated fashion or in a competent fashion. Is that correct?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. OK. You also say 34 percent of the awards showed no evidence of monitoring, 47 percent showed little monitoring, and only 19 percent showed regular monitoring. What do you think about that? Is that serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Would you want your business run that way?

Mr. DENSMORE. No, sir.

The CHAIRMAN. And 31 percent of ONP's awardees failed to submit most of these—"70 to 80 percent of the required progress and fiscal reports for the latest performance period at the time of our review." Is that serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Very serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Is that not shocking to you?

Mr. DENSMORE. No, sir. [Laughter.]

The CHAIRMAN. The reason it is not shocking is that it is, as you said, widespread throughout the Government. Is that correct?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. But the fact that it is widespread throughout the Government is shocking, is it not?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. "Twenty-four percent did not submit most of the required reports for prior reporting periods." Is that serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. Could you run a business that way?

Mr. DENSMORE. No, sir.

The CHAIRMAN. "In only 17 percent of the cases where most reports were not submitted did we find evidence that ONP tried to obtain the missing reports." Is that serious?

Mr. DENSMORE. Yes, sir.

The CHAIRMAN. You said that based on your sample 82 percent of ONP's awards were renewals. I know this may be an unfair question—and you can answer it that you think it is unfair—but would you have issued renewals under those circumstances?

Mr. DENSMORE. I think the point we are trying to make, Mr. Chairman, is that when you are going to renew, it would be a good practice to evaluate the awardee's performance to see whether or not he is doing an adequate job and should have the grant renewed. If he is doing an inadequate job, you may want to think about another awardee to perform the award.

The CHAIRMAN. Would you make awards if you did not have this kind of evaluation—the kind that you are suggesting should have been changed at the Department of Labor?

Mr. DENSMORE. No, sir.

The CHAIRMAN. Thank you.

Senator Kennedy?

Senator KENNEDY. With all respect, I think you were doing a review at a time when individuals who had had responsibility for those departments; had left the Government. Since what happened during their service is obviously going to reflect on them and their professional careers, it does seem to me, just as a member of this committee, that it would be useful, wise, and helpful to this committee that those individuals be asked about the reasons for the problems that you have identified here. They are out of Government; they are doing other things. We are trying to make the judgment whether these are administrative deficiencies. Some have suggested that they are individual deficiencies.

In any event, you are not an investigative in that sense or prosecutorial part of the Government, but I do think that in fairness to those individuals it is valuable to have that information.

The other point is this: We are talking about sole source contracting; and as I understand it, the Defense Department has 12 million contracts of which 60 percent are sole source, amounting to \$45 billion in 1980.

Every time they give a sole source, they publish that. They give 30 days of public notice. It does not prohibit the sole source, but it does require notification, so that interested committees or others in the Department who have responsibilities, have the opportunity to examine that. Maybe that is a useful step.

It does seem to me that given your responses to these questions our committee ought to be willing to work with the Government Operations Committee of the Senate and the House equivalent as we view the contracting procedures for all agencies of Government and make some recommendations.

I just want to indicate to you, Mr. Chairman, that I would be more than willing to work closely with you and the other members of this committee to see what can be done in terms of the contracting procedures, whether it applies to these programs or other programs, and see if we cannot find ways to try to insure that the kind of tight process and procedures are established to insure that the public's funds will be protected.

No one who listened this morning could help but be enormously distressed by the failure of procedures in the past. How long that has gone on, I guess that is difficult for us to assess. The fact is that it has gone on, and it is unacceptable, and the indications of these witnesses that it is going on in other agencies of Government make it totally unacceptable as well.

I would certainly hope that on this important issue we would not just let this thing go by, with one hearing where everyone is in here today and out tomorrow. We have some very important responsibilities that we have been reminded of in the course of this hearing, and I just want to indicate my full cooperation and support in seeing what can be done, whether in this Agency or any of the agencies we have jurisdiction over, or the extent to which we can work with our other colleagues to try and remedy this situation.

I want to thank the panel for their appearance here.

The CHAIRMAN. Thank you.

Senator Quayle?

Senator QUAYLE. Let me just ask one further question. Do you feel that the Department of Labor has failed to set aside enough resources, personnel, and money to properly administer the contract procedures?

Mr. DENSMORE. We did not address that, Senator; and I do not think we can really answer that with any basis.

Senator QUAYLE. In other words, you do not have any comment on whether they in fact paid enough attention in the matter of personnel and availability of money to make sure there was proper monitoring, evaluation, and onsite inspections?

The CHAIRMAN. That is a good question. They had people in place, did they not? There are all these jobs that could have done it if they had wanted to do it, could they not?

Mr. DENSMORE. Yes, sir. There are people who do have that responsibility.

The CHAIRMAN. And they are being paid by the Federal Government—some of them quite well—are they not?

Mr. DENSMORE. That is right. The question that we cannot answer is, do they have enough staff and funding for monitoring purposes. We did not address these questions in our work. What we found was a number of cases where proper award procedures were not being followed.

Senator QUAYLE. But they had the personnel to do it. It just simply was not being done?

Mr. DENSMORE. They had the personnel certainly to do much more of it than was being done. I cannot answer whether or not they had enough to do everything that should have been done.

The CHAIRMAN. All right. That is fair.

We want to thank you, and I want to personally thank Senator Kennedy for his cooperation and recognition that these hearings are important.

I encourage all of our colleagues in the other committees as well, just from listening to you today, that we ought to be holding these oversight hearings, and we ought to see that this type of contracting stops and that we get some sense into the Federal Government and into the utilization of taxpayer funds.

Everybody gets irritated, and some people may get maligned, because of improper procedures, improper methods, improper management, and improper administration in these areas. It is not fair to anyone concerned.

I think that if these hearings have one salutary effect it is going to be that I think everybody in the Federal Government is going to have to start thinking twice before they ignore normal and reasonable management processes and procedures with regard to giving out taxpayer moneys.

In this particular case, I am shocked by the fact that \$455,000 goes out to allegedly help people get jobs and not one person gets a job in 10 months. I think of little programs all over this country where they are really busting their guts to get some of these young kids jobs, especially these young blacks—46 percent unemployed 2 months ago, and 37 percent now—and we blow \$500,000 down the drain because of improper management techniques.

This kind of stuff, I think, has got to stop; and this committee is going to do everything in its power to get it to stop. And you fellows have played a very important role in this process today. I think your testimony goes beyond this committee.

It is shocking that it occurs in the Department of Labor, but it is also shocking that it is occurring elsewhere throughout Government—this albatross that every one of us pays for.

Thank you so much. We appreciate your coming.

[The prepared statement of Mr. Ahart follows:]

STATEMENT OF GREGORY J. AHART, DIRECTOR, HUMAN RESOURCES DIVISION,
GENERAL ACCOUNTING OFFICE

Mr. Chairman and Committee members, we are pleased to be here today to discuss our two recent reports on Labor's administration of its employment and training activities under titles III and IV of the Comprehensive Employment and Training Act of 1973 (CETA) (29 U.S.C. 801, as amended by Public Law No. 95-524). CETA was enacted to provide job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons and to assure that training and other services lead to maximum employment opportunities and enhanced self-sufficiency. Both reports pointed to weaknesses in Labor's awards practices which could hamper it in achieving the act's objectives.

The first report, issued to you as Chairman of the Committee on August 28, 1981, is entitled "Labor Needs to Better Select, Monitor, and Evaluate Its Employment and Training Awardees" (HRD-81-111). This report was our first comprehensive look at how the Office of National Programs, hereafter referred to as ONP, within Labor's Employment and Training Administration, administers its grant and contract awards. ONP administers several programs for persons with severe disadvantages in labor markets through four program offices under authority contained in CETA title III. It also administers a program authorized by title IX of the Older Americans Act (42 U.S.C. 3001 and 3056), as amended by the Older American Amendments of 1975.

Our second report, sent to you on August 31, 1981, is entitled "Information on Funding Commitments From Comprehensive Employment and Training Act Titles III and IV During

Fiscal Year 1981" (HRD-81-145). This report discussed how Labor made many awards during the closing months of the past administration. These awards were administered by ONP under CETA title III and by the Employment and Training Administration's Office of Youth Programs under CETA title IV. Title IV provides for a broad range of employment and training programs to improve the employability of youths and to experiment with methods for achieving this objective. While many of the awards we reviewed were for youth programs, the award documents were signed by three ONP officials. This was done because Office of Youth Programs' officials were not delegated authority to sign grant or contract awards.

"LABOR NEEDS TO BETTER SELECT,
MONITOR, AND EVALUATE ITS
EMPLOYMENT AND TRAINING AWARDEES"

The objective of our August 28 report was to comprehensively evaluate how ONP administered its employment and training awards. We reviewed a statistical sample of 175 awards from an estimated universe of 479 awards made in fiscal year 1979. The 1979 awards were chosen because, at the time of our fieldwork, the awards were in place long enough to enable us to evaluate ONP's administration of them. We made a statistical sample and were able to project our sample results to the universe of 1979 ONP awards.

Since we were interested in ONP's administrative practices for awarding and administering its awards, we did not visit awardees to assess how well the service deliverers carried out award activities or to what extent the client populations

benefited. We found a number of weaknesses in ONP's procedures and practices throughout the award process. ONP

- often used sole source awards without adequately justifying them;
- rarely evaluated or negotiated award proposals sufficiently before funding them;
- sometimes authorized, without adequate safeguards, awardees to start work before the award was finalized;
- did not consistently and adequately monitor awardee performance to insure award terms were met; and
- seldom evaluated awardees before renewing their awards.

Use of sole source awards

Offering all qualified individuals or organizations the opportunity to compete for awards is an accepted principle for obtaining better work agreements and/or lower costs. While occasionally competing for awards is not practical or appropriate, we believe the principle of open competition should be the preferred method for making awards. Because of the advantages of competitively made awards, any sole source award should be fully justified as to why no other potential awardees were considered.

ONP did not make extensive use of competition and seldom adequately justified its sole source awards. Overall, ONP considered more than one applicant only 21 percent of the time (102 awards). Of the other awards, about 50 percent (237

awards) were made based on formula allocations, 1/ and 29 percent (140 awards) were made on a sole source basis for special projects 2/ without considering other organizations. For the special project awards made on a sole source basis, the records seldom indicated why ONP did not consider other potential awardees.

Evaluating proposals and negotiating with applicants

Labor regulations require that each funding proposal contain a narrative description of the proposed program and an adequate budget justification. Before making the award, ONP should fully evaluate both the cost and technical aspects of the proposal. When problems are identified, ONP should negotiate with the applicant to reach the most advantageous agreement to the Government.

Of the 479 awards in our sample universe, only 130 award files (27 percent) contained evidence of cost evaluation and only 143 (30 percent) documented technical aspects (work statements) of the evaluation. Award files also indicated that negotiations were conducted for only one-third of the awards: costs were negotiated for 153 awards (32 percent), and negotiation on technical aspects occurred in 151 awards (32 percent). Where these activities did occur, they were often poorly documented and poor negotiating techniques were used.

1/These awards were made by allocating funds to eligible and qualifying organizations based on the size of the population to be served and, for Indian programs, income and unemployment levels.

2/Other than formula awards and awards for nationally competed farmworker projects.

In addition, many of the awards approved by ONP did not adequately describe what the awardee proposed to do or justify the planned use of funds. Proposals contained vague narrative program descriptions, and salary schedules were often wrong. In a few cases, awards were made with no justification as to how funds would be used. For example, the work statement for a \$1.3 million award to provide job training in the automotive, agricultural implement, and aircraft industries did not specify any skills or trades the enrollees were supposed to learn. In another case, a \$2.3 million award had net budget errors of nearly \$1.6 million in the original award and subsequent modifications--\$688,700 in the original budget, \$484,800 in the first modification, and \$394,700 in the second modification. The errors were made primarily in computing enrollee wages and fringe benefits.

Preaward work authorizations

One of ONP's program offices often provided its potential awardees with preaward work authorization letters 1/ allowing

1/Federal Procurement Regulations (41 CFR 1-3.408) and Labor procurement regulations (41 CFR 29-3.408) authorize the use of a "letter contract" as a preliminary contractual instrument which authorizes the contractor to start work when (1) the interests of the Government demand that the contractor be given a binding commitment so that work can start immediately and (2) negotiation of a definitive contract to meet the procurement need is not possible. ONP issued both "letter contracts" and "letter grants" in our sample universe. An official in Labor's Office of the Solicitor told us that there is no specific authorization for an arrangement similar to a "letter contract" which will result in a grant. However, he told us that, since "letter contracts" are binding contracts, "letter grants" would also be viewed as binding grant awards. Since the purpose of the letter contract and letter grant authorizations was the same, we are calling them "preaward work authorization letters."

them to start work and incur costs before the actual awards were finalized.

Labor's Acting Solicitor at the time of our review told us that the preaward authorization letters constitute binding agreements between ONP and awardees and legally obligate ONP to reimburse awardees for allowable costs incurred before the awards are finalized. The Acting Solicitor also told us that, if negotiations should fail to produce an award, ONP would be legally required to pay any program costs incurred by the awardee up to the point of denial.

None of the ONP preaward authorization letters contained sufficient language to protect the Government's interests. Examples of safeguards that were seldom found in the authorization letters included a dollar limit on costs authorized to be incurred, a statement of work to be performed, and a cutoff date for the authorization.

Monitoring of awardee progress

Monitoring is the process by which the Government reviews awardees' progress to make certain that it receives the goods or services for which it pays. However, the award files in our sample universe showed little evidence of active monitoring, through trips, correspondence, or other Labor-initiated contacts with the awardees. Thirty-four percent of the awards showed no evidence of monitoring, 47 percent showed little monitoring, and only 19 percent showed regular monitoring. While a primary method of monitoring is reviewing awardees' progress reports required by award terms, 31 percent of ONP's awardees failed to

submit most (70 to 80 percent) of the required progress and fiscal reports for the latest performance period at the time of our review. Twenty-four percent did not submit most of the required reports for prior reporting periods. In only 17 percent of the cases where most reports were not submitted did we find evidence that ONP tried to obtain the missing reports.

Finally, when ONP representatives identified awardee problems, they did not always attempt to resolve them. In addition, we found many problems that the representatives had not identified.

For example, although one awardee's statement of work showed it would undertake eight tasks, the files showed no evidence of anything being done on seven of the tasks. The ONP representative said that he had done nothing regarding the apparent lack of activity on the seven tasks.

Evaluating project performance
before renewing awards

A major factor in a renewal decision should be the awardee's performance under the preceding award. However, ONP did not require that awardees' performance be evaluated before the awards were renewed. Based on our sample, 82 percent of ONP's awards were renewals, and only 13 percent had any meaningful evaluation.

Lack of separation of grant and
contract management from program
management responsibilities

Most of ONP's problems stemmed from Labor's failure to separate grant and contract management responsibilities from program responsibilities. The ONP officials charged with

insuring that good award management practices were followed were also responsible for accomplishing program objectives. Labor specialists in grant and contract management were seldom involved in ONP award activities. Consequently, most of the award activities, such as evaluating and negotiating proposals, were handled by program staff who placed little emphasis on following good grant and contracting practices.

Recommendations and
Labor response

As a result of the problems we found, we made several recommendations to the Secretary of Labor. Among these are that the Secretary direct ONP to

- make greater use of competitive awards for its special projects and fully justify any sole source award,
- require program offices to fully carry out and document all evaluations of proposals and negotiations with applicants,
- require that preaward authorization letters specifically state what the Government and awardees have agreed upon to protect the Government's interests,
- place a greater emphasis on its monitoring activities, and
- prepare written assessments of an awardee's performance under prior awards before refunding the awardee.

The Secretary should also separate ONP's grant and contract management functions, including grant and contracting officer authority, from its program management responsibilities.

Labor has responded positively to our recommendations and is taking actions to implement them.

"INFORMATION ON FUNDING COMMITMENTS
FROM COMPREHENSIVE EMPLOYMENT AND
TRAINING ACT TITLES III AND IV
DURING FISCAL YEAR 1981"

The primary objective of our August 31 report was to address concerns relating to Labor's CETA titles III and IV awards from September 1, 1980, through January 31, 1981. We made a detailed analysis of a selected sample of awards and reviewed the operation of the CETA title III/IV steering committee.

Detailed analysis of a
selected sample of awards

The sample chosen consisted only of awards administered by ONP and the Office of Youth Programs because these offices administered 89 percent of the titles III and IV discretionary funds during the specified time frame. We identified a universe of 193 awards, 88 administered by ONP and 105 by the Office of Youth Programs, and subsequently analyzed 15 ONP and 19 Office of Youth Programs' awards.

Detailed analysis of these 34 awards 1/ further substantiated the findings contained in our earlier report and showed that good contract and grant procedures were not always adhered to during the award process. Following are some examples.

Example A

The purpose of the proposed \$175,790 award was to study alternatives for increasing the employability of disadvantaged

1/The awards involved 16 awardees in that some received multiple awards.

adolescent mothers by identifying resources and developing resource directories to provide career information and guidance.

Our review showed:

- The Office of Youth Programs' representative responsible for this contract recommended against the award and never completed the negotiation because (1) the proposed statement of work failed to present a sufficiently understandable and defensible approach and (2) the objectives were "a mish mash of evaluation, technical assistance and direct provision of services."
- The former Administrator of ONP forwarded a preaward authorization on January 15, 1981, to start incurring costs of \$20,000 for the period January 19 through February 18, 1981, despite the Office of Youth Programs' representative's recommendation against the award.
- The Office of Youth Programs' representative said there was no apparent reason for Labor to award this contract because of its limited impact upon the labor market.
- On April 2, 1981, Labor notified the awardee by telegram that the award was being terminated for the convenience of the Government. According to a Labor contracting services official, Labor paid the awardee \$27,953 and closed out the award.

Example B

The awardee was a design, engineering, and analysis firm specializing in solar environmental systems, energy technology

studies, and product servicing and marketing. The company is a custom manufacturer/fabricator of energy systems and devices.

One of the contracts this awardee received during the specified time frame was for \$455,570, covering the period October 15, 1980, to October 14, 1981. The award was finalized on December 9, 1980, for the purpose of establishing a Hispanic referral and recruitment system to increase the employment opportunities for professional Hispanics in the Federal Government. Our review showed:

- Even though the ONP representative responsible for this contract was concerned about the contractor's capability, the project was funded at the insistence of the former Administrator of ONP.
- According to the ONP representative, the negotiations took place on December 5, 1980, about 2 months after the effective date of the award.
- According to the ONP representative, as of August 13, 1981, no one had received employment as a result of this award.
- In a July 10, 1981, telegram, the awardee was informed that the contract will not be refunded or extended when it expires in October 1981.

Operation of the title III/IV
steering committee

Another concern related to the operation of a special departmental committee established to review grant and contract proposals. Our work showed that, through a September 25, 1979,

memorandum, the Secretary of Labor established a steering committee to oversee the use of CETA title III discretionary funds. In this memorandum the Secretary designated four individuals to sit as a committee to approve or disapprove expenditures related to the approved fiscal year 1980 title III funding plan. The funding plan is the document that ONP prepares as a guide detailing the projects this office hopes to fund during the fiscal year. This committee also approved or disapproved awards from the CETA title IV funding plan, although we found no similar memorandum authorizing this action.

We contacted each of the four committee members to discuss their role and responsibilities. One member declined to talk with us. The other three generally thought that their role and responsibilities were (1) to review the award proposals for merit from their respective organizational positions and (2) to ensure some measure of accountability of the funds being spent. The decisions they made on the award proposals were done on a consensus basis and not by voting.

We found no written criteria to explain why these individuals were appointed, no dates for their terms of appointments, and no written operating procedures detailing how they were supposed to carry out their responsibilities.

Our review showed that determining if steering committee actions were appropriate was difficult because records of meetings were not well maintained. According to an ONP official, separate minutes were to be kept on titles III and IV award actions. The title III minutes do reflect what proposals were

considered and what actions were taken; however, the minutes do not show who was present, what was discussed about each proposal, or how the decisions were made. Meetings regarding title IV, on the other hand, had no recorded minutes. According to a former assistant to the committee, only handwritten notes were kept on the proceedings, and these were destroyed once the appropriate title IV program staff were notified of the committee's actions.

CURRENT ADMINISTRATION ACTIONS
IN RESPONSE TO GAO'S REPORTS

Labor's Employment and Training Administration established a task force to address the problems we found. The task force was comprised of Labor officials with diverse skills, including specialists in contracting, financial management, management analysis, and program assessment. The task force is developing a directive designed to establish procedures for improving the Employment and Training Administration's awards process, which includes ONP and the Office of Youth Programs.

We have met and discussed the proposed directive with Labor officials on several occasions. Although at the time of our last meeting the directive had not been finalized, the actions Labor officials told us they planned to take appear to be an effective means of improving the administration of its award activities.

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Mr. Chairman, that concludes our statement. We will be happy to respond to any questions you or other members of the Committee may have.



PUSH FOR EXCELLENCE, INC. 930 East 50th Street, Chicago, Illinois 60615. (312) 373-3366

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HAND DELIVERED

October 2, 1981

The Honorable Orrin G. Hatch
Chairman
Committee on Labor and
Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Your letter of September 24, 1981, addressed to the Executive Director of PUSH For Excellence, Inc., has been given to me for answer and reply.

The earlier letter from your Committee, dated July 10, 1981, was given to the Comptroller of our organization for response. Unfortunately, Mr. Ashford, the comptroller met with his untimely death before he was able to respond. This caused the delay.

In answer to your questions, we wish to first state that we are willing to cooperate fully with your Committee. Also, I wish to state that with respect to the Labor Department Grant (CETA) made to PUSH For Excellence, Inc., the following facts are stated in response to your questions.

- (1) The grant was awarded in mid-January 1981.
- (2) PUSH For Excellence, Inc., on its own, terminated the grant on September 29, 1981.
- (3) As of this writing, PUSH For Excellence, Inc., is not administering a CETA grant.

PUSH EXCEL

The Honorable Orrin G. Hatch
October 2, 1981

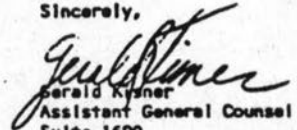
Page Two

(4) PUSH For Excellence, Inc., has not entered into any sub-contract nor "second tier" (sub-sub) contract. Further, we do not presently have any service project contracts nor did we enter into any during the time the grant was active.

(5) In view of our answers given above, it is evident that we have not made any payments to sub-contractors.

Should you have any further questions please direct them to me at my address indicated below.

Sincerely,


Gerald Kysner
Assistant General Counsel
Suite 1600
The Illuminating Building
55 Public Square
Cleveland, Ohio 44113
(216) 241-1835.

Hand delivered copies to:

Mr. Dan Gill ✓
Mr. Ray Mollenhoff
Committee on Labor and Human Resources
Ms. Maggie Peak, Acting Comptroller,
Operation PUSH, Inc.
James L. Felder, Esq., Vice President
for Administration
Operation PUSH, Inc.

The CHAIRMAN. Our next witness will be the Assistant Secretary for Employment and Training, Mr. Angrisani.

Mr. Angrisani, would you raise your right hand? Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. ANGRISANI. I do.

The CHAIRMAN. Thank you. You may proceed.

STATEMENT OF HON. ALBERT ANGRISANI, ASSISTANT SECRETARY FOR EMPLOYMENT AND TRAINING, DEPARTMENT OF LABOR

Mr. ANGRISANI. Thank you, Mr. Chairman.

I am pleased to appear before you today to discuss the funding and management of discretionary programs under titles III and IV of the Comprehensive Employment and Training Act—CETA.

This administration, as you well know, is dedicated to the efficient and effective operation of all Federal programs. It is our intent at the Department of Labor that CETA programs be operated in the most cost-efficient manner possible and that programs achieve the stated goals of the act. Our management of CETA over the next year will continue to be directed at realizing these purposes.

The integrity of the Employment and Training Administration's management of CETA discretionary programs has been of great concern to me since my first day in office. When I arrived at ETA I quickly became aware that there was considerable confusion in contracting and funding of these programs. Specifically, the following situation became apparent to me:

Spending plans for discretionary programs under CETA titles III and IV were apparently oversubscribed by approximately \$42 million.

In many instances, proper contracting procedures were apparently not followed.

There were no clear audit requirements or performance standards for contractors.

There was extensive reliance on noncompetitive or sole-source funding of discretionary programs.

Letters and telegraphic contracts were frequently and inappropriately utilized.

There was no systematic monitoring of contractors and grantees.

My early perception of this situation has now been confirmed by two recently released reports of the General Accounting Office—GAO—on this subject which were discussed earlier. These two reports, along with followup consultations with GAO staff, have given us valuable insights as to the shape and dimensions of the internal management problems related to our CETA titles III and IV discretionary programs as well as useful guidance on how these problems should be remedied.

Bringing order to the CETA titles III and IV discretionary programs, was one of the greatest challenges I faced during my early weeks in office. I think that this challenge was met in a way that reflects great credit upon the Department. I would now like to summarize the actions that were taken in those early weeks.

On January 21, 1981, our first day in office, an immediate freeze on any further obligations of Federal funds was imposed. This step was taken on the basis of information that procurement activities for CETA titles III and IV discretionary programs were out of control. Available resources and spending plans apparently had been oversubscribed by a wide margin. Within days, ETA staff developed reports on the extent to which these funding plans were oversubscribed as well as a complete inventory of the hundreds of contracts and grants that were "frozen in the procurement pipeline."

Over the course of the following 10 weeks, we undertook a review of each grant and contract that had been awarded under the fiscal year 1981 budgets for discretionary resources under CETA titles III and IV. I personally supervised this process and spent much time reviewing information and assessments concerning several hundred grants and contracts.

As a result of our review, we terminated more than 20 contracts and reduced the funding levels for more than 100 others. All other contracts were short-funded only through the end of the year (or sooner, in some cases) to allow sufficient time for a more thorough review of the contracts.

At the same time, we instructed staff to evaluate the performance of each discretionary program contractor and grantee and to thoroughly review any audits of these contractors and grantees prior to future funding.

By the end of March 1981, we had arrived at new spending plans for both CETA titles III and IV discretionary programs that were not only in balance but also designed to bring about a smoother transition to the reduced funding levels projected for fiscal year 1982. That we had regained control over our budget was amply demonstrated by our ability to absorb the midyear rescissions of \$17.5 million from title III and \$50 million from title IV in a manner that resulted in minimal disruption to program operations.

While we were able to handle the immediate situation through these concerted management actions, we also needed to change the system to insure that such problems would not happen again. Therefore, we undertook a review of contracting procedures in ETA and found them deficient in a number of respects.

For example, there was no tightly controlled formal process governing contracting. Therefore, I established a task force to develop a new process and procedures to be used by ETA staff for developing, awarding, and overseeing individual contracts and grants in ETA.

The task force worked under my direct oversight and included highly qualified Department of Labor employees having expertise in Federal procurement procedures, financial management and control, general administration of employment and training programs, and management analysis. The task force also worked closely with staff of the Office of the Solicitor on clarification of legal issues and with the Office of the Inspector General for advice on audit and investigatory matters.

I directed the task force to design a system to insure proper monitoring, auditing, and followup. Where this was not done formally, there would be required notification to my office and the

Office of the Inspector General. The goal is to have procedures in place making it clear exactly what is to be done and, where those procedures are not followed, to require an explanation and justification to the Assistant Secretary as to why they were not.

The new procedures are being implemented through the issuance of a formal standing agency directive, thus helping to insure a long-lasting impact in terms of avoiding future recurrences of the problems I have mentioned. I have already sent a copy of the draft directive to the committee and would be pleased to make an updated version available today. It also has been shared with the GAO, the Inspector General, the Solicitor of Labor, and other congressional committees. We have received a number of useful suggestions and are in the process of incorporating them in the directive.

I believe this directive will strengthen ETA's award and administration of contracts and grants in the following areas:

First, a more formalized and open process for funding titles III and IV discretionary programs, I am instituting a formalized internal planning process to determine which programs are to be funded under the discretionary account. The formal plan will be utilized as the sole basis for funding discretionary programs under titles III and IV. After the plan is approved at the departmental level, it will be shared with OMB and the Congress. Anyone wishing to have a proposal funded will have to go through this formal planning process or an amendment to the plan.

Second, more extensive use of competitive procedures to award contract grants. As a result of my direction it is now ETA's policy to make maximum use of competitive award procedures when issuing contracts and grants.

The CHAIRMAN. I am glad to hear that.

Mr. ANGRISANI. Except for those programs that, by law or DOL regulations, require the issuance of grants to agencies or organizations on a formula basis—for example, CETA prime sponsors and State employment security agencies—it is now our policy to require all awards to be made competitively unless it can be unquestionably justified and documented that a noncompetitive contract or grant would be in the best interests of the Government.

Third, more rigorous assessment of performance demonstrated by contractors and grantees before funding is renewed. We are now requiring that the performance of individual contractors and grantees be assessed and documented in detail before any decision is made to issue them new funding agreements. This applies to old contractors as well as new ones. I would like to emphasize that this assessment process will include determinations as to whether or not the contractors and grantees have fulfilled their responsibilities relative to audit resolution and debt collection. Preaward reviews will be required to determine the financial management capabilities of new contractors or grantees with whom the Agency contemplates doing business.

Fourth, more thorough evaluation and negotiation of contract and grant proposals. At my direction, stricter evaluation standards are being issued to insure that contract and grant proposals are thoroughly evaluated by ETA staff and that negotiations with prospective contractors and grantees are conducted in a rigorous manner and are properly documented in the official written re-

cords. Putting these standards in place will insure that there is a detailed, documented audit trail in the procurement process.

Fifth, more appropriate use of letter and telegraphic contracts. We will minimize the use of letters and telegrams that authorize contractors and grantees to begin work and incur expenses before their funding agreements have been fully executed. Given the fact that such letters and telegrams will be necessary on certain occasions, we have also established guidelines requiring that they include appropriate terms and conditions that will protect the interests of the Government.

Sixth, improved onsite monitoring of contractors and grantees. We have established new standards that will serve to increase the frequency and quality of the onsite monitoring that is conducted on our contractors and grantees. We plan to monitor each contractor and grantee onsite at least once a year. Also, Federal staff who conduct monitoring visits will be required to prepare written reports of their findings for prompt review and action by their supervisors.

Last, a methodical review of financial and progress reports submitted by contractors and grantees. New procedural requirements are in effect to insure that written financial and progress reports submitted by contractors and grantees are promptly and carefully analyzed by assigned Federal staff. Steps have also been taken to insure that delinquent reporting by contractors and grantees is detected and remedied early on.

In addition to these procedural reforms, I also intend to adopt the GAO recommendation to separate the Office of National Program's grant and contract management functions from its program management functions. The award management function, including grant and contracting officer authority, should be independent of ONP.

The CHAIRMAN. Mr. Angrisani, we will put your full statement in the record, without objection. I wonder if, in the interests of time, you could summarize the rest of it so that we can ask some questions?

Mr. ANGRISANI. OK. If I could just take a second, I will summarize this then.

Those are largely the changes we plan to make.

One other point I would like to touch on concerns some of the changes we have made in the audit resolution process, which is also in my statement, Mr. Chairman. We had some 600 backlogged audits that had been unresolved. We—Secretary Donovan and I—pledged to the Congress during last year's appropriations process that we would resolve those audits and bring ourselves to a current status.

We have done so. We have resolved the audits. Our task force is currently in place to continue into future actions on audits; and we feel at this point in time, Mr. Chairman, that we have proposed and put in place efficient protections to guard against the problems I have outlined and to bring ourselves current on audit backlogs. We are in an excellent position to move forward into the future with the programs I have outlined to you here today.

[The unstated portion of Mr. Angrisani's prepared statement follows:]

FROM THE PREPARED STATEMENT OF MR. ANGRISANI

I fully subscribe to the basic thrust of this recommendation—which is that adequate internal checks and balances cannot be maintained if an excessive degree of authority is concentrated in the hands of a single official. On this point, I assure you of my commitment that the new organizational structure of ETA will separate functions recommended in the GAO report. The procedures we are putting in place respond not only to GAO's concerns about the Office of National Programs, but will also ensure that the Assistant Secretary or any other official will not be able to subvert the contracting process. I believe that the checks and balances and requirements for documentation we have built in the system will deter abuse of the process.

The procedural reforms and organizational realignments I have just described will have a long-lasting impact in helping to ensure that the award and administration of ETA contracts and grants is typified by integrity and professionalism. Establishing through a formal agency directive the new and detailed procedures I have outlined will assure that the contracting process for discretionary programs will work in a proper and efficient manner. Although it may be impossible to be totally certain that future abuses will not take place, the new procedures will go far to ensure that the situation I found when I took office does not reoccur.

AUDIT RESOLUTION

I would now like to turn to another area which I have given highest priority. This is the area of audit resolution which I know is of interest to the Committee.

First, let me provide some background as to what we mean when we talk about audit resolution. The first step in audit resolution is the questioning of costs—that is when the auditors in their report take exception to specific costs or activities conducted by the grantee. ETA then examines the auditor's findings, reviews any additional documentation provided by the grantee, and ultimately allows or disallows the questioned costs. It is at this point, when an ETA grant officer issues a final determination, that the audit is considered "resolved." Costs which are disallowed are added to the ETA accounts receivable.

Upon assuming office, I examined the efforts undertaken by the Employment and Training Administration in the area of audit resolution. ETA has had a dismal record of taking years to address audit reports, failing to recapture misspent funds and not correcting noted systems deficiencies which lead to recurring problems. I would like to summarize for the Committee the actions I have taken to date to rectify the ETA audits situation:

On January 31, 1981, ETA held 600 backlogged audit reports. Recognizing the magnitude of this problem, I assigned first priority to the audit resolution effort and I reviewed the performance standards of appropriate managers to insure that this priority was properly reflected.

Between January 31, 1981 and June 30, 1981, I had a special task force of 22 people handling audits of national contracts—which constituted the vast majority of the audits. By June 30, 1981, ETA had reduced the number of backlogged audits to 440.

I then immediately put in place a second task force, to work side by side with the existing group, because it was clear to me that additional effort would be needed if we were to meet the Congressional mandate that all backlogged audits be resolved by September 30, 1981.

By September 30, 1981, ETA, working closely with the Office of the Inspector General, had attained our objective—ETA now holds no backlogged audits pending resolution.

A total of \$200 million had been questioned by IG auditors in the backlogged audit reports. The audit resolution established that the U.S. Treasury was owed about \$75 million of the \$200 million in questioned costs.

What the above findings document, however, is that we have identified amounts owed the Federal Government after an extensive review of questioned costs. It does not mean that we have recouped these amounts. On each of these audits, we still must enter into a debt collection process. I detailed this time-consuming process to Senator Quayle at a June 11 hearing. As I indicated to him, I think there is a need for us to work together to rationalize that process and put a debt collection system in place that has proper incentives to pay back the Federal Government what is owed.

Briefly, the present process is as follows. A Federal determination disallowing costs is made within 4 to 6 months of the date the audit report is issued. The grantee is then entitled to a hearing before an Administrative Law Judge. Debt

collection activity must be postponed until the Administrative Law Judge's decision is rendered. At that point, we are expected to resume aggressive debt collection which, given the financing mechanisms of the public jurisdictions to which we grant CETA funds and the limited financial resources of nonprofit organizations, is a difficult problem. The entire process may take up to 3 years in some instances, and this is assuming that the grantee does not seek review of the Administrative Law Judge's decision by the Secretary and then continue the case in circuit court.

I am preparing a debt collection plan which will utilize every administrative means available to us under current law to accomplish collection. This effort will include retention of the task forces. As well, I fully intend to take all steps possible to improve and speed up our collections.

CONCLUSIONS

Mr. Chairman, I believe the procedures I have put in place will greatly strengthen the management and performance of ETA programs. The deficiencies in the management of discretionary programs that I found when I assumed office made it essential to take quick and effective management action. This has required a great deal of staff time and resources, and my own time as well, but the effort has paid off. I believe we now have an effective system in place for awarding and administering discretionary contracts and grants under CETA. Furthermore, I believe this system will prevent in the future the types of problems with which we have had to deal. This area will continue to receive my priority attention and I look forward to continuing to work with the Committee in striving to improve our programs.

This concludes my prepared statement. At this time I would be pleased to answer any questions that you or other members of the Committee may have.

The CHAIRMAN. Thank you, Mr. Angrisani.

We will, without objection, put all exhibits that have been used in this matter in the record at the appropriate place throughout this hearing.

Mr. Angrisani, you outlined the areas of concern that you found and addressed step-by-step from January through August when the GAO reports were finalized. Your office's efforts were discovering most of the same problems the GAO reports advance.

Even without these GAO studies being conducted, are you still convinced that your independent review demonstrated serious concerns in the award procedures as they existed in the ETA?

Mr. ANGRISANI. Absolutely, Mr. Chairman. The GAO study really saved us from doing an extensive analysis based on our own initial opinions and conclusions.

The CHAIRMAN. But you had already found some, and you felt that your own analysis would have come up with the same problems?

Mr. ANGRISANI. Yes, sir.

The CHAIRMAN. Let us look at how you personally view your role in this process, specifically in relation to your personal approval of certain awards. If the program reps or other subordinates disagree with either the letting of a sole source contract or itemized programmatic deficiencies and you overrule them, do you feel that you or your office should provide a written justification for your decision?

Mr. ANGRISANI. Yes, Mr. Chairman, definitely. There is no doubt that there will be times when I may disagree with the findings of our boards, and I would certainly provide all of that in writing and want it no other way.

The CHAIRMAN. And you are going to implement that as an ironclad rule?

Mr. ANGRISANI. Yes, sir. That is in our draft proposals right now.

The CHAIRMAN. I certainly hope that you adhere to that view.

On another issue, I described in my opening statement your office's frustrations in resolving a \$2 million grant to PUSH For Excellence. As I explained, your office has been negotiating diligently since April of this year. Is that correct?

Mr. ANGRISANI. That is correct.

The CHAIRMAN. As I understand it, as of October 1 of this year, while in a meeting with our committee staff you were actually just about to make a final offer to the grantee with regard to its termination. Is that correct?

Mr. ANGRISANI. That is correct.

The CHAIRMAN. And the next day we notified you we had received a response—that was a letter, dated October 2, 1981—from our inquiry of PUSH For Excellence, who stated they had terminated the grant on their own—and we will put that in as an exhibit at this point, without objection—4 days before, on September 29.

[Material referred to follows:]

Exhibit #

4

DIRECTIVE: EMPLOYMENT AND TRAINING ORDER NO.

TO : NATIONAL AND REGIONAL OFFICES

FROM : ALBERT ANGRISANI
Assistant Secretary of Labor

SUBJECT : Improvements in Managing ETA National Office Administered,
Job Corps and Regional Office MAT Procurements

1. Purpose.

a. To state the policy and improve the process to be used by ETA staff in the development, processing, award and oversight of National Office administered, Job Corps and Regional Office MAT contracts and grants, and

b. To establish the basis for the development and application of personnel performance standards for ETA staff affected by this Order.

2. References. P.L. 95-87; P.L. 95-507; P.L. 95-524; SO 4-76; SO 11-79; 20 CFR Part 676; 20 CFR 1.203.1; 29 CFR Part 89; 41 CFR 1-15; 41 CFR 29-60; 41 CFR 29-70; DLMS-2 Chapter 800 thru 839; DLMS-6 Chapter 920 thru 928; DLMS-8 Chapter 1600; MA Manual Section 2457 and 3117; ETO 4-80; ET Manual Section 2464; FM 216-81, Change 1; and all other applicable laws, rules and regulations.

3. Background. ETA's procurement and management practices have been criticized by various agents and members of Congress, by the news media, and by other organizations. Specific criticisms have focused on heavy use, without documented justification, of sole source vs. competitive procurement actions, the lack of assessment, monitoring and evaluation of contract/grant performance for funding or refunding considerations; and on the failure to fully document procurement actions and file required records in the official contract/grant files. Associated concerns were the lack of clear statements of work and standards for measuring performance; and the need to strengthen other pre-award activities, such as procedures for authorizing start-up activities before awards are executed.

Based on these findings, it is in the best interests of ETA to bring greater rigor and uniformity to its management of the subject contracts and grants. Consequently, this directive is being issued to provide ETA staff with guidance on policy to ensure fiscal integrity and managerial accountability in using public resources and in understanding their responsibilities concerning:

- a. Established guidelines that must be followed in substantiating and obtaining approval to award a contract or grant on a noncompetitive basis.
- b. Established guidelines that must be followed in managing and conducting competitive contract and grant award processes.
- c. Establish standards that must be observed in monitoring and assessing the performance of individual contractors and grantees.
- d. Establish standards for ensuring that official contract and grant files include all documentation required by applicable laws and regulations.
- e. Establish standards for ensuring that the written terms and conditions of contracts and grants include complete and precise statements as to the work that is to be performed under the contract or grant.
- f. Establish certain other safeguards such as controls and accountability mechanisms designed to ensure the integrity and capability of the non-Federal organizations with whom ETA entrusts public resources.

4. Policy. It is the policy of ETA to ensure that its contracts and grants result in the most cost-effective use of public resources. In furtherance of this policy, ETA shall:

- a. Make maximum use of competitive award procedures when issuing its contracts and grants.
- b. Issue contracts and grants to organizations whose fiscal integrity and capabilities have been established and documented.
- c. Issue pre-award telegrams and letters or authorize retroactive contracts and grants only under stringent conditions.
- d. Clearly specify the work to be performed by contractors and grantees in the terms and conditions of their procurement.
- e. Rigorously monitor and assess the performance of contractors and grantees.
- f. Maintain a complete record of all transactions in an official contract/grant file substantiating ETA's management of the procurement.

5. ETA Personnel Performance. ETA officials and their subordinate managers and supervisors shall ensure that the requirements and standards set forth in this ET Order are appropriately reflected in the performance standards of individual staff who are responsible for carrying out these functions and tasks.

6. Authority and Responsibilities.

a. Assistant Secretary for Employment and Training—

(1) Fulfills the statutory and regulatory responsibilities for the administration of employment and training programs as delegated by the Secretary of Labor through the Code of Federal Regulations, Orders and the Department of Labor manual series.

(2) Redelegates Contract/Grant Officer authority to the degree deemed necessary to ensure an accountable procurement process.

(3) Approves the ETA Annual Advance Procurement Plan (AAPP) to secure the Assistant Secretary for Administration and Management for approval before any procurement contained in the AAPP, or modification thereto, is initiated.

(4) Has final responsibility for the development of contracts and grants.

b. Contract/Grant Officers and Contracting Office—

(1) Are redelegated authority by the Assistant Secretary to procure property and services required by the ETA in support of employment and training programs.

(2) Authorize the processing of procurements contained in the AAPP, or modifications thereto, only after the AAPP has been approved by the Assistant Secretary for ETA and submitted by him to and approved by the Assistant Secretary for Administration and Management.

(3) Sign and issue contracts and grants.

(4) Provide assistance to program offices in such technical matters as procurement policies, laws and regulations and the development of Requests for Proposals (RFPs) and Solicitations for Grant Applications (SGAs).

(5) Are responsible for the publication of RFPs in the Commerce Business Daily and SGAs in the Federal Register.

(6) Ensure that procurements are made in accordance with applicable laws, regulations and administrative procedures.

(7) Track the receipt of required file documentation (annual assessments, monitoring reports, etc.) from program offices and followup on delinquent reports.

(8) Ensure that documentation is maintained in the official contract/grant files to demonstrate effective ETA management of grants and contracts, and to provide performance information for program offices to consider in the award of future procurements.

(9) Ensure that past and current performance assessments are a consideration in refunding.

c. ETA Administrators of Program Offices—

(1) Plan for the use of ETA resources as directed by the Assistant Secretary of Employment and Training.

(2) Consult with the Contracts/Grants Office concerning formula-allocated and approved AAPP procurements in order to resolve potential scheduling or procedural problems as well as to establish necessary timeframes for the processing of special requests.

(3) Prepare schedules for the development of RFPs and SGAs, panel reviews and related activities in order to ensure the timely execution of procurement activities.

(4) Initiate the documentation to the Grant/Contract Office for the development of procurement activity approved in the AAPP.

(5) Ensure that contracts and grants are timely and frequently monitored, assessed and evaluated after issuance.

(6) Specify the work to be performed by contractors and grantees in the terms and conditions of the procurement.

d. Program Officer (Federal Representative; Project Officer; Government Authorized Representative)—

(1) Has delegated responsibility from the Contract/Grant Officer to serve as the principal agent for the administration of a contract(s) and/or grant(s).

(2) Negotiates or participates in the negotiation of contracts and grants.

(3) Provides technical assistance to contractors and grantees.

(4) Monitors and assesses the quality and timeliness of contractor/grantee performance to ensure compliance with the terms and conditions of the funding agreement (within the constraints of other workload factors and available travel funds).

(5) Determines satisfactory or unsatisfactory performance based on pre-established standards.

(6) Notifies the contractor/grantee of problems identified through monitoring and assessment.

(7) Certifies satisfactory performance on invoices to enable prompt payment to contractors and grantees.

(8) Recommends to the Contract/Grant Officer modifications to the scope of work, price, period of performance, terms or conditions of contracts/grants.

(9) Is not authorized to commit the Government to, a change in the scope of work, price, period of performance, terms or conditions of a contract or grant, or a modification thereto.

7. Guidelines for Contract/Grants Management. This section provides guidelines and standards for the following aspects of the procurement process:

- a. Contract/Grant Officer Authority;
- b. Annual Advance Procurement Plan;
- c. General Pre-Award Guidelines;
- d. Special Pre-Award Guidelines for Competitive Contracts and Grants;
- e. Special Pre-Award Guidelines for Non-Competitive Contracts and Grants;
- f. Monitoring and Assessment of Contractor and Grantee Performance;
- g. Closeout/Audit Resolution/Debt Collection;
- h. Contract/Grant Official File Documentation.

a. Contract/Grant Officer Authority

(1) The Assistant Secretary is delegated Contract/Grant Officer authority for Employment and Training Administration (ETA) programs by the Assistant Secretary for Administration and Management pursuant to the authority of the Secretary of Labor as provided in SO 4-76 and DLMS-2 Chapter 810.

(2) The Assistant Secretary will redelegate Contract/Grant Officer authority at his option to one or more ETA officials in the national and regional offices.

(a) The re delegation of such authority by the Assistant Secretary shall be in writing.

(b) The names of ETA officials redelegated Contract/Grant Officer authority shall be on file in the Office of the Assistant Secretary for Administration and Management (OASAM).

(3) Only the Assistant Secretary and Contract/Grant Officers have the authority to commit the Government to the price, period of performance and scope of work, of a contract, grant or other contractual agreement. All Project Officers and contractors/grantees of ETA funds, subject to this Order, shall be informed of this imperative in writing upon awarding of the procurement.

b. Annual Advance Procurement Plan

(1) All procurements anticipated for the fiscal year which are expected separately to amount to over \$10,000 and those \$10,000 or less in the aggregate shall be part of the Annual Advance Procurement Plan (AAPP), except that formula-funded programs or programs which have congressionally-mandated service deliverers are exempt from this requirement. The AAPP must include contracts/grants for consulting, research and demonstration, experimentation and evaluation, even if intended for nonprofit organizations. The coverage for consulting services has been expanded by OMB to add categories for 1) management and professional services, 2) special studies and analyses, 3) management and professional services and special studies and analyses funded by R&D monies.

(2) Priorities for AAPP procurement with private profit-making firms shall be in the following order as required by Public Law 95-87:

(a) Concerns which are located in labor surplus areas, and which are also small business concerns, on the basis of total set-aside.

(b) Concerns which are small business concerns on the basis of a total set-aside.

(c) Concerns which are small business concerns, on the basis of a partial set-aside.

(d) Concerns which are located in labor surplus areas, on the basis of a total set-aside.

(e) Competitive procurement without restriction.

(f) Sole source procurement in accordance with Department of Labor procedures set forth in DLMS-2 Chapters 830-839.

(3) Coincident with the above priorities is the requirement of Public Law 95-507 to meet the goals for small and disadvantaged businesses. These include procurements pursuant to Section 8(a) of the Small Business Act and with women-owned businesses.

(4) ETA Administrators who have programmatic responsibility for grants and contracts under a budget subprogram shall ensure that individual AAPPs and applicable addenda are developed for their subprogram component in accordance with instructions provided by the appropriate planning office, i.e., the national office component that bears the lead staff responsibility for developing and monitoring the funding plan that is followed in issuing grants and contracts under a given budget subprogram.

(5) For those procurements subject to inclusion in the AAPP, no procurement actions may be initiated unless they are part of the AAPP, or modifications thereto, approved by the Assistant Secretary and submitted to OASAM.

c. General Pre-Award Guidelines. This section is applicable to all procurements subject to this Order.

(1) Contract/Grant Officers shall request the Office of the Inspector General to conduct pre-award reviews of potential contractors as contract pricing aids under the provisions of 41 CFR 1-3.809, and pre-award surveys of potential contractors and grantees to determine the adequacy of their accounting and administrative systems when these potential contractors/grantees have not had contracts/grants with the Department within the three fiscal years before the prospective contract/grant award. Inability of the Inspector General's Office to conduct such pre-award reviews and surveys within 10 working days of the request shall not necessarily block the procurement. The Contract/Grant Officer shall determine whether the procurement can proceed absent such review or audit or whether the procurement can proceed and be conditionally awarded pending the receipt of such information within 60 days of the request. A record of these actions and the responses received shall be part of the official contract/grant file maintained by the Contract/Grant Officer.

(2) When a potential contractor/grantee currently has or has had a contract/grant within the last two years with ETA, the ETA Administrator with programmatic responsibility for the potential contract/grant shall ensure that a performance assessment of these contracts/grants is made from a review of documents in the official files. At a minimum these assessments shall measure performance against the goals and standards, reporting requirements, and financial requirements specified in the contract/grant. In addition ETA Administrators and Contract/Grant Officers shall take into consideration the factors noted below before recommending or authorizing the refunding or award of a new contract or grant. In making the necessary judgements, such Administrators and officers should consider the recency of the circumstances, the corrective action taken since the findings, the actual liability on the part of the contractor/grantee, the impact on the contractor/grantee's ability to meet Federal standards, and the relation of the factors to other information available. These factors are:

(a) Indications of poor past performance and inability to meet Federal standards based on review of closeout information.

1 Unauthorized delay in submission of final billing to DOL (beyond 90 days of expiration date).

2 Failure to return closeout package (within 90 days of expiration date).

3 Failure to properly report and dispose of government property as instructed by DOL.

4 Failure to return outstanding advances within 120 days of expiration date.

5 Final billings reflecting serious line item or total budget cost overrun.

(b) Indications of poor past performance and inability to meet Federal standards based upon review of audit information.

1 Failure of contractor/grantee to have procured or to have arranged for their own audit coverage for any two-year period when given this responsibility by DOL.

2 Costs questioned or recommended for disallowance in an audit report in excess of 5 percent of the amount audited which have been disallowed by the contract/grant officer in the final determination and/or findings related to internal accounting and administrative controls should be considered relative to their impact on meeting Federal standards and the contractor/grantee's willingness and ability to correct such administrative and procedural inadequacies.

3 Failure to audit subrecipients within the required period when responsible for doing so.

4 Failure to establish a mechanism to resolve subrecipient audits within established timeframes.

5 Obstructing the audit process.

(c) Indications of poor past performance and inability to meet Federal standards based upon review of debt collection information.

1 Failure to respond to demand letters from DOL for repayment of debts within the stated timeframes.

2 Failure to comply with approved repayment agreement revealed through monitoring or subsequent audit.

(d) Contract/Grant Officers shall consult with ETA's Special Review Staff and the Office of Inspector General to determine if fraud exists or that charges of fraud are about to be officially made. When fraud exists, the contractor/grantee shall not be refunded or given a new award.

(3) Letters or telegrams authorizing the expenditure of Federal funds before the final execution of the contract/grant agreement shall be issued only when it is deemed in the Government's best interests.

(a) Only the Assistant Secretary and Contract/Grant Officers so specifically authorized by the Assistant Secretary, ETA, have the authority for signing pre-award letters or telegrams which authorize the expenditure of Federal funds.

(b) Pre-award letters or telegrams shall be issued only when all parties substantially agree on all matters and shall authorize the expenditure for 30 days of no more than 1/12th of the procurement award, e.g., only \$10,000 of costs shall be incurred for 30 days for a procurement of \$120,000. At a minimum such letters/telegrams shall contain the amount of the award, period of performance, goals and objectives, and the scope of work.

(c) A pre-award telegram shall be followed up with a letter from the Contract/Grant Officer containing the information provided in the telegram.

(4) Retroactively effective contracts/grants and pre-contract costs shall be documented by a "Determination and Findings" section.

(5) A "Summary of Negotiations" section shall be included for each contract/grant and shall become part of the official contract/grant file maintained by the Contract/Grant Officer. The Summary shall include cost elements relative to such items as salary schedules, timeframes, travel and other costs incidental to the work required.

(6) Each contract/grant shall contain a precise and clearly articulated work statement understood by both ETA and the Contractor/Grantee.

(7) Contract/Grant Officers or their representatives shall ensure that contractors/grantees establish and maintain a financial management system which provides adequate control of Federal funds and other assets, ensures accurate financial data, and provides operational efficiency and internal controls to avoid conflict-of-interest situations and to prevent irregular transactions or activities.

(8) Contract/Grant Officers shall not authorize the issuance of a Letter of Credit unless:

(a) The award is for a period no less than 12 months.

(b) The award is for \$120,000 or more.

(c) The recipient has established or shown its ability to establish and keep procedures that will minimize the time elapsing between the transfer of funds to, and their disbursement by, the recipient.

(d) The recipient's financial management system meets standards for fund control and accountability described in (1) above.

(e) The recipient has developed or shown its ability to develop and keep procedures for advances to its subrecipients or contractors which conform to standards of timing and amount imposed on the recipient by ETA.

d. Special Pre-Award Guidelines for Competitive Contracts and Grants

(1) All contracts and grants subject to this Order shall be awarded on a competitive basis to the extent practicable.

(a) Contract/Grant Officers shall ensure that a Request for Proposal (RFP) for contracts is synopsisized in the Commerce Business Daily in accordance with the provisions of 41 CFR 1-1.10. At no time shall prospective bidders be furnished the Department's cost estimate of the amount of funds it has available for a particular contract. Exceptions to this policy shall be limited to the unusual circumstance wherein, for example, the parameters of a study proposal are necessarily vague.

(b) Contract/Grant Officers shall ensure that a Solicitation for Grant Application (SGA) for grants is published in the Federal Register. At a minimum, SGAs for grants shall provide goals and objectives, scope of work, period of performance, panel review and award process, timeframe for SGA submittal, reporting requirements, applicant eligibility criteria, and reference to the appropriate regulations governing the funds. Documentation of this action shall become part of the contract/grant file. SGAs may specify the maximum Federal funding available for grants.

(2) ETA Administrators shall ensure that all responsive competitive applications from bidders for contract/grant awards for which they will have program responsibility are rated by panels against rating criteria.

(a) Members of such panels drawn from components which have program responsibility for the contract or grant shall not constitute a majority on the panel nor serve as panel chairpersons.

(b) Every six months, ETA Administrators shall designate five professional staff members from their respective components to serve as prospective panel members. Designees shall be placed on a roster available to all ETA Administrators, and all designees shall be available for panel duty when requested.

(c) Panel procedures and rating criteria shall be developed by the ETA component which will have program responsibility for the award.

(d) ETA Administrators requesting the procurement shall ensure that summaries or actual copies of all assessments, financial and quarterly progress reports, or any other pertinent information on operations and performance of bidders having had a contract/grant over the past two years are made available to rating panels.

(e) The panels shall document their findings, make recommendations based on criteria established by the program office, and submit these advisory materials to the designated selecting official(s).

(f) Justification for deviations from panel recommendations by selecting official(s) shall be documented in the panel review file, which shall be retained for not less than one year from the completion of the panel review process. Selection of nonbidder(s), unless permitted by statute or regulation, shall be deemed inappropriate and require the initiation of a sole-source or competitive award process. The competitive process shall, in turn, be initiated only if justified, e.g., insufficient or nonresponsive bids to the original procurement announcement.

e. Special Pre-Award Guidelines for Non-Competitive Contracts and Grants.

(1) All contracts and grants shall be awarded on a competitive basis to the maximum extent practicable consistent with pertinent laws, regulations and executive orders. Noncompetitive procurements (sole source) shall be executed only if included in the approved AAPP, or modification thereto, and after justification and approval by the ETA Administrator of the program office initiating the sole-source request, the Assistant Secretary, the Department's Procurement Review Board (PRB) in the Office of the Assistant Secretary for Administration and Management (OASAM), and the Assistant Secretary for Administration and Management (ASAM).

The only exception to this requirement is an unusual and compelling emergency where the Government would be seriously injured if delay of the contract were required. An example would be the need to replace the roof of a Job Corps Center after it was blown off in the dead of winter.

(2) The following types of contracts and grants are subject to review by the PRB and approval by the ASAM (Note: OMB is expanding the coverage for consulting to include 1) management and professional services, 2) special studies and analyses, and 3) management and professional services and special studies and analyses funded by R&D monies.):

- (a) All noncompetitive awards over \$10,000.
- (b) All noncompetitive consulting contracts.
- (c) All competitive consulting contracts over \$50,000.
- (d) Modifications to construction contracts over \$200,000 (other than equitable adjustments pursuant to the "Changes" clause).
- (e) All consulting personnel appointments.
- (f) All noncompetitive discretionary grants.

In addition to review by the Procurement Review Board, proposed noncompetitive contracts for research over \$10,000, are to have prior review and approval by the Assistant Secretary for Policy Evaluation and Research (ASPER).

(3) Exemptions and Partial Exemptions. The following classes of contracts, grants, agreements, or modifications are wholly or partially exempt by the ASAM from sole-source requirements, as indicated.

(a) Exemptions. While all procurements are subject to applicable laws and Federal Procurement Regulations (FPR), the following are exempt from requirements of this section:

1 Contracts, grants, or agreements, or modifications to contracts, grants, or agreements with other Federal agencies; with State or local governments and agencies thereof; or with Indian tribes on Federal and State reservations.

2 Contracts, grants, or agreements, or modifications to contracts, grants, or agreements with public agencies, or with public or private nonprofit organizations referenced to receive funds under Section 506, Title V of the Older Americans Act of 1965, as amended.

3 Contracts, grants, or agreements, or modifications to contracts, grants or agreements with public or private nonprofit organizations referenced in the Comprehensive Employment and Training Act, as amended, to receive special consideration of the Secretary, except for community-based organizations of demonstrated capabilities used in the delivery of employment and training services.

4 Purchase Orders on GSA Federal Supply Schedules.

(b) Partial Exemptions. The following are exempt to the extent indicated below:

1 Proposed Section 8(a) contracts must be included in Annual Advance Procurement Plans, but are exempt from prior review and approval from the Procurement Review Board.

2 Proposed contracts, grants, or agreements, or modifications thereto (or classes of contracts, grants, agreements, or modifications) with private nonprofit organizations may be exempted by the OASAM from noncompetitive review and approval requirements for a given fiscal year when a product or service needed is unique or where only one source can meet the Government's needs on a timely basis. There are a few instances in the Department in which program requirements and certain nonprofit sources regularly meet these criteria, e.g., NAB, HRDI.

When ETA believes that it has requirements or classes of requirements which meet these criteria, requests may be made to the Assistant Secretary for Administration and Management, Attn: AB, for a waiver of the non-competitive review process for those specific requirements for that fiscal year. Such requests shall be made by the Assistant Secretary for ETA at the beginning of the fiscal year or as such requirements occur during the year. Each proposed exemption shall be justified by demonstrating that no meaningful competition can be obtained for the procurement or class of procurements. Copies of approved exemptions shall be filed with the Office of Grants and Procurement Policy, OASAM. Once the waiver has been properly filed, noncompetitive awards may be made for exempted requirements without prior Procurement Review Board approval for that fiscal year. Such contracts, grants, agreements, or modifications must still be included in annual advance procurement plans.

(4) Noncompetitive (sole source) contracts/grants shall be executed only after they are justified and approved. The following process shall be used:

(a) The procurement must be part of the approved AAPP or modification thereto.

(b) The ETA Administrator (or RA for MAT procurement) with program responsibility for the procurement shall develop and document the justification for the sole source procurement and provide the appropriate Contract/Grant Officer with an informational copy. The Administrator shall forward the request and documented justification to the Assistant Secretary for ETA for his review and action.

(c) If the Assistant Secretary for ETA approves the request for a sole-source contract, the appropriate Contract/Grant Officer shall have any contemplated contract over \$5,000 synopsisized in the Commerce Business Daily before submission to the PRB. If a prospective contractor responds to the synopsis, the Contract/Grant Officer shall determine whether or not the procurement remains sole source. If the decision is that the procurement is still sole source, the requirements of DIMS 2-830 govern, and the Assistant Secretary for ETA shall submit the proposed contract, its justification and the results of the Commerce Business Daily synopsis to the PRB which will recommend approval or disapproval to the ASAM.

(d) If the Assistant Secretary for ETA approves the request for a sole-source grant, he shall forward the request and justification without publication in the Commerce Business Daily to the PRB which will recommend approval or disapproval to the ASAM.

(e) If the ASAM approves the request for sole-source procurement, the appropriate ETA Administrator shall initiate the documentation to the Contract/Grant office for the execution of the procurement.

(f) If the ASAM disapproves the request for sole-source procurement, the appropriate ETA Administrator and Contract/Grant Officer shall initiate RFP procedures for a contract and SGA procedures for a grant.

(g) Sole-source documented justification and approval or disapproval shall be part of the official contract/grant file maintained by the Contract/Grant Officer.

f. Monitoring and Assessment of Contractor and Grantee Performance

(1) All contracts/grants over \$100,000 shall have one onsite monitoring review during the performance period.

(a) ETA Administrators can seek a waiver for this requirement from the Assistant Secretary of ETA for extenuating circumstances, e.g., inadequate staff resources, inadequate travel funds, shifting priorities approved by the Assistant Secretary. Also, certain types of procurements, such as a contract with a university to produce a special report utilizing a computer and minimal staff time, may also be waived from this requirement; however, such procurements shall be assessed at least once every 12 months.

(b) ETA Administrators shall ensure that contracts/grants are monitored and assessed according to a clearly-developed instrument which provides for, at a minimum, measuring accomplishments against goals and performance standards (financial and nonfinancial), remedial action for strengthening weaknesses, if any, and appropriate sanctions, such as suspension or termination; reduction in funding, scope of work or period of performance; or probation for nonperformance.

(c) ETA Administrators shall ensure that a report is prepared documenting all findings within 15 working days after the review. When major problems are identified, a letter shall be sent to the contractor/grantee requiring a corrective action plan and a specific action timetable.

(2) ETA Administrators shall develop for their area of program responsibility a system to track and analyze required contractor/grantee program and financial reports.

(a) Contractor/grantee reports shall be analyzed within ten working days of receipt to determine if reported performance meet Federal requirements and the goals and standards specified in the contract/grant agreement.

(b) Contractors/grantees shall be notified within 15 working days of delinquent reports and inaccurate reports whenever discovered.

(c) Corrective action measures or sanctions, which may include suspension of the Letter of Credit, shall be instituted for contractors/grantees which are consistently delinquent or inaccurate in their reporting or demonstrate unacceptable deviation from specified performance.

(3) ETA Administrators shall ensure that quarterly written desk reviews are prepared for all contracts/grants in their area of program responsibility.

(a) Reviews shall measure performance against goals and standards specified in the contract/grant agreement; identify all problems, such as unacceptable performance and delinquent and inaccurate reporting; and describe any corrective action taken and the results of such action.

(b) Contractors/grantees shall be notified of problems identified in the desk reviews.

(4) ETA Administrators shall ensure that a written assessment of all contracts/grants incorporating the findings of onsite monitoring and desk reviews or any other pertinent information is prepared in a timely manner for the use of review panels or other Department officials in the refunding process.

(5) ETA Administrators shall ensure that the above documentation and any other appropriate records and reports are forwarded within five working days of completion or receipt to the appropriate Contract/Grant Officer for inclusion in the official contract/grant file.

(6) All substantive discussions between ETA staff and the contractor/grantee concerning the procurement shall be recorded in writing. The record shall include, at a minimum, the date and time of the conversation, brief description of the conversation, action taken, and effects, if any, on the price and scope of work of the procurement. A copy of the record, which may be handwritten, shall be forwarded to the appropriate Contract/Grant Officer for inclusion in the official contract/grant file within five working days of the conversation. Any discussion which will change the terms of the contract or grant must be verified in writing by the Contract/Grant Officer to the contractor/grantee to make it legally authorized.

g. Closeout/Audit Resolution/Debt Collection

(1) Contract/Grant Offices shall ensure that contract/grant closeouts are performed in accordance with appropriate regulations. The basic guidelines are as follows:

(a) Closeout procedures shall be initiated before the contract/grant expiration date occurs. This specifically includes ensuring receipt by the contractor/grantee of closeout instructions.

(b) Unless an extension is authorized, all required financial reports, inventories, release forms and refunds shall be received from contractors/grantees within 90 days of the contract/grant expiration date unless otherwise specified by the Contract/Grant Officer.

(c) All debts resulting from any unallowable costs or outstanding advances shall be established and collection action pursued in accordance with applicable statutes and procedures.

(d) The closeout package shall become part of the permanent contract/grant file.

(2) The Contract/Grant office shall assist the Office of the Inspector General to conduct or arrange to conduct audits of recipient or subrecipient operations, and to determine the coverage, frequency and priority of audits.

(a) The Contract/Grant office shall ensure that all contractors/grantees have been informed before the beginning date of each contract/grant of their responsibilities for procuring or arranging for their own audit coverage and their responsibilities for auditing subrecipients.

(b) The Contract/Grant office shall ensure they observe the requirements pertaining to opportunity for grantee/contractor review of audit reports.

(c) The Contract/Grant office shall insure that final determination is issued within 120 days of receipt of the final audit report; within 180 days for non-CETA audits.

(3) The Contract/Grant office shall ensure that debt collection procedures for all funds owed the Federal government as a result of contract/grant closeout or audit resolution procedures are instituted immediately upon the determination of such amounts and aggressively pursued. Procedures prescribed in applicable regulations or other official documents shall be utilized.

h. Contract/Grant Official File Documentation

(1) The official contract/grant file for each contract/grant shall be maintained by the appropriate Contract/Grant Officer in the Contract/Grant office(s). This in no way precludes the desirability and necessity for the ETA Administrator with program responsibility for a procurement to maintain a duplicate "working" file within his component.

(2) The documentation contained in the official file, at a minimum, shall be:

(a) Certification that the procurement is part of the approved AAPP, or modification thereto, for those procurements subject to inclusion in the AAPP.

(b) Records of all actions and results pertaining to pre-award reviews and pre-award surveys.

- (c) Copies of all assessments of previous contracts/grants with the contractor/grantee.
- (d) Summary of negotiations for the contract/grant.
- (e) Copies of pre-award telegrams and letters, if any.
- (f) Copies of all documented actions concerning non-competitive procurement.
- (g) Copies of all documented actions concerning competitive procurement.
- (h) The official contract/grant agreement and official modifications thereto.
- (i) All correspondence between the Department and the contractor/grantee.
- (j) Record of all substantive discussions between the ETA component program officials and the contractor/grantee.
- (k) Memoranda between program officials and Contract/Grant Officer.
- (l) Copies of all onsite and desk review reports.
- (m) Records of all closeout, audit, audit resolution and debt collection activities.
- (n) All assessments of contract/grant performance.

8. Effective Date. This Order is effective immediately. All ETA staff shall use the provisions of this Order for Fiscal Year 1982 operations.

Mr. ANGRISANI. Yes, we received word of that indirectly; and our Solicitor is in the process of following up on that.

The CHAIRMAN. Is it correct that, after checking throughout ETA, no one else had been notified of their decision to terminate on their own?

Mr. ANGRISANI. That is correct.

The CHAIRMAN. As I understand it, your office subsequently sent a letter to PUSH after we provided you a copy of this letter.

Mr. ANGRISANI. Yes, sir.

The CHAIRMAN. Your office and the PUSH For Excellence group have gotten together to resolve the difficulties. Is that correct?

Mr. ANGRISANI. My Solicitor is in the process of contacting them right now.

The CHAIRMAN. OK. So you will resolve that difficulty one way or another.

Mr. ANGRISANI. Yes, sir.

The CHAIRMAN. Did you listen to the testimony of the GAO?

Mr. ANGRISANI. No, I did not.

The CHAIRMAN. Have you read their written testimony?

Mr. ANGRISANI. No, I have not.

The CHAIRMAN. I recommend that you do so. I think you indicated that you have followed many if not all of their suggestions, but I would certainly pay closer attention to them.

What procedures do you have to make sure, in addition to what you have listed here today, that the people working under you actually are going to be good contract managers and awarders of grants?

Mr. ANGRISANI. First of all, I have faith in the people that I have currently in place that are helping me in this contracting process right now. But I very rarely leave things to faith. We have made some management changes that will guarantee that, and they are basically decentralized changes which essentially split the function into several components.

The first component is the administration of the contracts, as any other CETA program would be administered. The administration of these special programs will be in the administrative unit where we have the best people to do the oversight and the monitoring.

But more importantly, and consistent with the GAO recommendations, we have moved the actual contract writing process out of the ONP office into what will be our newly created budget and financial controls unit. Here we can, in fact, oversee the audit function to determine if the contract was carried out in a way that was consistent with the initial intent of the contract as it was written.

Mr. Chairman, this is the first time I have announced the creation of this new budget and financial controls unit. It is very much consistent with the directive of the GAO and the Inspector General's Office.

I would like to emphasize, if I could, for just one second, the meaning of the words "financial controls." Currently, there is no dedicated function in the Department to financial controls. I would very much like to set it up and implement it in a manner consistent with any financial controls organization of any major corpora-

tion or private sector concern where you have appropriate checks and balances, audit trails, and controls in place to insure that there is a sufficient enough decentralization of authority to catch any improper activities going on.

So not only do I have faith in the people working for me, but I think that this new system will guarantee that nothing will fall between the cracks. At least I am staking my professional management opinion on that.

The CHAIRMAN. All right.

Senator Kennedy?

Senator Kennedy. As I understand, looking through the GAO report, it appears that although some of the awards in question have been canceled and some others will either be canceled or refunded, most of the awards which were made during this period continue to be funded. Is that correct?

Mr. ANGRISANI. That is correct.

Senator KENNEDY. Does that indicate to you that most of these programs either have merit or deserve further funding?

Mr. ANGRISANI. When you say "deserve further funding"—

Senator KENNEDY. Continued funding.

Mr. ANGRISANI. Continued funding. We feel that the bulk of the programs in the CETA titles III and title IV are good programs, and the future funding of course will be contingent upon budgetary constraints as well as a current evaluation of their performance.

So I would like to say, Senator, yes; we think that the bulk of the programs are good; but I do reserve the right to do current performance monitoring of these accounts first.

Senator KENNEDY. It seems to me to make eminently good sense to want to have that kind of review, but as I understand from your response, at least in some kind of preliminary way you have made a judgment that the bulk of the programs are deserving and should continue to have funding.

Mr. ANGRISANI. To the extent that we have resources, yes.

Senator KENNEDY. Just to go back a step, was there any violation of the antideficiency law? Did the commitments that were made during this period of activity—did they violate the antideficiency law to any extent?

Mr. ANGRISANI. I am not a lawyer; it is hard for me to answer. I can tell you this though—to the extent that it helps you—the books were out of balance. If that constitutes a violation, so be it.

Senator KENNEDY. Are the GAO people still in the room?

Mr. CRISSMAN. Yes.

Senator KENNEDY. Could I ask you this? I meant to ask you previously. Would you come forward?

I apologize, Mr. Chairman; but I think this is important.

The CHAIRMAN. That is fine.

Senator KENNEDY. This is quite a morning for you.

Mr. CRISSMAN. Yes, sir.

Senator, during our review we obtained documentation from Labor which showed that as of January 30, 1981, the Department had not overobligated available CETA title III and title IV funds.

However, had the Department continued to commit funds based on its CETA titles III and IV funding plans for the remainder of

the fiscal year, they would have exceeded their authorized obligations and possibly violated the Antideficiency Act.

Senator KENNEDY. I see.

Your report, on page 11, says, "As a result, the Labor activities obligating title 3 and 4 funds had avoided any potential violations of the Antideficiency Act."

Mr. CRISSMAN. That is right. After they had made cutbacks.

Senator KENNEDY. Thank you very much.

According to the GAO report exhibits, it would appear that the last 4 months of the previous administration, according to exhibits C and D, out of 171 planned awards about 165 were still being funded. Is that correct?

Mr. ANGRISANI. I do not know exactly, Senator. I know we did not cancel them all.

Senator KENNEDY. It would not surprise you if that were the case?

Mr. ANGRISANI. No; because our attempt was to bring the books back into balance, and we cut only enough to do that.

Senator KENNEDY. If you add in the unplanned awards, exhibits E and F, it appears that out of the total 191 awards during that same period 170 are still being funded.

Mr. ANGRISANI. That is possible.

Senator KENNEDY. So that roughly 90 percent of all the awards made during that period are still being funded. Is that right?

Mr. ANGRISANI. Probably most of them, in a reduced fashion—yes.

Senator KENNEDY. Does that indicate that, although there may be some that have had problems, as least as far as the current administration is concerned, the majority of them, at least in your judgment—the judgment of the administration—were deserving of funding?

Mr. ANGRISANI. I would say from the standpoint of the new administration coming into office, you have to spend the money that is there. Looking at the situation that we were faced with, it was totally prudent for us to bring the books into balance and keep that as our primary objective.

So to that extent the answer is, "yes." However, I would like to add that we have done no performance reviews yet and that I would reserve the right to make a full statement on that after our performance and audit reviews are done.

Senator KENNEDY. As you heard during the course of this hearing this morning, I think all of us feel strongly that there is going to have to be some kind of review of the contracting procedures and certainly a tightening up of the administration of these procedures.

What I am most interested in is to determine the extent to which there was a failure to establish procedures in a sound, thoughtful, and businesslike way, or whether they were basic and fundamental violations by individuals of some kind of procedures which had been established.

I think all of us are going to come out of this hearing with a sense that we have got to do a great deal more about it; I certainly am. But how are we going to do much about it when the Department itself now has put pretty much of a freeze on any travel and

is also going to cut back on personnel who are going to be reviewing these kinds of programs to insure that the taxpayers' moneys are going to be carefully spent?

Mr. ANGRISANI. I think one element of that equation that you did not mention, Senator, was that we are going to have sufficiently fewer contracts to monitor too.

Senator KENNEDY. Even with fewer, I understand a freeze is a freeze is a freeze, and you are not going to be able to send people out to travel around and take a look at any of these programs.

We heard a lot of questions and answers before along the lines, "Is that sound business procedure?" and, "If you were running a business and had little businesses around the country, is that sound business—not going out and seeing what is going on out there, monitoring?"

Mr. ANGRISANI. The way I would respond is that certainly the freeze is not a permanent one, unless the Federal deficit continues to grow. Then it may have to be a permanent one.

Senator KENNEDY. I have heard those speeches before. I am sure I will hear them again. But I would hope you would recognize that in trying to meet these responsibilities we must be able to do the kind of job that is going to be essential. If we cut back on the personnel who have both the skill and the training and ought to be adequately compensated to do the job, thus cutting back on the opportunities for the kind of overview and review of these contracts that is needed, I am just wondering if we are really going to be able to do the kind of effective job that needs to be done, even with reduced programs.

Mr. ANGRISANI. Senator, I do not want to be here 4 years from now going through this process on the other end of the stick. I assure you it will get done.

Senator KENNEDY. OK. What is the outstanding amount now in terms of contracts that are out? Is it about \$800 million?

Mr. ANGRISANI. The number of contract?

Senator KENNEDY. No; the amount of money that is out there.

Mr. ANGRISANI. Discretionary contracts?

Senator KENNEDY. No; discretionary contracts that have been signed—the total amount that is out in the field now. Is it about \$800 million?

Mr. ANGRISANI. In title III or in title IV?

Senator KENNEDY. Both.

Mr. ANGRISANI. Probably \$500 million for all discretionary programs.

Senator KENNEDY. So we have got \$500 million out there now, and you are saying that there is not going to be an individual who is going to be able to go out in the field and monitor that program?

Mr. ANGRISANI. No, sir.

Senator KENNEDY. What does the freeze really mean then?

Mr. ANGRISANI. The 1981 plan has about \$500 million in it. The 1982 budget that was approved by the Congress in the reconciliation process has significantly less. We have about \$50 million in title III discretionary funds and about \$60 million—

Senator KENNEDY. Whatever it is, do you think you can have any effective monitoring systems by not having individuals who go out and monitor the programs in the field?