

# **SUPPLEMENTAL APPROPRIATIONS FOR 1980**

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## **HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES NINETY-SIXTH CONGRESS SECOND SESSION**

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## **SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1980**

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### **SUBCOMMITTEE ON THE DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES**

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**WEDNESDAY, FEBRUARY 20, 1980.**

### **DEPARTMENT OF STATE**

### **TESTIMONY OF UNDERSECRETARY FOR MANAGEMENT**

#### **WITNESSES**

**BEN H. READ, UNDER SECRETARY FOR MANAGEMENT**

**ROGER B. FELDMAN, COMPTROLLER**

#### **SUMMARY OF REQUEST**

**Mr. SLACK.** We shall now direct our attention to the Department of State's 1980 supplementals, of which we have several. The program supplementals total \$43,187,000 and pay supplementals total \$8,198,000.

In addition, there is a proposal authorizing transfer of \$12 million to meet increased pay costs. We have supplemental justifications for these items which we shall insert at the appropriate point in the record.

Are there any other supplemental requests in the works for fiscal year 1980 to your knowledge, Mr. Read?

**Mr. READ.** Yes, there are, Mr. Chairman. One has been sent to OMB, which is the one we referred to this morning, largely for immediate security-related measures. I also believe there will be another 1980 supplemental on price increases submitted later in the year. Concerning 1981 I would have to anticipate a request for the U.S. readmission to the International Labor Organization which the President announced earlier this week. The costs of this amendment would be \$51 million—\$23 million for the calendar year 1980 assessment and \$28 million for calendar 1981 assessment. Also, we are anticipating other budget amendments in 1981 for Foreign Service Pay comparability, further measures to strengthen security abroad, and additional overseas price increases.

WEDNESDAY, FEBRUARY 20, 1980.

**SALARIES AND EXPENSES**

**WITNESSES**

**BEN H. READ, UNDER SECRETARY FOR MANAGEMENT  
ROGER B. FELDMAN, COMPTROLLER**

Mr. SLACK. The supplemental request for Salaries and Expenses is \$6,334,000. We shall insert the justifications for this item at this point in the record.

[The information follows:]

GENERAL INTRODUCTION

FISCAL YEAR 1980 SUPPLEMENTAL APPROPRIATION REQUEST

A fiscal year 1980 supplemental appropriation of \$43,187,000 is requested to meet urgent needs of the Department of State which were unforeseen at the time of preparation of the regular fiscal year 1980 budget estimates. A brief description of each item included in this request follows.

First, an additional \$6,334,000 is requested for the Salaries and Expenses Appropriation to provide (A) \$4,054,000 for overseas price increases; (B) \$1,380,000 and 18 positions to meet anticipated increases in our consular workload resulting from the Silva Decision; and (C) \$900,000 for preparation of the United States legal case for arbitration by the International Court of Justice of the U.S.-Canadian Maritime Boundary dispute in the Gulf of Maine.

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Second, for Emergencies in the Diplomatic and Consular Service, \$4,300,000 is requested. Of this amount, \$1,800,000 is necessary to cover the 1979 appropriation deficiency caused by the evacuation of U.S. employees, their dependents, and non-Government Americans from Tehran, Kabul, Managua, and N'Djamena in FY 1979. The remaining \$2,500,000 is required in FY 1980 for the costs of evacuating or withdrawing many of our personnel, dependents, and non-Government Americans from Islamabad, Dacca, Tripoli, and various other Middle East posts.

Third, for the Foreign Service Retirement and Disability Fund, \$4,177,000 is requested for the October 1979 Federal salary increase.

Fourth, in the Contributions to International Organizations Appropriation, \$27,289,000 will provide funds sufficient to meet prior year U.S. arrearages and anticipated shortfalls in the U.S. assessed contributions to various international organizations in calendar year 1980.

(HOLD PRACTICALLY)  
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SUPP-2

Fifth, an additional \$839,000 is requested for the Missions to International Organizations Appropriation to compensate for the decline in the value of the dollar abroad and to restore a leased office building in Geneva because the U.S. Mission there is moving into a Government-owned office building.

Sixth, for the International Fisheries Commissions \$248,000 will provide the U.S. share of funds to establish the new U.S.-Canada East Coast Fisheries Commission.

SUPP-  
S&E-1

SALARIES AND EXPENSES

Appropriation: Salaries and Expenses

H. Doc. \_\_\_\_\_

Appropriation to Date: \$709,011,000

Request: \$6,334,000

Amended Appropriation Requested: \$715,345,000

Purpose and Need for Supplemental Funds

To provide for costs unforeseen when formulating the fiscal year 1980 budget estimates.

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APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses," \$6,334,000.

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SALARIES AND EXPENSES

Fiscal Year 1980 Appropriation.....	\$709,011,000
Revised Estimate.....	<u>715,345,000</u>
Proposed Supplemental.....	6,334,000

Justification

To provide for activities under the regular operations of the Department of State which were unforeseen at the time of the initial estimates and which are considered to be of sufficient importance to warrant a supplemental request for fiscal year 1980.

The estimate provides for the following activities:

	American Positions	Amount
1. Overseas Price Increases.....	7	\$4,054,000
2. <u>Silva Decision</u> .....	18	1,380,000
3. Boundary Arbitrations.....	-	<u>900,000</u>
Total.....	18	6,334,000

OVERSEAS PRICE INCREASE

Justification

An increase of \$4,054,000 is requested for price increases abroad as economic conditions have changed dramatically since the FY 1980 budget was formulated. This adjustment incorporates unbudgeted price increases which occurred between December 1978 and when the Department's budget was revised in September 1979. For example, estimates for consumer prices have changed from 8% to 13.5% in Italy; 8.3% to 15% in the United Kingdom; and 11% to 17.5% in Nigeria.

The increase in oil prices along with wide fluctuations in exchange, real estate and commodity markets are adversely affecting overseas posts during FY 1980. A quarter of the overseas budget, rents and utilities are directly affected by oil prices and the worldwide move into inflation resistant assets. The remainder is indirectly affected as other sectors of the economy attempt to maintain their purchasing power.

As a result, the Department's estimates for overseas prices climbed from the 10.7% annual inflation rate contained in the FY 1980 budget approved by Congress to a revised estimate of about 14%. In particular, the net effect of price increases world-wide require an additional \$1,985,000 for Europe and \$2,069,000 for Africa. Estimated price increases in other areas at the time this supplemental was prepared are effectively offset by exchange rate gains.

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S&E-3

SILVA DECISION

Justification

A fiscal year 1980 supplemental appropriation of \$1,380,000 and 18 American positions is requested for the purpose of processing additional immigrant visas mandated by a revised court order growing out of the Silva vs. Bell case.

American Positions	American Salaries Annual Rate	Net Salaries	Operating Expenses	Post Assignment Travel	Total
18	\$327,222	\$198,000	\$995,000	\$187,000	\$1,380,000

The Immigration and Nationality Act was amended, effective July 1, 1968, to place an overall limitation on the number of Western Hemisphere aliens who could emigrate to the U.S. in any one year. At that time the U.S. Government made an administrative determination that Cuban refugees permitted to adjust their status to that of permanent resident would be charged against that overall hemispheric numerical limitation. This practice of charging Cuban refugee adjustments against the hemispheric limitation continued from July 1, 1968, until September 30, 1976, and utilized a total of 144,946 immigrant visa numbers that presumably could have been available for other Western Hemisphere applicants. 60

However, in 1976, the practice described above was challenged in court. The first of those court challenges, Silva vs. Bell, was concluded on June 21, 1977, with the result that the court ordered the Department of State to restore to other qualified visa applicants the 144,946 visa numbers which had already been used for Cuban refugees. These restored visa numbers were to be issued in addition to visas normally issued under the existing statutory numerical limitations of 290,000 immigrant numbers worldwide each year and 20,000 per individual country annually. The court instructed the Department to apply those restored visa numbers (144,946) to eligible Western Hemisphere applicants with priority dates prior to January 1, 1977. At that time there were an estimated 248,733 applicants entitled to use the restored Cuban numbers. Of those quarter million applicants, most are Mexican nationals, with 68,914 from other Western Hemisphere nations.

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In November, 1979, a federal court issued a modified court order which requires the Department to issue the remaining restored visa numbers within two years of the date of order. Approximately 74,000 visa numbers had been used between the time of the original court order and the date of the modified court order, leaving about 70,900 immigrant visa numbers unused. These remaining "Silva number" visas must be issued within two years or by November, 1981. Most of these additional issuances must be purchased by our consular sections in Mexico, the Dominican Republic, El Salvador, Haiti, Jamaica, Barbados, Colombia, Ecuador, and Canada.

The request of \$1,380,000 needed to process this additional workload consists of the following components:

Permanent American Positions.....\$439,000

Eighteen (18) American positions are required at the posts noted above.

These positions have been lapsed 50%. The estimate includes \$198,000 for American salaries, \$187,000 for post assignment travel and \$54,000 for support costs.

Temporary American Consular Positions..... 413,000

Because processing of the visa applicants must commence immediately, the American consular positions will be filled for six months with retired Foreign Service Officers, hired temporarily at the salary rate of an PSO-6, step 1. This estimate includes \$215,000 in salaries and \$198,000 for TDY travel and per diem.

FSN PIT Positions..... 528,000

The increased consular staffing will require an increase of 52 FSN PIT positions and \$528,000 for salaries and support costs. The positions have been lapsed 50%.

BOUNDARY ARBITRATIONS

Justification

Funds in the amount of \$900,000 are requested for preparation of the United States legal case for submission of the U.S.-Canada dispute regarding the delimitation of the Maritime Boundary in the Gulf of Maine Area to binding Third Party Settlement.

The treaty with Canada providing for submission of the delimitation of the Maritime Boundary in the Gulf of Maine Area to binding dispute settlement, provides for the submission of the issue to a Chamber of the International Court of Justice for resolution, or alternatively to a Court of Arbitration established by the United States and Canada. The treaty has been submitted to the Senate for its advice and consent.

The treaty provides that upon ratification a Chamber of the International Court of Justice be constituted and that seven months after constitution of the Chamber both Parties submit their legal Briefs. A Counter-Brief will be submitted by each side six months thereafter. If the treaties are ratified this year, all written proceedings (unless additional written proceedings are requested) will be submitted by late 1980 or early 1981. The oral proceedings will follow the written proceedings. This schedule is extremely tight considering the complexity of the issues and the billions of dollars of fisheries and hydrocarbon resources potentially at issue.

Preparation of the legal case requires extensive research on applicable law and state practice; the history of the region and the fisheries involved; the biologic, geologic and geomorphologic characteristics of the area; and the socioeconomic aspects of the case. Contracts for external research and analysis must be entered into promptly in order that the results of the various projects can be reviewed, augmented as necessary, and effectively utilized in the preparation of the U.S. Brief. Additionally, the necessary maps and exhibits must be prepared. These projects will entail substantial expenditures for the services of legal and technical experts, printing, travel, secretarial support and equipment.

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By tradition and consistent practice, the Secretary of State is responsible for the conduct of proceedings before the World Court and other international tribunals. The Legal Adviser intends to handle this matter largely in-house and we are reprogramming additional positions for this purpose. At the same time, the Department believes it could be extremely helpful to associate with our case one or more outside counsel: 1) International counsel who have had personal experience in the adjudication of maritime boundary issues in the unique environment of an international tribunal would be a valuable addition to the U.S. litigation team; 2) Judges of an international tribunal will come from different legal systems and counsel from other legal systems can help the Department avoid errors relating to assumptions based on the U.S. legal system; 3) Eminent outside counsel can bring a completely new perspective to legal and tactical assumptions that have become ingrained in U.S. thinking over time. If the Congress approves the funds, outside counsel would be used in a support role and only to the extent that they make a significant contribution.

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Estimates by Object Class

	<u>Amount</u>
<b>Personnel Compensation</b>	
11.1 Permanent positions.....	\$ 180,000
11.3 Positions other than permanent.....	527,000
11.5 Other personnel compensation.....	<u>96,000</u>
<b>Total personnel compensation.....</b>	<b>803,000</b>
<b>12.1 Personnel benefits: Civilian.....</b>	
21.0 Travel and transportation of persons.....	341,000
22.0 Transportation of things.....	609,000
23.0 Communications, utilities and other rent.....	533,000
24.0 Printing and Reproduction.....	1,208,000
25.0 Other services.....	20,000
26.0 Supplies and Materials.....	1,707,000
31.0 Equipment.....	575,000
<b>Total Obligations.....</b>	<b>538,000</b>
	<b>6,334,000</b>

## GENERAL STATEMENT

**Mr. SLACK.** I believe you have a statement.

**Mr. READ.** I do have a brief statement, and I will submit it for the record.

[The information follows:]

## STATEMENT OF BEN H. READ, UNDER SECRETARY FOR STATE FOR MANAGEMENT

I am pleased to appear before this subcommittee in support of a fiscal year 1980 supplemental request of \$6,334,000 to cover the following items: increased overseas prices, funds to cover the costs of issuing additional immigrant visas mandated by the Silva Court decision, and resources for litigation of the United States/Canada Gulf of Maine boundary dispute.

Included in this supplemental request is \$4,054,000 for price increases abroad. As economic conditions have changed dramatically since the FY 1980 budget was formulated (during late FY 1978), consumer price indices have increased uniformly around the world. Increases in oil prices along with wide fluctuations in exchange, real estate and commodity markets will adversely affect overseas posts during FY 1980. Approximately quarter of the overseas budget, for rents and utilities are directly affected by oil prices. The remainder is indirectly affected as other sectors of the economy attempt to maintain their purchasing power. In particular, the net effect of price increases worldwide require an additional \$1,985,000 for Europe and \$2,069,000 for Africa. Estimated price increases in other areas as this supplemental was prepared are effectively offset by exchange rate gains.

We are requesting \$1,380,000 to cover the costs of issuing approximately 71,000 additional immigrant visas mandated by the *Silva vs. Bell* court case for natives of the Western Hemisphere. For posts most affected by this increased workload these funds would be used to: add 18 Foreign Service Officers, use other Foreign Service Officers on temporary duty, and hire 52 part-time Foreign Service National employees.

Finally, we are requesting \$900,000 to be used by the Office of the Legal Adviser and the Bureau of Intelligence and Research in the preparation of the legal case to be presented by the United States Government before the International Court of Justice concerning the U.S./Canadian Maritime boundary in the Gulf of Maine area. The case would be litigated in accordance with the treaty between the U.S. and Canada signed last March that is now awaiting Senate advice and consent.

The requested funds would be used to pay for the services of legal and technical experts, printing, travel, clerical support, and supplies and equipment.

This is an extremely complex case. Preparations must begin now if the Department is to make an adequate presentation, regardless of when the treaty is ratified.

This concludes the fiscal year 1980 supplemental request for the Salaries and Expenses Appropriation. I would be pleased to respond to any questions.

**Mr. READ.** The supplemental request is made up of three items, \$4,054,000 for price increases abroad, \$1,380,000 for the Silva decision, which you discussed with Ms. Watson, and \$900,000 for preparation of the United States legal case for arbitration by the International Court of Justice concerning the U.S./Canadian Maritime Boundary dispute in the Gulf of Maine. The case has been at issue for some time and will be presented, we anticipate, before the International Court of Justice in the relatively near future.

## SILVA DECISION

**Mr. SLACK.** For the record, you might indicate the necessity for the 18 positions and the \$1,380,000 as a result of the Silva decision.

You might also elaborate for the record the impact of the decision.

**Mr. READ.** Fine, sir.

[The information follows:]

Court decisions growing out of the *Silva* case require the Department of State to issue roughly 71,000 additional immigrant visas during a two year period which began in November, 1979. This workload, which is in addition to normal statutory requirements, will fall primarily on our consular posts in Latin America, the Caribbean, and Canada. Failure to implement this program in good faith and in a timely manner could result in contempt of court charges and additional litigation.

The *Silva* cases will require 120 manyears of added employment over a two year period. Most of those manyears can be met by PIT employees hired locally (cost \$528,000), but eighteen additional American positions will be required at a cost of \$439,000. Interim servicing of the court requirement will cost \$413,000 for TDY officers. The total cost will be \$1,380,000.

#### U.S./CANADIAN MARITIME BOUNDARY DISPUTE

Mr. SLACK. Page 9 of the supplemental justifications indicates a request of \$900,000 relating to the Gulf of Maine matter. Can you tell us something about that?

Mr. READ. Yes, I will be glad to. We are requesting this sum to be used by the Office of the Legal Adviser and the Bureau of Intelligence Research in the preparation of a legal case to be presented by the U.S. Government before the International Court of Justice concerning the U.S./Canadian Maritime Boundary dispute in the Gulf of Maine. The case would be litigated in accordance with the treaty between the U.S. and Canada signed last March and awaiting Senate advise-and-consent.

The requested funds would be used to pay for the services of legal and technical experts, printing, travel, clerical support and equipment. It is an extremely complicated legal case which has been at issue for some time, and we feel preparations must begin now if we are going to make an adequate presentation.

Mr. SLACK. For the record, you might give us an estimated total cost of this.

Mr. READ. Fine, sir.

[The information follows:]

*Estimated cost of the preparation of the legal case concerning  
Gulf of Maine boundary dispute*

Personnel Compensation.....	\$ 96,000
Personnel Benefits.....	3,000
Travel and Transportation.....	30,000
Other Services:	
Legal and Historical Research.....	250,000
Printing of Briefs and Exhibits.....	50,000
Keypunching and Indexing.....	50,000
Scientific Research.....	200,000
Computer time and Graphics.....	180,000
Supplies and Materials.....	15,000
Equipment .....	26,000
Total .....	900,000

#### SECURITY SUPPLEMENTAL

[The 1980 supplemental request for Salaries and Expenses was increased by \$6,100,000 as reflected in H. Doc. 96-294 of April 15, 1980. The justifications for the increase follow:]

DEPARTMENT OF STATE  
FISCAL YEAR 1980

REQUEST: \$6,100,000

Appropriation: Salaries and Expenses

Amended appropriation request to date: \$718,543,000\*

Amended appropriation requested: \$724,643,000\*

PURPOSE AND NEED FOR SUPPLEMENTAL FUNDS

To provide up-graded security for the Near East and other critical posts.

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\*Includes a reduction of \$5,000,000 from the Department's original FY 1980 supplemental request of \$8,198,000 for October 1979 salary increases. A fuller explanation of the basis for these amounts appear on page 3.

DEPARTMENT OF STATE  
SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$6,100,000

SALARIES AND EXPENSES

Appropriation Summary

Regular FY 1980 Appropriation.....	\$709,011,000
Proposed Supplements:	
Federal Salary Increases.....	3,198,000 <sup>1/</sup>
Overseas Price Increases.....	4,054,000
Silva Case.....	1,380,000
Maine Boundary Dispute.....	900,000
Enhanced Security.....	6,100,000 <sup>2/</sup>
Total Proposed Supplements.....	15,632,000
Amended FY 1980 Appropriation.....	724,643,000

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1/ This amount reflects a reduction of \$5,000,000 from the Department's original FY 1980 supplemental request for October salary increases of \$8,198,000 due to the recently imposed hiring limitation and reductions in operating expenses.

2/ This amount reflects estimates for enhanced security requirements at the most critical posts overseas which were transmitted as part of the recent revisions to the President's budget of last January.

DEPARTMENT OF STATE  
SALARIES AND EXPENSES

Fiscal Year 1980 Appropriation.....	\$718,543,000	1/
Revised Estimate.....	724,643,000	
Proposed Supplemental.....	6,100,000	

Justification

A second fiscal year 1980 supplemental appropriation of \$6,100,000 is requested for the Salaries and Expenses appropriation to meet urgent needs of the Department of State and the International Communication Agency which were unforeseen last fall when the Department submitted its first supplemental request to adjust the fiscal year 1980 budget.

The estimate provides for the following activities:

1. Management and Security of Information Resources.....	\$250,000
2. Equipment, Devices, Materials, Strengthening of Physical Security and Supporting Costs.....	2,848,000
3. Telephone, Radio, and Electronic Storage and Gateway/TERRP Acceleration.....	2,202,000
4. Security Enhancement Activities for ICA.....	800,000
Total.....	6,100,000

The additional requirements for these activities are described in the following pages.

1/ Includes proposed supplementals for Federal salary increases (\$3,198,000); over-seas price increases (\$4,054,000); Silva case (\$1,380,000); and Maine Boundary dispute (\$900,000).

STATE AND ICA SECURITY SUPPLEMENTAL  
SUMMARY OF INCREASES BY PROGRAM

<u>STATE</u>	<u>TOTAL</u>	<u>INCREASES</u>
<u>Administration (excluding the Offices of Communication &amp; Security):</u>		
<u>Management and Security of Information Resources</u> .....	\$ 250,000	
<u>Subtotal - Administration</u> .....	250,000	
<u>Office of Security:</u>		
<u>Defensive &amp; Protective Equipment</u> .....	883,300	
<u>Destructive Devices</u> .....	229,700	
<u>Ballistically Hardened Materials</u> .....	600,000	
<u>Strengthening Physical Security</u> .....	723,000	
<u>Support Costs</u> .....	412,000	
<u>Subtotal - Security</u> .....	2,848,000	
<u>Office of Communications:</u>		
<u>Telephone</u> .....	255,000	
<u>Radio</u> .....	721,000	
<u>Electronic Storage and Gateway/TERP Acceleration</u> .....	1,226,000	
<u>Subtotal - Communications</u> .....	2,202,000	
<u>Subtotal - STATE</u> .....	5,300,000	
<u>INTERNATIONAL COMMUNICATIONS AGENCY (ICA)</u>		
<u>Strengthening Physical Security of Buildings</u> .....	559,000	
<u>Travel</u> .....	21,000	
<u>Emergency Communications Equipment</u> .....	220,000	
<u>Subtotal - ICA</u> .....	800,000	
<b>TOTAL - STATE AND ICA</b> .....	<b>6,100,000</b>	

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SALARIES AND EXPENSES

SECURITY

JUSTIFICATION

Since the mid-1970s, the Department has been in the process of enhancing security at our embassies and consulates overseas. Recent events in Iran, Pakistan and Libya have prompted a re-evaluation of our overseas security program as the Department is now faced by an entirely different type of security problem today in posts abroad than had been the case in the past. During recent years, our security efforts were targeted to make our posts more secure against a single intruder or a small band of terrorists. However, we are now faced with a different threat--that of a large mob taking possession of an embassy. The items requested here are designed to delay for as long as possible a mob attack, under the assumption that host government help would eventually be forthcoming. It is clear that additional equipment is needed and that new techniques and security systems are required to meet the needs of our posts and that it is not within the Department's capability or mission to meet a mob attack with a large force of arms. This estimate of \$5,300,000 does not attempt to provide funds to upgrade security at all posts overseas, but rather provides immediate help only to the most troubled posts.

The package is divided into several categories, each designed to strengthen an aspect of post security. The items listed represent what is available from present technology and therefore can be obtained immediately. The Department's general operating philosophy calls for up-grading the physical security of posts without making "prisons" or "fortresses" of them. This requires the use of materials and technology which are inconspicuous, but which offer significant improvement in the protection of people, property and data. Riot control measures stress non-lethal solutions to mob actions, although we will increase our existing capability to use force, if necessary, in the protection of our personnel. The specific requirements are as follows:

1. Management and Security of Information Resources - \$250,000

This provides for the software development of a microimage replacement program to substitute for the present paper copies maintained at posts. The programs developed will be for production of COM fiche of messages from the Department's Automated Central Foreign Policy File. (COM - Computer Output Microfilm)

2. Defensive Equipment/Non-Lethal - \$714,000

Non-lethal devices or systems used to repel mobs. Included are such items as smoke grenades; sound systems generating high frequency noise; pre-positioned emergency reaction kits; tear gas systems and supplies; and foam generating equipment.

3. Defensive Equipment/Lethal - \$24,800

Weapons and ammunition.

4. Protective Apparel - \$44,500

Gas masks, body armor and ceramic helmets.

5. Vehicle Security - \$100,000

Fully armored automobiles - a fully armored vehicle for the Ambassador is considered essential at a high risk post. Our inventory of fully armored cars is aging with 18 out of 35 vehicles in need of replacement by the end of 1981. We have identified nine additional high risk posts as candidates for fully armored automobiles. This amount is for the purchase of seven Chief of Mission vehicles for custom armoring. This is the last year that we will be able to purchase a vehicle off the assembly line, which can accept the extra weight and equipment installed during the armoring process.

6. Protection of National Security Information - \$229,700

Storage and destruction devices.

7. Inventory of Ballistically Hardened Materials - \$600,000

Bullet-resistant materials (translucent material, opaque doors, ballistic aluminum) are the key elements in all public access controls. They provide receptionists and Marine Guards with the assurance of protection so that they cannot be intimidated in carrying out their essential control functions. To qualify, materials are rigidly tested against a required standard. Materials are costly, difficult to assemble and manufacture.

Our present procedures take about four months from the time we place an order until it is received at post. We want to purchase in advance an inventory of bullet-resistant material which would be ready for immediate shipment when needed. This figure does not represent the total amount needed to complete the PAC projects. Rather it is regarded as a comfortable inventory to enable us to respond promptly to emergency situations requiring hardened material, and to expedite our PAC projects. Costs reflect actual prices of items desired for stockpile. (PAC - Public Access Control)

**8. Strengthening Physical Security of Office Buildings and Residences - \$723,000**

This includes the purchase of:

- Access Control Devices/Systems
- CCTV Systems (exterior)
- CCTV Systems (interior)
- Bldg. Perimeter Alarm Systems
- Modular MSG Control Consoles
- Remote Security Control Centers
- Residential Protective Devices Systems
- Emergency Warning Systems

**9. Communications - \$2,202,000**

Telephone - \$255,000

(1) When the switchboard at the post is abandoned or overrun, the safehaven/communications center must retain the capability to use telephones. Emergency action consoles are being provided in the communications center and equipment is being installed to electrically transfer the trunks on an as-required basis.

(2) When the main distribution frame at the post is rendered inoperable cutting off all communications wirelines entering the building, the communications center must retain some wirelines to maintain a minimal communications capability. The initial "building entry" point is, in effect, being relocated to the protection of the communications center for the necessary circuits.

Radio - \$721,000

Anti-terrorist radios of three types and associated support and maintenance are required: Small handheld two-way radios provide instant contact between and among individuals and the principal office building and residences on a continual basis as a trouble alerting and response mechanism. They provide a means of notifying individuals, wherever they are located in the city, of instructions regarding their personal safety and/or emergency plans. Vehicular radios provide the principal officers a more powerful link into the network while in an official car. Stronger base stations installed in the office buildings provide a central "net control" type of service.

Electronic Storage - \$1,226,000

Records files must be stored in a centralized facility at the post which affords vault protection for the amount of time required to permit destruction to be completed in an emergency without hostile interference. The vaulted communications center will serve as the facility, but to reduce the volumes of paper involved to require less destruction time, while maintaining sufficient records for user reference, the storage will be done electronically.

10. Site Surveys and Technical Design of Security Enhancements for Highest Threat Level Posts - \$162,000
11. Travel, Transportation, Packing, Shipping and Consolidated Freight Forwarding for Category I Posts - \$150,000
12. Training Aids, Anti-Terrorism Seminars; and Life Safety Equipment - \$100,000

INTERNATIONAL COMMUNICATION AGENCY  
SUMMARY OF INCREASES BY PROGRAM

	<u>Total Increase</u>
<u>Physical Security:</u>	
Physical Security: . . . . .	\$ 72,700
Building Security: . . . . .	279,500
Secure Entrance Control Package . . . . .	55,900
Window Security . . . . .	28,000
Door Security . . . . .	39,100
Internal Alarm Systems . . . . .	83,800
Safehavens: . . . . .	<u>83,800</u>
Subtotal - Physical Security . . . . .	559,000
<u>Communications:</u> . . . . .	220,000
<u>Travel:</u> . . . . .	<u>21,000</u>
<b>Total . . . . .</b>	<b>\$800,000</b>

USICA JUSTIFICATION

A supplemental appropriation of \$800,000 is requested to effect immediate improvement of the security posture of 48 USICA separate facilities not co-located with the Department of State and which are not staffed by American officials. These posts have little or no physical security safeguards, yet each facility is located in cities considered to have critical or serious threat assessments as identified by the Department of State. At these posts a clear or developing danger exists to USICA personnel. Due to the diverse nature of USICA facilities, on-site inspections will be required to devise implementation of measures designed to provide the greatest degree of protection balanced by the requirements of the Agency mission.

The overall security improvements proposed herein will enable posts to better handle a single intruder, and to delay for as long as possible the danger posed by mob attack until arrival of host government protection forces. In some cases already existing security measures require upgrading and enhancement to bring the facility's security posture to an acceptable, effective level. USICA's policy has been and will continue to be the evacuation of personnel from exposed facilities when possible, and indeed this has continued to prove effective in a variety of recent critical situations; however, in other cases this extreme measure has not been feasible, and it is at these remaining posts where improvements must be made when possible.

Funding is required for the following items which include purchase, packing, shipping and installation costs:

1.	<u>Strengthening Physical Security of Buildings.....</u>	\$559,000
Upgrading of perimeter security, building security, and safe havens.		
2.	<u>Emergency Communications Equipment.....</u>	220,000
Vital augmentation of emergency communications equipment for those 48 critical/serious threat level posts to be tied in with existing Embassy/Consulate radio networks for use in emergency and evacuation situations.		
3.	<u>Travel .....</u>	21,000
On-site security project planning and review at each of the 48 critical/serious threat level posts by USICA Office of Security Personnel (7 trips @ \$3,000)		
	Total.....	800,000

Strengthening Physical Security of Buildings: .....\$559,000

Physical security applies to all systems, equipment or measures employed in protecting our facilities and the personnel within them. Physical security programs are based on the philosophy of concentric circles of increasing protection.

The outer circle, perimeter security, generally consists of barriers (walls, fences, gates, etc.), devices (closed circuit television, intrusion alarms), and security personnel in the form of fixed guard posts and roving patrols. Perimeter security personnel are usually a mix of host country police, located externally to the compound, and local contract guard personnel within the facility perimeter.

The building is the next circle or level of defense. Greater emphasis and resources are placed in the design of security features and procedures for the office buildings and residences than for the perimeter. Grilles, bullet resistant material, metal detectors, protective material for windows, heavy-duty locking devices, and passive and active alarms, raise the level of security significantly and are designed to keep a hostile crowd out of the building.

The innermost circle of security is the safehaven, or final point of retreat, which is designed to offer a temporary high security refuge until the host government can rescue the occupants. Since USICA facilities have no communications vault, normally used as safehavens, they must be fabricated from other existing rooms.

This section presents our proposal for significant enhancement of the entire physical security program, and is organized as follows:

Perimeter Security .....\$72,700

The first area of concern is the perimeter of the facility. Whenever possible, installations overseas should be protected by adequate fences or walls. The fundamental purpose of the fencing or walls is to impede unauthorized access to the grounds surrounding our buildings. The outer perimeter walls or fences must provide both a physical and psychological deterrent to rapid penetration by a hostile mob or terrorist group. Walls, gates, CCTV systems, and intrusion detection devices are considered under the broad category of perimeter security.

Perimeter Reinforcement.....\$ 25,000

Perimeter fences and walls impede unauthorized access to the grounds surrounding a building; serve as a channeling effect within an overall scheme of public access, funneling visitors to specified control points. Perimeter barriers also provide physical protection to inside compound occupants. Often, a perimeter barrier while not physically insurmountable, serves as a psychological deterrent to would-be intruders, be they individuals or mob/crowds.

Closed Circuit Television System (Day/Night)..... 15,700

Systems consisting of cameras, lens, monitors and controls which permit guard personnel to have visual information concerning remote guarded areas.

Building Security..... 32,000

Exterior perimeter barriers are not usually sufficient of themselves to keep a determined mob or terrorist group from gaining access to a building compound. But they are useful in slowing down their progress or in initially delaying their decision to attack. However, once committed to breaching the perimeter barriers, their most likely reaction is to follow through with an attack on the nearest buildings. Consequently, USICA installations or portions thereof overseas should not have any soft points or easy means of entry as is presently the case in many of our installations.

This type of hardening represents a major funding and work effort. All possible entrance points to a building must be strengthened to resist forced entry and to provide bullet resistant protection. Any security modifications of our facilities must take into account the need for maintaining the dignity and aesthetics of the edifices. We cannot simply brick up all windows, string barbed wire and build machine gun emplacements. Our security designs in this package strive to provide a maximum amount of security in as unobtrusive a manner as possible. Building security includes a number of systems designed to warn, to deter and to compartmentalize the building permitting delaying actions as personnel retreat to the safehaven.

Secure Entrance Control Package for Public Areas..........279,500

In terms of public access, the basic principle of control is to deny visitors access to our facilities until they have been screened to determine their bona fides and whether they are armed. Controls feature the following:

1. The existence of 24-hour control barriers ..... 49,500  
(partitions, doors, grills, perimeter walls, etc.) to deny routine access and impede forced entry long enough to permit implementation of planned defensive measures.
2. These barriers should also serve the operational ..... 40,000 function of channeling public visitors to a specified control point where proper screening can be accomplished.
3. The control point, usually a lobby, must feature ..... 70,000 physical barriers; metal detectors operated by United States Government local employees, local contract employees, or receptionists in bullet-resistant booths overseeing all screening procedures.
4. Alarm/Alert systems for all variety of situations ..... 120,000  
(fire, bomb, terrorist, mob/crowd, etc.)

Window Security .......... 55,900 

Windows are vulnerable to entry by intruders and can cause grave personal injury in the event of explosions. These methods reduce or prevent entry and/or the threat of injury:

1. Window Grills ..... 15,000

Windows at all ground floor levels and on all upper floors where access is relatively easy via roofs, balconies, ledges, etc., should be secured with security grills. Buildings without adequate grilling find their public access controls bypassed in mob/crowd situations.

2. Hardened Window Material ..... 20,900

Lexan and Lexgard, both plastic materials, prevent shattering and are bullet resistant to a certain degree.

3. Mylar ..... 20,000

Rocks, stones, outside explosions, bullets, etc., can all produce shattering glass situations which usually account for the greatest number of casualties to inside personnel. In addition to curtains, blinds, and shutters, MYLAR, a protective translucent coating, significantly reduces the threat of shattering glass.

Door Security: ..... 28,000

1. Bullet Resistant Opaque Doors..... 6,300

Solid core wooden doors faced with steel plate or aluminum; all metal doors.

2. Bullet Resistant Transparent Doors..... 5,000

Doors made of plastic transparent material when ease of visibility or esthetics are key factors.

3. Emergency Grill Gates/Curtains..... 7,000

Remotely activated roll-down grills for installation in key corridors of the building to deny access to a mob.

4. Access Control Devices/Systems..... 9,500

Entry and egress portal at chanceries must be equipped with heavy-duty locking devices, door closures, emergency lock-ups, etc.

Internal Alarm Systems..... 39,100

1. Panic Alarms..... 18,400

Unobtrusively placed alarm buttons to warn key personnel of a problem.

2. Public Address/Alarm System..... 20,700

Fixed public address/alarm systems installed throughout building to permit personnel to communicate such alarm signals as "fire", "terrorist", etc., to personnel with the facility to audibly communicate directions to these personnel.

Safehavens..... \$83,800

A safehaven is the final place of refuge and defense in the USICA building. It is here that personnel must seek protective shelter in the event of massive breach of all other security and protection and where contact with the outside must be maintained for perhaps hours or longer periods especially when host government protection is ineffectual. In cases of early warning USICA buildings holding no classified material are evacuated. Without early warning, personnel seek shelter in the safehaven as a last resort. Because USICA facilities normally have no existing vaults, safehavens must be constructed by enhancing existing facilities. Safehavens must provide protection against small arms fire, forced penetration, and have a high degree of fire resistivity. They must be sufficiently large to provide refuge to all building staff, and must be designed with a secure means of escape in case the building is set on fire. The choice of location and design will be predicated on the size of the facility and its structural and architectural features.

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1. Hardening of Existing Walls and Doors..... 40,000

Use of masonry, steel plate, concrete, and/or aluminum.

2. Locking Devices..... 25,300

3. Escape Hatches..... 18,500

Safehavens require more than one means of egress.  
An escape hatch through the floor or ceiling to adjacent levels is required.

Emergency Communications Equipment..... 220,000

Emergency communications equipment provides instant contact with key Embassy or Consulate personnel for early warning in an emergency situation, or for notification of instructions regarding personal safety or emergency plans. These vehicle radios, hand-held radios,

and base stations, repeater stations, and deskons units are vital within cities, and high frequency emergency communication equipment provides a link between distant facilities (a BNC or American Center in a remote town) when normal means of communications are inoperable.

1. Vehicle radios for USICA vehicles.....	30,000
2. Hand-held portable radios for key USICA personnel.....	80,000
3. Base stations, deskons, antennas, repeaters.....	60,000
4. High-frequency radios.....	50,000
<u>Travel</u> .....	21,000

On-site inspection travel to the 48 facilities for review and planning purposes is essential to successful implementation of physical security improvements to ensure that each system interfaces with existing procedures and the realities of the facility's structure to form a cohesive whole. USICA security officers will undertake seven trips a \$3,000.

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**STATE AND USICA**  
**INCREASES BY OBJECT CLASS - OVERSEAS AND DOMESTIC**  
**FY 1980 SUPPLEMENTAL**

		<b>TOTAL INCREASES</b>		
		<b>STATE</b>	<b>ICA</b>	<b>TOTAL</b>
<b>11 Personnel Compensation.</b>	.....	-	-	-
<b>12 Personnel Benefits.</b>	.....	-	-	-
	Total Personnel Compensation and Benefits.....	-	-	-
<b>21 Travel and Transportation of Persons.</b>	.....	262,100	21,000	283,100
<b>22 Transportation of Things.</b>	.....	50,000	5,000	55,000
<b>23 Communications, Utilities, and Other Rents.</b>	.....	-	-	-
<b>24 Printing and Reproduction.</b>	.....	-	-	-
<b>25 Other Services.</b>	.....	200,000	383,300	583,300
<b>26 Supplies and Materials.</b>	.....	-	10,000	10,000
<b>31 Equipment.</b>	.....	4,787,900	380,700	5,168,600
	Total, Other Obligations.....	5,300,000	800,000	6,100,000
	Total Obligations.....	5,300,000	800,000	6,100,000



**WEDNESDAY, FEBRUARY 20, 1980.**

**EMERGENCIES IN THE DIPLOMATIC AND CONSULAR  
SERVICE**

**WITNESSES**

**BENJ. READ, UNDER SECRETARY FOR MANAGEMENT  
ROGER B. FELDMAN, COMPTROLLER**

Mr. SLACK. The next supplemental is entitled Emergencies in the Diplomatic and Consular Service. We shall insert pages 12 through 15 of the justifications at this point in the record.

[The information follows:]

(35)

SUPP  
EN-1

DEPARTMENT OF STATE  
FISCAL YEAR 1980

Appropriation: Emergencies in Diplomatic and  
Consular Service

H. Doc. \_\_\_\_\_

Request: \$4,300,000

Appropriation to Date: \$2,350,000

Amended appropriation requested: \$6,650,000

88

PURPOSE AND NEED FOR SUPPLEMENTAL FUNDS

Funds in the amount of \$4,300,000 are requested to meet expenses incurred in fiscal years 1979 and 1980 relating to the evacuation of American Government employees and their dependents and of American non-Government civilians from several overseas locations.

SUPP-  
EM-2

APPROPRIATION LANGUAGE

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", \$4,300,000. Of this amount, \$1,800,000 may be transferred to the appropriation under this heading for the fiscal year 1979.  
All obligations incurred in anticipation of this appropriation are hereby ratified and confirmed if otherwise in accordance with provisions of law.

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JUSTIFICATION

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

The estimate of \$4,300,000 is to offset those unusual and unanticipated costs incurred by the Department as a direct result of the war, unrest and civil disturbance in several overseas locations.

The following expenses are included:

Transportation, travel, and per diem of American Government employees and their dependents from their countries of assignment to a place of safe haven overseas or the United States.

Special cost-of-living allowances to help defray the cost of maintaining temporary residence at a place of safe haven until such employees and their dependents are authorized to return to their regular post of assignment or are transferred to the United States or a new post for permanent assignment.

Special and unusual administrative costs at a place of safe haven arising from receipt, processing, care and support of the evacuees.

Travel and transportation of American non-Government civilians from the countries in which they are residing to a place of safe haven.

Fiscal Year 1979

Additional funds in the amount of \$1,800,000 are requested to meet expenses incurred in fiscal year 1979 relating to the evacuation of American Government employees, their dependents, and American non-Government civilians from Department of State embassies in the following countries: Kabul, Afghanistan; Tehran, Iran; Managua, Nicaragua; and N'Djamena, Chad.

SUPP  
EN-4

A precedent for this request occurred in 1967 when a similar proposal was submitted subsequent to the Arab-Israeli conflict of June 1967 for evacuation of Americans in the area.

Estimated costs for embassies affected by these evacuations in 1979 are:

Kabul, Afghanistan.....	\$ 185,400
Tehran, Iran.....	1,174,100
Managua, Nicaragua.....	329,100
N'Djamena, Chad.....	<u>111,400</u>
Total.....	\$1,800,000

Fiscal Year 1980

An additional \$2.5 million is requested in 1980 for the costs of evacuating many of our personnel, dependents, and non-government Americans in Islamabad and Tripoli after the serious threat to American lives and substantial destruction of property at these embassies, and withdrawing many personnel and their families from several other posts in the Middle East.

GENERAL STATEMENT

Mr. SLACK. You also have a statement which we shall insert at this point in the record.

Mr. READ. I do, sir.

[The information follows:]

DEPARTMENT OF STATE  
FY 1980 SUPPLEMENTAL BUDGET ESTIMATES  
STATEMENT OF  
BEN H. READ  
UNDER SECRETARY OF STATE FOR MANAGEMENT  
BEFORE  
THE HOUSE SUBCOMMITTEE ON APPROPRIATIONS  
FOR  
STATE, JUSTICE, COMMERCE, THE JUDICIARY  
AND RELATED AGENCIES APPROPRIATIONS

EMERGENCIES IN THE DIPLOMATIC  
AND CONSULAR SERVICE

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before you in support of a supplemental request of \$4,300,000. This request is composed of two parts: \$1,800,000 for expenses incurred in FY 1979 relating to embassy evacuations and \$2,500,000 for evacuations which are occurring during FY 1980.

The \$1,800,000 will meet expenses incurred in FY 1979 in anticipation of this appropriation for evacuating American Government employees, their dependents and non-Government civilians from Department of State embassies in Kabul, Afghanistan; Tehran, Iran; Managua, Nicaragua; and N'Djamena, Chad.

The remaining \$2,500,000 is requested for FY 1980 for the costs of evacuating many of our personnel, dependents and non-Government Americans from Islamabad, Tripoli and other posts after the serious threat to American lives and substantial destruction of property.

Mr. Chairman, I will be pleased to respond to questions the Committee may have regarding this request.

**APPROPRIATIONS AND OBLIGATIONS IN FY 1979 AND FY 1980**

**Mr. SLACK.** How much was appropriated for Emergencies in the Diplomatic and Consular Service for fiscal year 1979 and also fiscal year 1980?

**Mr. READ.** \$2,350,000 was appropriated for each of those two years. It had been the same sum in 1978. And we did return \$630,000 to the Treasury in 1979.

**Mr. SLACK.** How much was obligated in fiscal year 1979?

**Mr. READ.** In fiscal year 1979 obligations were \$4,150,000 because of the evacuation costs that we had failed to anticipate.

**Mr. SLACK.** As I understand it, the request of \$4,300,000 would make \$1,800,000 available to cover over-obligations for fiscal year 1979 and \$2.5 million to supplement the current appropriation. That is correct, is it not?

**Mr. READ.** That is correct, Mr. Chairman.

**NUMBER OF AMERICANS EVACUATED**

**Mr. SLACK.** Page 15 indicates that Americans were evacuated from Afghanistan, Iran, Chad, and Nicaragua in fiscal year 1979. How many were evacuated from each of these locations?

**Mr. READ.** May we submit that for the record?

**Mr. SLACK.** Yes.

[The information follows:]

**DEPARTMENT OF STATE**  
**Category and Number of Personnel**  
**Evacuated by Post**

<u>Category</u>	<u>Kabul Afghanistan</u>	<u>Tehran Iran</u>	<u>Managua Nicaragua</u>	<u>N'Djamena Chad</u>	<u>Grand Total</u>
<b>Department of State:</b>					
American Employees.....	--	75	--	5	80
Dependents.....	28	116	15	6	165
<b>AID:</b>					
Employees.....	--	--	6	15	21
Dependents.....	15	--	15	23	53
<b>ICA:</b>					
Employees.....	--	15	--	--	15
Dependents.....	8	25	1	--	34
<b>DOD:</b>					
Employees.....	--	917	1	2	920
Dependents.....	4	58	5	3	70
<b>Marine S/6 (Dependents)....</b>	--	14	4	--	18
<b>Other Employees.....</b>	--	21	1	88	110
Dependents.....	--	34	1	3	38
<b>American Citizens (N/Gov.).</b>	--	5,264	730	61	6,055
<b>Foreign Nationals.....</b>	--	166	--	--	166
<b>Local/Third Country Nat'l's.</b>	<u>17</u>	--	<u>567</u>	<u>42</u>	<u>626</u>
<b>TOTAL.....</b>	72	6,705	1,346	248	8,371

**Mr. SLACK.** Is the requested supplemental of \$4,300,000 attributed solely to evacuation costs?

**Mr. READ.** The increment is solely due to that cause. We have had 13 countries in which we have had to bring people out in this current fiscal year. We have another which has just transpired in the last few days, Chad, where we have had to evacuate people, and from Central America, as well. It is an unprecedented situation in recent years.

**Mr. SLACK.** Page 15 also indicates Americans were evacuated from Islamabad and Tripoli during fiscal year 1980 is that correct?

**Mr. READ.** It is correct.

**Mr. SLACK.** Can you tell us how many were evacuated from each of these locations?

**Mr. READ.** Tripoli was a total of 33, including 7 employees and 26 dependents. From all of Pakistan the total was 177, made up of 31 employees and 146 dependents.

**Mr. SLACK.** From all of Pakistan?

**Mr. READ.** Yes, sir.

**Mr. SLACK.** Is it possible to charge the cost of these evacuations to any other appropriation?

**Mr. READ.** Mr. Feldman?

**Mr. FELDMAN.** No, Mr. Chairman.

#### REIMBURSEMENTS TO THE DEPARTMENT OF DEFENSE

**Mr. SLACK.** Is the Department of Defense reimbursed for costs associated with the evacuations, or are such costs absorbed by the Department of Defense?

**Mr. READ.** We reimburse the Department of Defense. It is a very good bill collector, I might add.

WEDNESDAY, FEBRUARY 20, 1980.

#### PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

##### WITNESSES

BEN H. READ, UNDER SECRETARY FOR MANAGEMENT  
ROGER B. FELDMAN, COMPTROLLER

**Mr. SLACK.** The next supplemental request is for Payment to the Foreign Service Retirement and Disability Fund. The request for that payment is \$4,177,000. This request is associated with the pay increase that went into effect in October 1979. We shall insert pages 16 through 19 of the justifications at this point in the record.

[The information follows:]

SUPP-  
FPRF-1

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND  
DISABILITY FUND

Appropriation: Payment to the Foreign Service Retirement  
and Disability Fund H. Doc. \_\_\_\_\_  
Request \$4,177,000

Appropriation to date: \$43,369,000

Amended appropriation requested: \$47,546,000

Purpose and Need for Supplemental Funds

To provide for payment to the Fund to finance the unfunded liability created by salary increases effective October 7, 1979 (E.O. 12165).

~~SUPP-~~  
~~PPRF-2~~

APPROPRIATION LANGUAGE

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For and additional amount for "Payment to the Foreign Service retirement and disability fund", \$4,177,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

Justification

A fiscal year 1980 supplemental appropriation of \$4,177,000 is requested as a result of salary increases which went into effect on October 7, 1979 (E.O. 12165). The proposed supplemental would provide the first annual installment to finance the unfunded liability resulting from these salary increases for State and International Communication Agency (ICA) employees covered under the Fund.

This supplemental appropriation request is authorized by Section 865 (a) (3) of the Foreign Service Act of 1946, as amended, which states that any new statute which authorizes increases in salaries which benefits are computed is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute in thirty equal installments. The first payment is due at the end of the fiscal year in which each change is effective.

The October 7, 1979 pay raise creates an estimated unfunded liability of \$55,300,000 for State and ICA. Therefore, for fiscal year 1980, \$4,177,00 is required to provide the first of thirty equal annual payments, including interest, for salary increases effective in October 1979.

Calculation of Annual Appropriation Authorized  
By Section 865 (a)(3) of the Foreign Service Act for the  
October 7, 1979 Pay Raise\*

State and ICA

Increase in present value of benefits payable from the Fund, for both past and future service resulting from the \$15,888,000 payroll increase for participants in the Foreign service retirement system employed by the Department of State and ICA .....	\$76,500,000
Deduct present value of the estimated receipts for future service resulting from the \$15,888,000 payroll increase .....	<u>-21,200,000</u>
Estimated unfunded liability (increase in present value of benefits payable from the Fund for past service only) resulting from the \$15,888,000 payroll increase .....	55,300,000
Appropriation required each year for thirty years to equal a current investment of \$55,300,000 at a 7% interest compounded annually.....	4,177,000

Note: An additional appropriation of \$1,020,000 per year for thirty years is requested to amortize the \$13,500,000 unfunded liability resulting from the \$3,876,000 pay increase effective October 7, 1979 for Foreign service employees in AID who are participants in the Foreign Service retirement system.

\* Calculation by Government Actuary, Treasury Department.

## GENERAL STATEMENT

**Mr. SLACK.** You have a statement, I believe.

**Mr. READ.** I do, and I will submit it for the record, if I might, Mr. Chairman.

**Mr. SLACK.** Very well.

[The information follows:]

### STATEMENT OF BEN H. READ, UNDER SECRETARY OF STATE FOR MANAGEMENT

#### PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

**Mr. Chairman and Members of the Committee:** This appropriation request is pursuant to the provisions of Section 865(a) of the Foreign Service Act of 1948, as amended. Section 865(a) provides that appropriations be paid to the Foreign Service Retirement and Disability Fund to finance unfunded liabilities created by statutes which liberalizes benefits, extend benefits to new groups of employees, or increase salaries on which benefits are computed. Such appropriation payments are to be made in thirty equal annual installments—with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of benefits or increase in salary is effective.

The supplemental request of \$4,177,000 for fiscal year 1980 will provide funds to finance the unfunded liability created by Federal salary increases effective in October 1979 (E.O. 12105).

**Mr. Chairman,** this concludes my prepared statement. My colleagues and I will be pleased to answer any questions the Committee may have regarding this request.

**Mr. SLACK.** Is this request premised on the general increase of 7 percent across the board or is the limit of 5.5 percent for senior personnel taken into consideration?

**Mr. READ.** The latter, Mr. Chairman.

**Mr. SLACK.** Thank you very much for your testimony, Mr. Read.

**Mr. READ.** Thank you.

THURSDAY, FEBRUARY 21, 1980.

## CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

### WITNESSES

**CHARLES W. MAYNES, ASSISTANT SECRETARY FOR INTERNATIONAL ORGANIZATIONS**

**RICHARD V. HENNES, EXECUTIVE DIRECTOR**

**CHARLES WATKINS, BUDGET OFFICER**

**Mr. SLACK.** We have two supplemental requests which we will let you discuss at this time. One is a supplemental request in the amount of \$27,289,000 for Contributions to International Organizations. This is to supplement an existing appropriation of \$411,500,000.

We shall insert pages 20 through 36 of the supplemental justifications at this point in the record.

[The information follows:]

SUPP  
CIO-1

DEPARTMENT OF STATE  
FISCAL YEAR 1980

H. Doc. \_\_\_\_\_  
Request \$27,289,000

Appropriation: Contributions to International Organizations

Appropriation to date: \$411,500,000

Amended appropriation requested: \$438,789,000

Purpose and Need for Supplemental Request

An additional appropriation in the amount of \$27,289,000 is requested to provide sufficient funds (1) to meet certain prior year United States arrearages to the Inter-American Indian Institute, the Pan American Institute of Geography and History, and the International Center for the Study of the Preservation and Restoration of Cultural Property, and (2) to meet the anticipated shortfall in the United States assessed contributions to various international organizations where some 1980 budgets were adopted subsequent to the time of preparation of the regular fiscal year 1980 budget estimates.

DEPARTMENT OF STATE

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

APPROPRIATION LANGUAGE

For an additional amount for "Contributions to International Organizations," \$27,289,000.

15

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONSJUSTIFICATION

The proposed supplemental appropriation covers the following organizations:

	<u>Amount Appropriated</u>	<u>Current Requirement</u>	<u>Difference</u>	<u>To be Obtained Through Reprogramming a/</u>	<u>Supplemental Request</u>
United Nations Educational, Scientific and Cultural Organization	\$ 33,462,500	\$ 37,300,000	\$3,837,500	\$ -0-	\$3,837,500
World Health Organization	48,902,689	57,606,885	8,704,196	1,452,687	7,251,509
Food and Agriculture Organization	28,625,287	35,587,500	6,962,213	-0-	6,962,213
Inter-American Indian Institute	120,726	163,819	43,093	-0-	43,093
Inter-American Institute of Agricultural Sciences	6,855,900	7,972,006	1,116,106	-0-	1,116,106
Pan American Institute of Geography and History	200,000	361,000	161,000	-0-	161,000
Pan American Health Organization	23,361,714	25,162,891	1,801,177	-0-	1,801,177
Organization of American States	35,102,541	40,574,313	5,471,772	-0-	5,471,772
International Wheat Council	-0-	179,825	179,825	-0-	179,825
International Center for the Study of the Preservation and Restoration of Cultural Property	208,801	302,110	93,309	29,754	63,555
International Agency for Research on Cancer	712,224	858,015	145,791	-0-	145,791
International Sugar Organization	-0-	255,459	255,459	-0-	255,459
Others (34)	233,947,618	232,465,177	-1,482,441	-1,482,441	-0-
Total	411,500,000	438,789,000	27,289,000	-0-	27,289,000

a/ These figures represent adjustments in those organizations where current appropriations either exceed or are insufficient to meet U.S. requirements.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION  
Paris, France

F.Y. 1980 Appropriation: \$33,462,500      Requirement: \$37,300,000      Increase: \$3,837,500

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Gross Budget.....	\$151,500,000	\$151,500,000
Less Miscellaneous Income.....	- 6,300,000	- 6,300,000
Assessment Budget.....	145,200,000	145,200,000
United States Percentage Share.....	25.00%	25.00%
United States Assessment.....	36,300,000	36,300,000
Less: Credits due to prior year surpluses.....	- 554,494	- 0-
Tax Equalization Adjustment.....	1,000,000	1,000,000
United States Contribution.....	\$ 36,745,506	37,300,000
Amount Available from F.Y. 1980 Funds.....		- 33,462,500
Proposed Supplemental.....		\$ 3,837,500

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Explanation of Estimate

At its 20th General Conference, UNESCO approved a 1979-1980 biennial budget of \$303,000,600, an increase of \$78,587,000 over the 1977-1978 biennial budget of \$224,413,000. The United States voted against the 1979-1980 biennial budget. The major portion of the \$78,587,000 increase is attributable to various factors: \$40.1 million in inflationary costs, \$26 million for currency fluctuations, \$8.1 million for mandatory expenditures for wider use of the Spanish and Arabic languages, the arrangements to adopt Chinese as a working language and the costs of Building VI which came into use at the end of 1977. Program growth for the biennium, occurring primarily in the education, social sciences, and natural sciences sectors will amount to about 4,368,000.

The United States share of the 1980 assessment budget at 25 percent is \$36,300,000, from which \$554,494 is deducted for credits due to prior year surpluses and to which \$1,000,000 is added as the estimated tax equalization adjustment for a total United States requirement of \$37,300,000. As the 1980 funds available amount to only \$33,462,500, an additional amount of \$3,837,500 is hereby requested.

Statutory Authorization

Public Law 565, 79th Congress approved July 30, 1946 (22 U.S.C. 287m-287t). The United Nations Educational, Scientific and Cultural Organization Constitution instrument of acceptance deposited by the United States on September 30, 1946 (T.I.A.S. 1580).

WORLD HEALTH ORGANIZATION  
Geneva, Switzerland

F.Y. 1980 Appropriation: \$48,902,689      Requirement: \$57,606,885      Increase: \$8,704,196

Computation of Estimate

	<u>Actual</u> <u>1979</u>	<u>Estimate</u> <u>1980</u>
Gross Budget.....	\$207,638,400	\$238,689,200
Less: Carryover and Miscellaneous Income.....	- 2,600,000	- 2,200,000
Assessment Budget.....	205,038,400	236,489,200
United States Percentage Share.....	, 25.00%	, 25.00%
United States Assessment.....	51,259,600	59,122,300
Tax Equalization Fund Credit.....	- 2,062,510	- 1,515,415
United States Contribution.....	\$ 49,197,090	\$ 57,606,885
Amount Available from F.Y. 1980 Funds.....		- 48,902,689
Proposed Supplemental and Reprogramming.....		\$ 8,704,196

Explanation of Estimate

The gross budget of the World Health Organization (WHO) as approved by the 32nd World Health Assembly in May 1979 amounts to \$477,378,400 for the 1980-81 biennium, or \$238,689,200 to be appropriated for each year. On a comparable basis, the 1980-1981 biennium budget is an increase of \$81,914,890, or 20.8 percent, over the combined budgets totalling \$395,463,510 for 1978 and 1979. This increase is attributed to inflation and exchange rate fluctuations. After taking into account the effects of inflation and exchange rate fluctuations, there is a one percent per year "real growth" increase for each of the years 1980 and 1981.

The 1980 assessment budget for the WHO amounts to \$236,489,200. The United States share at 25 percent is \$59,122,300, from which \$1,515,415 is deducted as a tax equalization fund credit to the United States. The United States requirement for 1980 is accordingly \$57,606,885, an increase of \$8,409,795 over the previous year. Since only \$48,902,689 was appropriated for this purpose, an additional amount of \$8,704,196 is therefore required. By the means of this request, the additional \$8,704,196 requirement will be sought by reprogramming \$1,452,687 of the 1980 funds currently available and \$7,251,509 from the F.Y. 1980 supplemental appropriation request.

SUPP  
CIO-6

Statutory Authorization

Public Law 643, 80th Congress, approved June 14, 1948; Public Law 807, 81st Congress, approved September 21, 1950; Public Law 665, 83rd Congress, approved August 26, 1954; Public Law 138, 84th Congress, approved July 8, 1955 (22 U.S.C. 290-290e). World Health Organization Constitution entered into force with respect to the United States on June 27, 1948 (T.I.A.S. 1808).

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FOOD AND AGRICULTURE ORGANIZATION  
Rome, Italy

F.Y. 1980 Appropriation: \$28,625,287      Requirement: \$35,587,500      Increase: \$6,962,213

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Assessment Budget.....	\$119,165,000	\$155,710,000
United States Percentage Share.....	25,000	25,000
United States Assessment.....	29,791,249	38,927,500
Less: Tax Equalization Fund Credits.....	- 3,050,000	- 3,340,000
Prior Year Surpluses.....	- 4,281,569	-0-
United States Contribution.....	\$ 22,459,680	35,587,500
Amount Available from F.Y. 1980 Funds.....		- 28,625,287
Proposed Supplemental.....		\$ 6,962,213

Explanation of Estimate

The assessment budget for the Food and Agriculture Organization (FAO) for the 1980-1981 biennium was approved at the 20th Session of the FAO Conference in November, 1979. The assessment budget for the biennium totals \$311,420,000, an increase of \$73,090,000 over the previous biennium. The increase results principally from inflation and changes in the dollar/lira exchange rate. Program growth accounts for 5.84 percent, or approximately \$13.6 million, of the increase over the biennium.

The United States share at 25 percent is \$38,927,500, from which \$3,340,000 is deducted as a tax equalization fund credit to the United States. The United States requirement for 1980 is therefore \$35,587,500. Inasmuch as the current availability is only \$28,625,287, it is requested that an additional \$6,962,213 be appropriated for this purpose.

Statutory Authorization

Public Law 197, 79th Congress, approved July 31, 1945; as amended by Public Law 806, 81st Congress approved September 21, 1950; Public Law 726, 84th Congress, approved July 18, 1956; Public Law 85-141, approved August 14, 1957; Public Law 87-195, approved September 4, 1961 (22 U.S.C. 279-279d). The United Nations Food and Agriculture Organization Constitution, adopted by the United States effective October 16, 1945 (T.I.A.S. 1554) and composite text, as amended to 1957 (T.I.A.S. 4803).

INTER-AMERICAN INDIAN INSTITUTE  
Mexico, D.P.

F.Y. 1980 Appropriation: \$120,726

Requirement: \$163,819

Increase: \$43,093

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Assessment Budget.....	\$135,639	\$190,000
United States Percentage Share.....	<u>63,541</u>	<u>63,541</u>
United States Contribution.....	<u>\$ 86,185</u>	<u>120,726</u>
U.S. Assessment for the Period July 1 - Dec. 31, 1979.....		43,093
United States Total Requirement.....		163,819
Amount Available from F.Y. 1980 Funds.....		-120,726
Proposed Supplemental.....		\$ 43,093

Explanation of Estimate

Effective January 1, 1979 the Inter-American Indian Institute changed from a fiscal year budget (July 1 to June 30) to a calendar year budget (January 1 to December 31) thus creating a six-month unfunded period for the organization. To correct this, the Institute established July 1, 1979 to December 31, 1979 as a transition period and levied an assessment equaling one-half of each member's C.Y. 1979 assessment to cover the expenditures. Accordingly, an additional amount of \$43,093 is required, and hereby requested, to meet this additional obligation.

Statutory Authorization

The Inter-American Indian Institute Convention, ratification advised by the Senate May 26, 1941 (T.S. 978).

INTER-AMERICAN INSTITUTE OF AGRICULTURAL SCIENCES  
San Jose, Costa Rica

F.Y. 1980 Appropriation: \$6,855,900

Requirement: \$7,972,006

Increase: \$1,116,106

Computation of Estimate

	Actual 1979	Estimate 1980
Gross Budget.....	\$12,727,290	\$14,547,189
Less: Income from other sources.....	- 2,700,000	- 1,724,128
Assessment Budget.....	10,027,290	12,823,061
United States Percentage Share.....	61.69%	61.58%
United States Assessment.....	6,185,835	7,897,006
Tax Equalization Adjustment.....	60,000	75,000
United States Contribution.....	6,245,835	7,972,006
U.S. Share of Budget for the Period July 1 - Dec. 31, 1979.....	3,703,012	-0-
United States Total Requirement.....	\$ 9,928,847	\$ 9,972,006
Amount Available from F.Y. 1980 Funds.....		- 6,855,900
Proposed Supplemental.....		\$ 1,116,106

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Explanation of Estimate

The assessment budget of the Organization for Fiscal Year 1980 is expected to be \$12,823,061, an increase of \$2,795,771 over the previous year. Of this amount, \$2,095,771 is attributable to the effects of inflation on wages and prices. The remaining \$700,000 is for new programs in Animal and Plant Health (\$400,000) and Women in Rural Development (\$300,000).

The United States share of the assessment budget at 61.58%, taking into account a tax equalization adjustment of \$75,000, is \$7,972,006, or \$1,726,171 more than the previous year. Since only \$6,855,900 is currently available for this purpose, an additional amount of \$1,116,106 is hereby requested.

Statutory Authorization

The Inter-American Institute of Agricultural Sciences Convention, ratification advised by the Senate June 22, 1944 (T.S. 987); Protocol to the Convention, deposited by the United States November 3, 1959.

PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY  
Mexico D.F.

F.Y. 1980 Appropriation: \$200,000

Requirement: \$361,000

Increase: \$161,000

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Assessment Budget.....	\$450,000	\$450,000
United States Percentage Share.....	60.89%	60.89%
United States Assessment.....	<u>274,005</u>	<u>274,005</u>
Arrearage Due to Statutory Limitation.....	- 74,005	- 74,005
United States Contribution.....	<u>\$200,000</u>	<u>200,000</u>
Other Prior Year Arrearages.....		161,000
United States Total Requirement.....		<u>361,000</u>
Amount Available from F.Y. 1980 Funds.....		-200,000
Proposed Supplemental.....		<u>\$161,000</u>

Explanation of Estimate

The proposed supplemental of \$161,000 will cover two arrearages incurred from prior years. \$100,000 is for a one-half year transitional period, July 1 - December 31, 1978, when the Organization changed from a Fiscal Year to a Calendar Year budgetary cycle. The remaining \$61,000 was incurred in Fiscal Year 1970 when the United States assessment was \$151,300 but the appropriation covered only \$90,300 of the assessment. Public Law 91-340, July 17, 1970, authorized the payment of arrearages incurred from July 1, 1964 through June 30, 1969 due to a previous annual limitation of \$90,300. PL 91-340 also raised the annual authorization to \$200,000.

Statutory Authorization

Public Resolution 42, 74th Congress, approved August 2, 1935 as amended by Public Law 736, 83rd Congress, approved August 31, 1954, as further amended by Public Law 90-645, approved October 13, 1966 (22 U.S.C. 273) and Public Law 91-340 approved July 17, 1970.

JUPE  
CIO-11

PAN AMERICAN HEALTH ORGANIZATION  
Washington, D.C.

F.Y. 1980 Appropriation: \$23,361,714      Requirement: \$25,162,891      Increase: \$1,801,177

<u>Computation of Estimate</u>	<u>Actual</u> 1979	<u>Estimate</u> 1980
Gross Budget.....	\$39,275,341	\$43,937,587
Less: Miscellaneous Income.....	- 700,000	- 1,150,000
Assessment Budget.....	38,575,341	42,787,587
United States Percentage Share.....	61.28%	61.29%
United States Assessment.....	23,637,291	26,225,676
Tax Equalization Fund Credit.....	- 933,422	- 1,062,785
United States Contribution.....	\$22,703,869	25,162,891
Amount Available from F.Y. 1980 Funds.....		-23,361,714
Proposed Supplemental.....		\$ 1,801,177

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Explanation of Estimate

The gross budget of the Pan American Health Organization (PAHO), as approved by the Directing Council meeting in October 1979, amounts to \$86,833,774 for the 1980-81 biennium, or \$43,937,587 to be appropriated for each year.

On a comparable basis, the 1980-81 biennium budget is an increase of \$11,055,774, or 14.59 percent, over the combined 1978 and 1979 budgets totalling \$75,778,000. This increase is attributed to inflation.

The 1980 assessment budget for PAHO amounts to \$42,787,587. The United States share at 61.29 percent is \$26,225,676 from which \$1,062,785 is deducted for a tax equalization fund credit to the United States, leaving \$25,162,891 as the United States requirement for 1980, an increase of \$2,459,022 over the previous year. Since only \$23,361,714 is currently available for this purpose, an additional amount of \$1,801,177 is hereby requested.

Statutory Authorization

The Pan American Sanitary Convention, ratification advised by the Senate, February 23, 1925 (T.S. 714).

ORGANIZATION OF AMERICAN STATES  
Washington, D.C.

F.Y. 1980 Appropriation: \$35,102,541

Requirement: \$40,574,313

Increase: \$5,471,772

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Gross Budget.....	\$51,241,300	\$54,518,988
Less: Other Income.....	- 6,194,047	- 5,917,700
Assessment Budget.....	<u>45,047,253</u>	<u>48,601,288</u>
United States Percentage Share.....	66.00%	64.68%
United States Assessment.....	<u>29,731,187</u>	<u>31,435,313</u>
Tax Equalization Fund Estimate.....	5,000,000	5,800,000
United States Contribution.....	<u>\$34,731,187</u>	<u>37,235,313</u>
Special Assessment for Second Mortgage on the Administration Building.....		3,339,000
United States Total Requirement.....		<u>40,574,313</u>
Available from F.Y. 1980 Funds.....		-35,102,541
Proposed Supplemental.....		<u>\$ 5,471,772</u>

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Explanation of Estimate

The C.Y. 1980 assessment budget of \$48,601,288 is based on a no-growth projection of the C.Y. 1979 assessment budget of \$45,047,253. The increase of \$3,554,035 over the previous year, a 7.9% increase, is due to salary and price increases attributable to inflation in the United States where the OAS has its headquarters.

The United States share of the assessment budget at 64.68 percent, reduced from 66 percent by the 9th General Assembly held at La Paz, Bolivia in October 1979, is \$31,435,313. In addition, taking into account a tax equalization adjustment of \$5,800,000 and a special assessment of \$3,339,000, also approved at the 9th General Assembly, to pay the down payment on a new administration building, the total United States requirement comes to \$40,574,313. Since only \$35,102,541 is currently available, it is hereby requested that an additional \$5,471,772 be appropriated for this purpose.

SUPP  
CIO-13

Statutory Authorization

The Organization of American States Charter, ratification advised by the Senate on August 28, 1950, (T.I.A.S. 2361).

INTERNATIONAL WHEAT COUNCIL  
London, England

F.Y. 1980 Appropriation: \$ -0-      Requirement: \$179,825      Increase: \$179,825

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Assessment Budget (in Pounds Sterling).....	520,000	580,000
United States Percentage Share.....	14.20%	14.20%
United States Assessment.....	<u>73,840</u>	<u>82,360</u>
Exchange Rate: (approx.) .4580 Pounds Sterling to \$1.00		
United States Contribution in Dollars.....	\$166,657 2/	\$179,825
Amount Available from F.Y. 1980 Funds.....		-0-
Proposed Supplemental.....		\$179,825

Explanation of Estimate

The 1980 budget of the International Wheat Council is 580,000 Pounds Sterling, an increase of 60,000 Pounds Sterling over the previous year. This increase is primarily due to inflation.

The United States share at 14.20% is 82,360 Pounds Sterling, or \$179,825, an increase of \$13,168 over the prior year.

No funding was requested in the original budget submission for Fiscal Year 1980 as the Protocols extending the International Wheat Agreement, under which the International Wheat Council operates, had not been forwarded to the Senate at the time of that submission. Pending U.S. Senate consent to ratification, the Administration has provisionally applied protocols extending the Agreement through June 30, 1981.

Statutory Authorization

The 1979 Protocols for the Fifth Extension of the International Wheat Agreement. Consent to ratification is presently pending before the United States Senate.

1/ The International Wheat Council Fiscal Year runs from July 1 to June 30.

2/ At an exchange rate of approximately .4431 Pounds Sterling to \$1.00.

SUPP  
CIO-15

INTERNATIONAL CENTER FOR THE STUDY OF THE  
PRESERVATION AND RESTORATION OF CULTURAL PROPERTY  
Rome, Italy

F.Y. 1980 Appropriation: \$208,801

Requirement: \$302,110

Increase: \$93,309

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Assessment Budget.....	\$954,220	\$954,220
United States Percentage Share.....	25.00%	25.00%
United States Assessment.....	238,555	238,555
Arrearage Due to Statutory Limitation.....	- 63,555	+ 63,555
United States Total Contribution.....	\$175,000	302,110
Amount Available from F.Y. 1980 Funds.....		-208,801
Proposed Supplemental and Reprogramming.....		\$ 93,309

Explanation of Estimate

The statute of the Center provide that member governments shall contribute annually an amount equal to one percent of their contribution to UNESCO. Effective January 1, 1974, this was subject to the limitation that no one government would contribute in excess of 25 percent of the Center's budget. Under this procedure, the United States assessment for FY 1980 is expected to be \$238,555, which is unchanged from the assessment for the previous fiscal year. However, the statutory dollar limitation of "not more than \$175,000 per year" which expired in FY 1979 leaves an arrearage of \$63,555 for that year. Thus the United States assessment of \$238,555 for FY 1980 plus the FY 1979 arrearage of \$63,507 requires that \$302,110 be made available for FY 1980. Since only \$208,801 was appropriated for F.Y. 1980, it is hereby proposed that an additional \$29,754 be reprogrammed from existing funds and requested that an additional \$63,555 be appropriated for this purpose.

Statutory Authorization

Public Law 89-665, approved October 15, 1966, amended as follows by Public Law 91-243, approved May 9, 1970; Public Law 93-54, approved July 1, 1973; and Public Law 94-422, approved September 28, 1976.

SUPP  
CIO-16

INTERNATIONAL AGENCY FOR RESEARCH ON CANCER  
Lyon, France

F.Y. 1980 Appropriation: \$712,224

Requirement: \$858,015

Increase: \$145,791

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Assessment Budget.....	\$5,180,000	\$7,104,000
United States Percentage Share.....	12.85%	12.08%
United States Assessment.....	\$ 665,820	\$858,015
Amount Available from F.Y. 1980 Funds.....		- 712,224
Proposed Supplemental.....		\$ 145,791

Explanation of Estimate

The 1980-1981 biennium budget of the International Agency for Research on Cancer (IARC), as approved by its Governing Council in May 1979, amounts to \$14,798,000. Of this amount, \$7,104,000 is to be appropriated in 1980 and \$7,694,000 in 1981.

On a comparable basis, the 1980-1981 biennium budget is an increase of \$3,879,000, or 35.52 percent, over the combined 1978-1979 budgets of \$10,919,000. This increase is primarily attributed to severe inflation in France, where IARC research activities are concentrated, and foreign currency fluctuations. With the encouragement of the United States, real program growth has been limited to 4.04 percent for the biennium or about 2 percent per year. The contribution of a new member of the IARC, Sweden, covers a major portion of the increased budget and decreases the U.S. share of the total.

The United States share of the 1980 budget at 12.08 percent is \$858,015. Since only \$712,224 is currently available for this purpose, an additional amount of \$145,791 is hereby requested.

Statutory Authorization

Public Law 92-494, 92nd Congress, approved October 14, 1972.

INTERNATIONAL SUGAR ORGANIZATION  
London, England

F.Y. 1980 Appropriation: \$ -0-

Requirement: \$255,459

Increase: \$255,459

<u>Computation of Estimate</u>	<u>Actual 1979</u>	<u>Estimate 1980</u>
Assessment Budget (in Pounds Sterling).....	750,000	780,000
United States Percentage Share.....	<u>15%</u>	<u>15%</u>
United States Assessment.....	112,500	117,000
Exchange Rate: (approx.) .4580 Pounds Sterling to \$1.00		
United States Contribution in Dollars.....	\$246,038 1/	\$255,459
Amount Available from F.Y. 1980 Funds.....		<u>-0-</u>
Proposed Supplemental.....		<u>\$255,459</u>

Explanation of Estimate

The 1980 assessment budget for the International Sugar Organization (ISO) is 780,000 Pounds Sterling, an increase of 30,000 Pounds Sterling over the previous year. This increase is attributable to inflation.

The United States share at 15 percent is 117,000 Pounds Sterling or \$255,459, an increase of 4,500 Pounds Sterling or \$9,421 over the prior year.

No funding was requested in the original budget submission for Fiscal Year 1980 as the United States was only a provisional member at that time.

Statutory Authorization

The International Sugar Agreement of 1977, ratification advised by the Senate on November 30, 1979.

- 1/ At an exchange rate of approximately .4572 Pounds Sterling to \$1.00. Provisional membership dues paid from the International Conferences and Contingencies Appropriation.

**GENERAL STATEMENT**

**Mr. SLACK.** You have a statement, I believe, in this regard.  
**Mr. MAYNES.** I do, Mr. Chairman. I can submit it for the record.  
(The information follows:)

## DEPARTMENT OF STATE

FY 1980 SUPPLEMENTAL BUDGET ESTIMATES

STATEMENT OF  
CHARLES WILLIAM MAYNES, ASSISTANT SECRETARY OF STATE  
FOR INTERNATIONAL ORGANIZATION AFFAIRS  
BEFORE  
THE HOUSE SUBCOMMITTEE ON APPROPRIATIONS  
FOR  
STATE, JUSTICE, COMMERCE, THE JUDICIARY  
AND RELATED AGENCIES APPROPRIATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS  
(Bureau of International Organization Affairs)

Mr. Chairman and Members of the Committee:

I appreciate the opportunity to appear before this Committee in support of the President's recommendation for a fiscal year 1980 supplemental appropriation of \$27,289,000 to meet additional costs of United States "Contributions to International Organizations." The request would be distributed in the following manner.

Prior Year Arrearages

First, an additional \$267,648 is requested to provide sufficient funds to meet the following prior year arrearages:

-- \$43,093 for the Inter-American Indian Institute to meet an additional assessment levied to finance the transition period created by the organization's change from a fiscal year budget to a calendar budget in 1979.

-- \$161,000 for the Pan American Institute of Geography and History to cover two arrearages incurred from prior years.

First, \$100,000 is required to meet the additional assessment levied to finance the transition period created by the organization's change from a fiscal year budget to a calendar year budget in 1979. The remaining \$61,000 will provide the neces-

sary funds to meet an arrearage incurred in fiscal year 1970 when the United States assessment was levied at \$151,300, but the annual contribution was limited to \$90,300.

-- \$63,555 for the International Center for the Study of the Preservation and Restoration of Cultural Property to meet an arrearage incurred in 1979 when the United States assessment was levied at \$238,555, but the annual contribution was limited to \$175,000.

#### 1980 Shortfalls

Second, an additional \$26,586,068 is requested for seven international organizations whose 1980 budgets were adopted at levels higher than those projected at the time the regular fiscal year 1980 budget estimates were prepared. The request would be apportioned in the following manner:

- \$3,837,500 for the United Nations Educational, Scientific and Cultural Organization;
- \$7,251,509 for the World Health Organization;
- \$6,962,213 for the Food and Agriculture Organization;
- \$1,116,106 for the Inter-American Institute of Agricultural Sciences;
- \$1,801,177 for the Pan American Health Organization;
- \$5,471,772 for the Organization of American States; and
- \$145,791 for the International Agency for Research on Cancer.

The remaining \$435,284 of the 1980 shortfall is requested to provide the necessary funds to meet the United States assessment to the International Wheat Council, \$179,825, and the International Sugar Organization, \$255,459. No funds were requested in the

regular fiscal year 1980 budget estimates for these organizations because United States membership was only provisionally applied at that time.

Mr. Chairman, that concludes my statement. I would like to thank you and the Committee for supporting the goals of U.S. foreign policy as implemented through international organizations and encourage your continued support during consideration of this Fiscal Year 1980 supplemental. I will be happy to respond to questions you and the members may have on our activities.

## 1980 SHORTFALL

Mr. SLACK. According to page 20 of this justification, you indicate that one of the purposes of the request is to meet the anticipated shortfall in the United States, assessed contributions to various organizations. Is this anticipated or is it a real shortfall?

Mr. MAYNES. It is a real shortfall, Mr. Chairman. Because of our budgeting cycle we are required to put forward estimates to the Congress of what our contribution will be before the budgets of the international organizations to which we contribute have actually been adopted.

We, therefore, find ourselves in a situation where we have to make up a shortfall.

Mr. SLACK. How much of the request is due to low estimates as to the assessments?

Mr. MAYNES. \$26,586,068 of the request is due to low estimates.

## PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY

Mr. SLACK. What can you tell us about the request which appears on page 29 for the Pan American Institute of Geography and History?

Mr. MAYNES. This supplemental request of \$161,000 is to cover two prior year arrearages; \$100,000 is to cover the U.S. assessments for the one-half year transition period, July 1 to December 31, 1978, to when the organization changed from a fiscal year to a calendar year budgetary cycle.

The remaining \$61,000 occurred in fiscal year 1970 when the United States assessment was \$151,300 but the appropriation covered only \$90,300 of the assessment. Public Law 91-340 of July 1970 authorizes the payment of these arrearages.

Mr. SLACK. Why have you decided to pay the arrearage?

Mr. MAYNES. Because we are a full-fledged member of the institution and believe that as long as we remain a member we ought to pay the dues of the organization.

Mr. SLACK. But you have been in arrearage since 1970; is that right?

Mr. MAYNES. That is right, Mr. Chairman. However, it is never too late to correct a mistake.

## INTERNATIONAL WHEAT COUNCIL

Mr. SLACK. Page 33 of the supplemental justifications indicates a request in the amount of \$179,825 for payment to the International Wheat Council. Is this subject to Senate ratification of the International Wheat Agreement?

Mr. MAYNES. Yes. Consent to ratification is presently pending before the U.S. Senate.

[The following information was submitted subsequent to the hearing:]

I should also inform you that \$63,555 of the amount requested for the International Center for the Study of the Preservation and Restoration of Cultural Property is subject to enactment of the bill entitled "A bill to amend the Act of October, 15, 1966 establishing a program for the preservation of additional historic properties throughout the nation and for other purposes" (S1026). This legislation was forwarded to Congress in 1979. It has been passed by the House and is presently pending before the Senate.

## INTERNATIONAL AGENCY FOR RESEARCH ON CANCER

**Mr. SLACK.** Page 35 indicates a request of \$145,791 for the International Agency for Research on Cancer. Is this a new organization?

**Mr. MAYNES.** No, it is not.

**Mr. SLACK.** Would you provide for the record a list of the members?

**Mr. MAYNES.** Yes, we will.

[The information follows:]

## MEMBERS OF THE INTERNATIONAL AGENCY FOR RESEARCH ON CANCER (1980)

Australia	Netherlands
Belgium	Sweden
Federal Republic of Germany	Union of Soviet Socialist Republics
France	United Kingdom
Italy	United States
Japan	

## NEW ORGANIZATIONS

**Mr. SLACK.** Are there any new organizations in this budget request?

**Mr. MAYNES.** No; although the International Sugar organization appears for the first time in his appropriation. However, provisional membership dues were paid from the International Conferences and Contingencies appropriation.

THURSDAY, FEBRUARY 21, 1980.

## MISSIONS TO INTERNATIONAL ORGANIZATIONS

## WITNESSES

**CHARLES W. MAYNES, ASSISTANT SECRETARY FOR INTERNATIONAL ORGANIZATIONS**

**RICHARD V. HENNES, EXECUTIVE DIRECTOR**

**CHARLES WATKINS, BUDGET OFFICER**

**Mr. SLACK.** The next item is entitled Missions to International Organizations. The request in the supplemental is in the amount of \$839,000. This item begins on page 37 of the supplemental justifications. We shall insert that page together with pages 38 through 40 at this point in the record.

[The information follows:]

SUPP-  
MIO-1

DEPARTMENT OF STATE  
FISCAL YEAR 1980

Appropriation: Missions to International Organizations H. Doc. \_\_\_\_\_  
Appropriation to Date: \$13,800,000 Request: \$839,000  
Amended Appropriation Requested: \$14,639,000

PURPOSE AND NEED FOR SUPPLEMENTAL FUNDS

To provide additional funds to meet increased costs of the U.S. Mission to International Organizations in Geneva, resulting from the restoration of a leased office building following occupancy of a Government-owned office building and to compensate for the decline in value of the dollar abroad.

32

SUPP-  
MIO-2

DEPARTMENT OF STATE

APPROPRIATION LANGUAGE  
MISSIONS TO INTERNATIONAL ORGANIZATIONS

74

For an additional amount for "Missions to International Organizations," \$839,000.

MISSIONS TO INTERNATIONAL ORGANIZATIONS  
Justification

A supplemental appropriation of \$839,000 in FY-1980 is requested for the following two purposes:

1. RESTORATION OF OFFICE BUILDING - GENEVA.....\$500,000

The U.S. Mission in Geneva will move from a short-term leased office building to a new Government-owned office building during FY-1980. This supplemental is required for the increased cost of restoring the present office building to its original condition, a requirement of the lease. The FY-1980 budget includes \$162,000 for this purpose, but recent estimates by the landlord confirmed by an independent survey, and the higher cost of restoring security areas have increased the estimate to \$670,000 or approximately \$500,000 more than available within the appropriation.

2. EXCHANGE RATE LOSS.....\$339,000

Since preparation of the FY-1980 budgets for our Missions in Switzerland, Austria, France and Italy the U.S. dollar has weakened in relation to the host country currency by 8.19% to the Swiss franc, 8.87% to the Austrian schilling, 4.87% to the French franc and 4.41% to the Italian lira. An increase of \$339,000 is requested to maintain the operations of the Missions at the approved FY-1980 budget level.

Country of Mission	Foreign Currency Expenditures Budgeted (Dollar Equivalent)	Exchange Rate		Exchange Loss
		Budgeted	Supplemental	
Switzerland	\$3,621,000	1.686	1.558	\$297,000
Austria	324,100	13.690	12.575	29,000
France	154,200	4.295	4.096	8,000
Italy	99,200	840.000	804.550	5,000
				\$339,000

7G

SUPP--  
MIO-4

ESTIMATES BY OBJECT CLASS

	<u>Amounts</u>
11 <u>Personnel Compensation:</u>	
Permanent Salaries (Local).....	\$ 67,000
12 <u>Personnel Benefits:</u>	
Allowances.....	80,000
Total Personnel Compensation and Benefits.....	147,000
13 <u>Other Obligations</u>	
21 Travel and Transportation of Persons.....	7,000
22 Transportation of Things.....	18,000
23 Communications, Rents, and Other Utilities.....	36,000
25 <u>Other Services</u> .....	603,000
Representation.....	3,000
Official Residence Allowance.....	7,000
26 Supplies and Materials.....	7,000
31 Equipment.....	<u>11,000</u>
Total Other Obligations.....	692,000
Total Obligations.....	<u>839,000</u>

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**GENERAL STATEMENT**

**Mr. SLACK.** We also have a statement with regard to this increase which we shall insert at this point in the record.  
[The information follows:]

## DEPARTMENT OF STATE

FY 1980 SUPPLEMENTAL ESTIMATES

STATEMENT OF  
CHARLES WILLIAM MAYNES  
ASSISTANT SECRETARY OF STATE  
FOR INTERNATIONAL ORGANIZATION AFFAIRS  
BEFORE  
THE HOUSE SUBCOMMITTEE ON APPROPRIATIONS  
FOR  
STATE, JUSTICE, COMMERCE, THE JUDICIARY  
AND RELATED AGENCIES APPROPRIATIONS

MISSIONS TO INTERNATIONAL ORGANIZATIONS

Mr. Chairman and Members of the Committee:

I appreciate this opportunity to appear before you in support of our request for a fiscal year 1980 supplemental appropriation of \$839,000.

Since the preparation of the fiscal year 1980 budget, the operations of our overseas Missions have been adversely affected by exchange rate losses. The principal problem has been the decline in the value of the dollar for purchasing Swiss francs. Our Missions in Austria, France and Italy have been affected by much smaller losses, but losses which are equally damaging because of their limited budgets. We are requesting \$339,000 for exchange rate losses.

We are also requesting \$500,000 for restoring a leased office building in Geneva to its original condition. The fiscal year 1980 budget includes \$162,000 for restoring the leased office building in Geneva that will be vacated when the Mission moves to a government-owned office building. It is estimated that the restoration will now cost \$670,000.

Mr. Chairman, this concludes my statement. I will be glad to answer any questions you may have on this request.

## GENEVA FACILITY

**Mr. SLACK.** How much of this request, Mr. Secretary, is for restoration of the office building in Geneva?

**Mr. MAYNES.** \$500,000.

**Mr. SLACK.** How much has already been appropriated for this purpose?

**Mr. MAYNES.** \$162,000.

**Mr. SLACK.** Are you satisfied that this amount will enable you to complete restoration of the building?

**Mr. MAYNES.** When we made the estimate we thought it would and we still believe it will. However, I should underscore the severe foreign currency exchange situation which we have experienced in Geneva for the last several years.

**Mr. SLACK.** What is the status of moving into the new facility in Geneva?

**Mr. MAYNES.** We expect late April or May as a date when they will be able to move.

## EXCHANGE RATE LOSSES

**Mr. SLACK.** Can you tell us what the balance of this request is for?

**Mr. MAYNES.** Exchange rate losses. The principal problem has been the decline in the value of the dollar in the purchasing of Swiss Francs, Austrian Schillings, and French Francs.

**Mr. SLACK.** We understand that this will be your last appearance before this committee.

**Mr. MAYNES.** It will be, Mr. Chairman.

**Mr. SLACK.** We appreciate your appearance today. We wish you well and we have enjoyed having you before us through the years. Good luck to you.

**Mr. MAYNES.** Thank you very much.

## REVISED REQUEST

(The request of \$839,000 for missions to International Organizations was reduced to \$774,000 as reflected in H. Doc. 96-294 of April 15, 1980. The revision did not affect the request of \$500,000 for restoration of an office building in Geneva, but did reduce the request for exchange rate loss from \$339,000 to \$274,000.)

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THURSDAY, FEBRUARY 21, 1980.

## INTERNATIONAL FISHERIES COMMISSIONS

## WITNESSES

MORRIS D. BUSBY, ACTING DEPUTY ASSISTANT SECRETARY FOR OCEANS AND FISHERIES AFFAIRS

LARRY L. SNEAD, DEPUTY DIRECTOR, OFFICE OF FISHERIES AFFAIRS

JAMES C. LEWIS, BUDGET OFFICER

**Mr. HIGHTOWER** (presiding). We have a supplemental request for \$248,000 for International Fisheries Commissions, and we would like to insert the justifications appearing on pages 41 through 44 at this point in the record.

[The information follows:]

SUPP-  
IFC-1

INTERNATIONAL FISHERIES COMMISSIONS

Appropriation: International Fisheries Commissions

H. Doc. \_\_\_\_\_

Appropriation to Date: \$7,500,000

Request: \$248,000

Amended Appropriation Requested: \$7,748,000

Purpose and Need for Supplemental Funds

To provide for initial year assessed costs for United States membership in the United States-Canada  
East Coast Fisheries Commission.

88

SUPP-  
IFC-2

APPROPRIATION LANGUAGE  
INTERNATIONAL FISHERIES COMMISSIONS

For an additional amount for "International Fisheries Commissions, "\$248,000.

81

INTERNATIONAL FISHERIES COMMISSIONS

Justification

The Department requests a supplemental appropriation of \$248,000 in FY 1980 for the International Fisheries Commissions Appropriation to provide the U.S. share of funds to establish the new U.S.-Canada East Coast Fisheries Commission.

The Fishery Conservation and Management Act of 1976 (P.L. 94-265, passed April 13, 1976), and similar legislation passed by the Government of Canada, provided for establishment of fishery conservation zones contiguous to the territorial seas of the United States and Canada and extending 200 nautical miles seaward. These 200-mile zones overlapped in several areas, and the United States and Canada have negotiated at the Ambassadorial level since 1976 to reach agreement on the harvest and management of fish and other marine resources of mutual concern in the Atlantic and Pacific Oceans, as well as the maritime boundaries.

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One of the major items negotiated was the creation of the United States - Canada East Coast Fisheries Commission. This action highlights the importance both countries attach to having a formal method of coordinating the conservation and management of those available fisheries resources which are of great economic importance to both countries. Formation of this Commission is considered the key to the success of the Agreement Between the Government of the United States of America and the Government of Canada on East Coast Fishery Resources, signed March 29, 1979, and transmitted to the Senate on May 3, 1979 for its advice and consent to ratification. This Agreement is explicitly linked to the Gulf of Maine boundary adjudication agreement, in that neither can enter into force until the other enters into force.

The United States and Canada will each bear the expenses of their commissioners named to this Commission. All other expenses of the Commission shall be borne equally by the United States and Canada. FY 1980 operating costs for the United States are estimated at \$248,000.

SUPP-  
IPC-

INTERNATIONAL FISHERIES COMMISSION

Estimate by Object Class

41.0 Grants, subsidies, and contributions.....\$248,000



## GENERAL STATEMENT

**Mr. HIGHTOWER.** Do you have any statement you would like to make?

**Mr. BUSBY.** I have a statement which I would like to submit for the record.

**Mr. HIGHTOWER.** Fine.

[The information follows:]

**STATEMENT OF MORRIS D. BUSBY, ACTING DEPUTY ASSISTANT SECRETARY OF STATE  
FOR OCEANS AND FISHERIES AFFAIRS**

**INTERNATIONAL FISHERIES COMMISSIONS (BUREAU OF OCEANS AND INTERNATIONAL  
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS)**

Mr. Chairman and members of the committee, I am pleased to appear before the Subcommittee today to justify a FY 1980 supplemental appropriation request of \$248,000 for the International Fisheries Commissions appropriation.

Under provisions of Public Law 94-265, the Fishery Conservation and Management Act of 1976, and similar Canadian legislation, fishery conservation zones extending 200 nautical miles seaward were established contiguous to the territorial seas of the United States and Canada. The 200-mile zones overlapped in several areas, and the United States and Canada have negotiated at the Ambassadorial level since 1976 to reach agreement on the harvest and management of fish and other marine resources of mutual concern in the Atlantic and Pacific Oceans, as well as the maritime boundaries.

One of the major items negotiated was the creation of the United States-Canada East Coast Fisheries Commission. This action highlights the importance both countries attach to having a formal method of coordinating the conservation and management of those available fisheries resources which are of great economic importance to both countries. Formation of this Commission is considered the key to the success of the Agreement Between the Government of the United States of America and the Government of Canada on East Coast Fishery Resources, signed March 29, 1979, and transmitted to the Senate on May 3, 1979 for ratification.

Under the Agreement, the United States and Canada will each bear the expenses of their commissioners and advisors named to this Commission. All other expenses of the Commission shall be borne equally by the United States and Canada. FY 1980 operating costs for the United States share of expenses are estimated at \$248,000.

Mr. Chairman, I will be pleased to answer any questions that you or members of the Committee may have.

**Mr. BUSBY.** Briefly, as a result of the negotiations which have been ongoing with Canada for a number of years, we have signed two agreements relating to the East Coast of the U.S. One would provide for arbitration of the boundary in the Gulf of Maine on George's Bank between the U.S. and Canada. The other would establish a permanent fishery commission to join and regulate the fisheries in that area. The agreements have been signed and are currently pending before the Senate. We are requesting funding for that particular commission in this supplemental request.

**U.S./CANADA EAST COAST FISHERIES COMMISSION**

**Mr. HIGHTOWER.** Is all of the supplemental request for payment to the U.S./Canada East Coast Fisheries Commission?

**Mr. BUSBY.** Yes; it is for the one Commission.

**Mr. HIGHTOWER.** What is the present status of that Commission?

**Mr. BUSBY.** As I say, it has not been implemented or formed. The agreement has not yet been ratified. We are expecting hearings on those

particular agreements to take place probably within the next month.

Mr. HIGHTOWER. What is the purpose of the Commission?

Mr. BUSBY. The purpose of the Commission is for the U.S. and Canada to jointly manage and regulate the fisheries on George's Bank. There are trans-boundary stocks between the two countries.

Mr. HIGHTOWER. What is the membership? How will it be designated?

Mr. BUSBY. I am not sure of the exact number; it is 7 to 10 Commissioners for each side, who will be designated by the two countries. The Commission will then be housed, we expect, probably somewhere in the Boston area.

Mr. HIGHTOWER. In the U.S.?

Mr. BUSBY. That is what we expect, sir.

Mr. HIGHTOWER. Thank you very much. We appreciate your being here, and the committee will now stand adjourned until two o'clock.

Mr. BUSBY. Thank you, Mr. Chairman.

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WEDNESDAY, FEBRUARY 27, 1980.

DEPARTMENT OF JUSTICE

ANTITRUST DIVISION

WITNESS

**KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

Mr. EARLY (presiding). The committee will come to order.

We have a supplemental request for the Antitrust Division in the amount of \$4,000,000. We shall insert pages 1 through 5 of the supplemental justifications at this point in the record.

[The information follows:]

DEPARTMENT OF JUSTICE

Legal Activities

Salaries and Expenses, Antitrust Division

For an additional amount for "Salaries and expenses, Antitrust Division",  
\$4,000,000.

Department of Justice

Legal Activities

Salaries and Expenses, Antitrust Division

Appropriation Summary Sheet  
(Dollars in thousands)

	<u>Permanent Positions</u>	<u>1980 Appropriation</u>	28
Presently available.....	939	\$45,248	
Revised estimate.....	939	49,248	
Proposed supplemental.....	...	4,000	

Explanation of Request

This supplemental provides for the extension of a seed-money program of grants to foster, encourage and support the development of state antitrust enforcement.

## DEPARTMENT OF JUSTICE

Legal ActivitiesSalaries and Expenses, Antitrust DivisionSummary of Requirements  
(Dollars in thousands)

	1980 Presently Available		1980 Revised Amount		1980 Proposed Supplemental	
	Perm.	Pos.	Perm.	Pos.	Perm.	Pos.
	Amount		Amount		Amount	
<u>Comparison by Activities</u>						
1. Enforcement of antitrust, consumer protection and kindred laws .....	939	\$45,170	939	\$45,170	...	...
2. State antitrust enforcement grants .....	...	78	...	4,078	...	\$4,000
<hr/> Total requirements .....	939	45,248	939	49,248	...	4,000

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Justification of Requirements  
(Dollars in thousands)

Activity: Enforcement of Antitrust, Consumer Protection  
and Kindred Laws

	1980		1980		1980	
	Presently Available	Revised Estimate	Perm. Pos.	Amount	Perm. Pos.	Amount
Item: Antitrust State Enforcement.....	939	\$45,248	939	\$49,248	...	\$4,000

The purpose of this request is to continue to provide for a program to grant funds to State attorneys general to improve their antitrust enforcement capabilities through hiring of staff, equipment acquisition and training of state officials.

The requested funding will provide for direct grants to State attorneys general under criteria established by the Attorney General. The funds are necessary to maintain the salaries of personnel and defray the expenses of maintaining antitrust units established or expanded by prior federal seed money grants administered by the Attorney General. Funding will permit states to continue programs to pursue antitrust investigations and litigation under state and federal law, promote free and open competition in competitive bidding, advocate competitive principles before state licensing and regulatory boards, and seek improved state antitrust laws. The program is designed as a seed money program to create viable self sustaining antitrust units.

This program was initiated to implement Section 116 of the Crime Control Act of 1976. The statute authorized \$10 million for each of the fiscal years ending September 30, 1977, 1978, and 1979. On June 30, 1977, the President transmitted a supplemental appropriation request for \$1,000,000 in 1977 and a budget amendment for \$10,000,000 in 1978. This request, contained in House Document 95-174, was approved in its entirety. Another \$10,000,000 was requested and approved for 1979. The present request is based on authority contained in the Department of Justice Appropriation Authorization Act, FY 1980 Section 2 (4) which provides that not to exceed \$4,000,000 may be made available to extend the antitrust enforcement grants program.

STANDARD FORM 300  
MAY 1964, EDITION 1, 1-31, REINFORCED  
GSA GEN. REG. NO. 27, 1964

Supplemental Requested, Existing Legislation  
Department of Justice  
Legal Activities  
Salaries and Expenses, Antitrust Division

Program and financing (in thousands of dollars)

Nonline item code <u>15-0319-1-1-752</u>	1980 Presently Available	1980 Revised Estimate	1980 Proposed Supplemental
<u>Program by activities:</u>			
1. Enforcement of antitrust, consumer protection and kindred laws.....	45,170	45,170	...
2. State Antitrust enforcement grants.....	78	4,078	4,000
10.00 Total program costs, funded obligations (object class 41.00).....	45,248	49,248	4,000
<u>Financing:</u>			
22.40 Unobligated balance transferred from other accounts.....	-1,704	-1,704	...
40.00 Budget Authority (appropriation)	43,544	47,544	4,000
<u>Relations of obligations to outlays:</u>			
71.00 Obligation incurred, net.....	45,248	49,248	4,000
72.40 Obligated balance, start of year.....	14,786	14,786	...
74.40 Obligated balance, end of year..	-15,015	-16,615	-1,600
90.00 Outlays.....	45,019	47,419	2,400

The "Presently Available" amounts are not reflected in the 1981 President's Budget because they have been merged into the appropriation "Salaries and expenses, General Legal Activities."

## GENERAL STATEMENT

**Mr. EARLY.** Do you have a statement, Mr. Rooney?

**Mr. ROONEY.** Yes, Mr. Early.

We are requesting a 1980 supplemental for the Antitrust Division, of \$4 million. The request funding will provide for direct grants to State attorneys general under criteria established by the Attorney General.

The funds are necessary to maintain the salaries of personnel and defray the expenses of maintaining antitrust units established or expanded by Federal seed money grants administered by the Attorney General.

Funding will permit States to continue programs to pursue anti-trust investigations and litigation under State and Federal law, promote free and open competition and competitive bidding, advocate competitive principles before State licensing and regulatory boards and seek to improve State and antitrust laws. This program will provide seed money to create viable, self-sustaining antitrust units.

This program was initially authorized in fiscal year 1977 for 3 years with an authorization of \$30 million. We had \$1 million appropriated in 1977 and then \$10 million in both 1978 and 1979 for a total of twenty-one. Our 1980 authorization bill subsequently authorized an additional \$4 million, and we are now requesting a supplemental appropriation for that amount. We expect that will conclude the program.

## AUTHORIZING LEGISLATION

**Mr. EARLY.** Are any funds presently available?

**Mr. ROONEY.** There are some administrative funds, I believe \$78,000.

**Mr. EARLY.** What is the authorization level for this program contained in the Justice Department Authorization Act for 1980?

**Mr. ROONEY.** It was for \$4 million.

**Mr. EARLY.** What was the \$30 million authorization?

**Mr. ROONEY.** The \$30 million was authorized in 1977 for 3 years, and because it was authorized so late in 1977—the idea was for \$10 million for each one of the 3 fiscal years, as the seed money. Since it was authorized in 1977, our supplemental appropriation came very late, and, as a result, we only asked for \$1 million to begin the program in 1977. Consequently we only had \$21 million appropriated instead of the authorized \$30 million.

**Mr. EARLY.** I had a letter from the Assistant Attorney General of Massachusetts suggesting there was \$9 million; that must be the balance of the—

**Mr. ROONEY.** Of the \$30 million originally authorized.

**Mr. EARLY.** The actual authorization is only the \$4 million?

**Mr. ROONEY.** Yes, sir.

**Mr. EARLY.** Do you envision any further extension of this program?

**Mr. ROONEY.** No, we do not.

## ACCOMPLISHMENTS AND LIST OF GRANTS

**Mr. EARLY.** What have been some of the accomplishments of the program?

Mr. ROONEY. In several of the States, and we could provide a list of the States and the amounts, if the committee is interested—

Mr. EARLY. Why don't you do that for the record along with a description of this program's accomplishments.

Mr. ROONEY. We will provide that.

[The information follows:]

*Fiscal year 1978 and fiscal year 1979 state grant awards*

State:	
Alabama	\$382,088
Alaska	482,822
Arizona	528,703
Arkansas	371,126
California	796,125
Colorado	419,554
Connecticut	482,500
Delaware	380,283
District of Columbia	197,600
Florida	668,771
Hawaii	328,100
Illinois	693,165
Iowa	334,884
Kansas	391,718
Kentucky	534,395
Louisiana	395,650
Maine	255,000
Maryland	420,179
Massachusetts	724,393
Michigan	702,184
Minnesota	517,187
Mississippi	200,569
Missouri	489,060
Montana	273,896
Nebraska	233,070
Nevada	300,283
New Hampshire	322,352
New Jersey	563,720
New Mexico	490,422
New York	796,125
North Carolina	446,728
North Dakota	308,380
Ohio	629,970
Oregon	517,790
Pennsylvania	646,173
Puerto Rico	399,145
Rhode Island	369,182
South Carolina	386,000
South Dakota	347,874
Tennessee	309,052
Texas	656,200
Utah	421,473
Vermont	318,460
Virginia	435,505
Washington	567,200
West Virginia	461,040
Wisconsin	12,168
Total	20,935,229

**ACCOMPLISHMENTS OF THE STATE ANTITRUST GRANT PROGRAM**

Since late 1977, 45 states and the District of Columbia have been granted funds in amounts ranging from approximately \$200,000 to \$800,000 based primarily on a population formula.

Most states have used their funds to hire and train antitrust attorneys, investigators and other personnel to pursue varied program objectives. The program

created approximately 25 new antitrust offices and nearly doubled the number of attorneys assigned full-time to antitrust enforcement at the state level.

Prosecution of civil antitrust actions under state and federal law have increased nearly threefold since the beginning of the program. Criminal prosecutions have shown a substantial but less dramatic increase. States have reported over 700 formal investigations and have filed over 200 civil cases in 1979. Over 20 state grand juries were convened in 1978 and 1979, over 250 individuals and corporations have been indicted. States receiving grants have recovered over \$10 million in damages and proprietary actions over the past two years. Over half of all reported cases involved price-fixing and other hard-core practices.

Regulatory reform is an objective of over half of the states. States have made filings with, or have appeared before, a hundred or more state regulatory boards to urge consideration of competitive principals in the state regulatory process. Also, since most states are large purchasers of goods and services, monitoring and improving the process of competitive procurement is a major goal of many states. Efforts range from liaison with purchasing officials to sophisticated computerized bid analysis programs.

The final major area of effort is the passage of modern, effective antitrust statutes. Over the past year, ten states have either totally revised or amended their existing antitrust statutes. Major efforts continue in several other states.

**Mr. EARLY.** Mr. Slack, do you have questions on the supplemental?

**Mr. SLACK.** I have no questions.

**Mr. EARLY.** We will consider that part of the hearing closed.

Thank you for your testimony, Mr. Rooney.

**Mr. ROONEY.** You are welcome, Mr. Chairman.

#### REVISED REQUEST

[The request of \$4,000,000 for Antitrust State Enforcement Grants was withdrawn as reflected in H. Doc. 96-294 of April 15, 1980.]

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WEDNESDAY, FEBRUARY 27, 1980.

### UNITED STATES ATTORNEYS AND MARSHALS

#### BANKRUPTCY MATTERS

#### WITNESS

**RICHARD L. LEVINE, DIRECTOR**

**Mr. EARLY** (presiding). Mr. Levine, we will now consider the supplemental request for \$2,804,000 and 77 positions for Bankruptcy Matters. At this point in the record, we will insert the supplemental justifications for this item as well as for the U.S. Marshals Service.

DEPARTMENT OF JUSTICE

Legal Activities

Salaries and Expenses, United States attorneys and marshals

For an additional amount for "Salaries and expenses, U.S. Attorneys and Marshals", \$9,736,000 including lease or hire of law enforcement vehicles from the General Services Administration or commercial entities; acquisition of passenger motor vehicles by transfer from another agency; and acquisition, lease, maintenance and operation of aircraft.

Explanation of Changes:

The first change proposes the removal of the numerical limitation on the total number of passenger motor vehicles and law enforcement vehicles that may be leased by the United States Marshals Service. The first change also permits the Marshals Service to acquire (through transfer from other government agencies) passenger motor vehicles and law enforcement vehicles.

The second change would permit the Marshals Service to acquire (through transfer from other government agencies), lease, maintain and operate aircraft. The Marshals Service is now reimbursing the Bureau of Land Management and the Drug Enforcement Administration for the use of their aircraft to transport federal prisoners via the National Prisoner Transportation System. The new appropriation language for aircraft will give the Marshals Service flexibility to meet increased demands for the movement of federal prisoners within existing resources.

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Legal Activities

Salaries and Expenses, U.S. Attorneys and Marshals

Appropriation Summary Sheet  
(Dollars in thousands)

	<u>Permanent Positions</u>	<u>1980 Appropriations</u>
Presently available.....	7,109	\$243,918
Revised estimate.....	7,333	253,654
Proposed supplemental.....	224	9,736

Explanation of Request

50

This supplemental request will provide resources necessary to develop the United States Trustees program as authorized by the Bankruptcy Reform Act, protect witnesses admitted to the witness security program, provide extraordinary protection for the judiciary, and resume funding for the service of private process because legislation for its discontinuance was not enacted. Appropriation language is also included to give the United States Marshals Service the flexibility to meet increased demands for vehicles and prisoner transportation services within existing resources.

Legal Activities

Salaries and Expenses, U.S. Attorneys and Marshals

Summary of Requirements.  
(Dollars in thousands)

Comparison by activities	1980 Presently Available		1980 Revised Estimates		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
1. U.S. attorneys.....	4,394	\$154,889	4,394	\$154,889	...	...
2. Bankruptcy matters.....	90	2,661	167	5,465	77	\$2,804
3. U.S. marshals.....	2,625	86,368	2,772	93,300	147	6,932
Total requirements.....	7,109	\$243,918	7,333	\$253,654	224	\$9,736

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Legal Activities

Salaries and Expenses, U.S. Attorneys and Marshals

Justification of Requirements  
(Dollars In thousands)

Activity: Bankruptcy Matters

	1980 Presently Available	1980 Revised Estimate	1980 Proposed Supplemental	
	Per. Pos.	Per. Pos.	Per. Pos.	
	Amount	Amount	Amount	
Bankruptcy Matters.....	90	\$2,562	167	\$5,366
			77	\$2,804

At the time of the enactment of the Bankruptcy Code, the Department of Justice had no experience with the administrative side of bankruptcy upon which to base a budgetary projection. Thus the Department's Fiscal Year 1979 and 1980 budget requests were formulated before a more thorough analysis of the administrative functions of bankruptcy process could be conducted. Now meaningful data is available, as well as observations and perceptions based on the actual experience to date. This request is based on that data. Assurance of the minimum resources necessary to do the job is imperative if the legislative pilot program is to properly assess this new method of bankruptcy administration.

The function of the United States Trustees is to handle the administration of cases so that bankruptcy judges are able to devote full time to deciding contested matters. The United States Trustees have no control over their caseload and have no authority to settle cases. Once a bankruptcy proceeding is filed, certain procedures automatically ensue. For instance, a meeting of creditors must be held in every case. Fee petitions will be filed in all asset cases, and must be reviewed by the United States Trustees. In every case, the United States Trustees must set the time and place of the required meeting of creditors. The United States Trustees must appoint private trustees and set their bonds. A creditors' committee must be appointed by the United States Trustee in every Chapter 11 case, or at least the United States Trustee must attempt to appoint such a committee. That alone has turned out to be more difficult and time-consuming than originally contemplated. In short, the United States Trustee does not have the power to affect the number of cases handled and as the number of filings increase the United States Trustee must deal with them.

The United States Trustees have extensive responsibilities in maintaining the quality of the panels of persons eligible to serve in Chapter 7 cases. The United States Trustees have a specific responsibility for assessing, and advising the courts of, the appropriateness of petitions for compensation in Chapter 7 cases, an area which has been subject to abuse in the past.

In Chapter 11 cases, the United States Trustees monitor the operations of Chapter 11 debtors and are encouraging more creditor participation in these cases. Under the original FY 1980 budget, the United States Trustees do not have staff adequate to perform all of the functions assigned to them by the Congress in a manner consistent with a reasonable attempt to evaluate the United States Trustee program. For instance, the United States Trustee located in Boston, Massachusetts has a total staff

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of seven persons including clerical and secretarial assistance, to handle Chapter 7, 11, and 13 cases in 4 states. He has no branch offices. All of the paperwork, investigations, meetings with creditors, as well as all necessary correspondence and the issuing of court pleadings, must be handled by this small staff. The budget assumes no increase in the total number of filings, and includes almost no time for appearance in court on contested matters. The present request will ensure that there are sufficient personnel available so that the reforms which Congress intended can be implemented, and so that the United States Trustees can prepare an evaluation for Congress which will be meaningful when Congress decides whether or not to continue the program after April 1984.

The United States Trustees have regularly worked 13 and 14 hour days and have frequently worked 6 and 7-day weeks. This represents an intensive level of activity, accordingly, the need for relief is immediate.

**Activity: U.S. Marshals**

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Witness security.....	251	\$11,414	251	\$12,831	...	\$1,417
Execution of process and court orders.....	558	18,989	705	22,093	147	3,104
Security support.....	747	20,207	747	22,618	...	2,411
Other.....	1,069	35,758	1,069	35,758		
Total.....	2,625	86,368	2,772	93,300	147	8,932

**Activity: U.S. Marshals**

			Proposed Supplemental Pos. Amount
Witness security.....	...	\$1,417	

During Fiscal Years 1979 and 1980, the United States Marshals Service (USMS) has been called upon to provide extraordinary security by witness security inspectors and other witness security staff for a number of highly sensitive witnesses who must be kept in a safe environment during the course of certain sensitive criminal trials.

The requested funding will provide resources for current on-going protected witness details which do not meet the entry criteria of Departmental Order 2110.2 for the Protective Witness Program. In addition, the requested funding will provide for protected witness details associated with the Hell's Angels Trial in the northern district of California. These details are extraordinary in that the USMS must provide 24-hour witness protective services. The threat to the safety of witnesses in the Hell's Angels trial in northern California is such that additional protection must be provided for the duration of the trial. Due to the extraordinary nature of the protective services for the safety and protection of human life provided in the above mentioned instances, supplemental funding of \$1,417,000 is necessary.

Activity: U.S. Marshals

	Proposed Supplemental Pos. Amount
Execution of process and court orders.....	147 \$3,104

For Fiscal Year 1980, the President proposed legislation to transfer the responsibility for the receipt and service of private process from the USMS to private enterprise. This change was to be accomplished by means of a proposed amendment to Title 28 of the United States Code to prohibit the service of any writ, process, or order by the USMS for private litigants. The resources requested were deleted from the 1980 appropriation enacted for the USMS even though legislation was not enacted to remove the responsibility for the service of private process from the USMS. The USMS is currently serving process as mandated by law. This supplemental request will restore the resources previously deleted for the service of process. The President is reintroducing the private process legislation as part of his 1981 budget.

Activity: U.S. Marshals

	Proposed Supplemental Pos. Amount
Security support.....	... \$2,411

Because of their position in the judicial system, federal judges and magistrates continue to be targets for groups intent on disrupting the criminal justice process. When the judiciary receives a threat or when a potential threat is recognized, the USMS takes action to offer or provide protection to the intended victim(s). This protection, if accepted, continues until the perpetrator is apprehended or investigation reveals the threat has diminished. This protection is also available for other members of the judiciary and other court officers, e.g., the U.S. Attorneys and their staffs. The western district of Texas has required protection for four judges and their families and six members of the U.S. Attorneys' staff after the assassination of Judge Hood in May 1979. This protection has continued into FY 1980 and will necessitate supplemental funding of \$1,655,000. The Hell's Angels Trial in the northern district of California has required unusual judicial security (apart from that provided protected witnesses) not usually provided by the USMS for criminal proceedings. Supplemental funding of \$756,000 for this trial is necessary. Due to the extraordinary nature of the protective service for the safety and protection of human life, total supplemental funding of \$2,411,000 is requested for judicial security support.

Legal ActivitiesSalaries and Expenses, U.S. Attorneys and MarshalsFinancial Analysis  
(Dollars in thousands)

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Item	1980 Proposed Supplemental		Bankruptcy Matters		U.S. Marshals	
	Pos.	Amount	Pos.	Amount	Pos.	Amount
<b>Grades</b>						
GS-14.....	10	347	10	347	...	...
GS-13.....	15	441	15	441	...	...
GS-12.....	10	247	10	247	...	...
GS-11.....	7	144	7	144	...	...
GS-9.....	125	2,270	1	17	124	2,253
GS-8.....	15	231	15	231	...	...
GS-7.....	2	28	2	28	...	...
GS-6.....	3	38	3	38	...	...
GS-5.....	25	288	2	22	23	266
GS-4.....	1	10	1	10	...	...
Ungraded.....	11	297	11	297	...	...
Total positions and annual rates	224	4,341	77	1,822	147	2,519
Lapse (-).....	-60	-1,123	-15	-352	-45	-721
Total permanent workyears and personnel compensation.....	164	3,218	62	1,470	102	1,748
Positions other than permanent.....	2	27	...	...	2	27
Other personnel compensation.....	117	2,973	...	...	117	2,973
Total workyears and personnel compensation.....	283	6,218	62	1,470	221	4,748
Personnel benefits.....	...	435	...	146	...	289
Travel and transportation of persons.....	...	1,789	...	152	...	1,637
Transportation of things.....	...	26	...	15	...	11
Standard level user charges.....	...	268	...	232	...	56
Communications, utilities and other rent.....	...	248	...	205	...	43
Printing and reproduction.....	...	24	...	16	...	8
Other services.....	...	416	...	298	...	118
Supplies and materials.....	...	61	...	39	...	22
Equipment.....	...	231	...	231	...	...
Total workyears and obligations.....	283	9,736	62	2,804	221	6,932

STANDARD FORM 300 Supplemental requested, existing legislation  
 May 1962, Part 1 of the Budget  
 Circular A, April, 1962.  
 000-101

DEPARTMENT OF JUSTICE  
 LEGAL ACTIVITIES

SALARIES AND EXPENSES, U.S. ATTORNEYS AND MARSHALS  
 Program and financing (in thousands of dollars)

Identification code	1980 Presently Available	1980 Revised Estimate	1980 Proposed Supplemental
15-0322-1-I-752			
<u>Program by activities:</u>			
Direct program:			
1. U.S. attorneys.....	154,889	154,889	...
2. Bankruptcy matters.....	2,661	5,465	2,804
3. U.S. marshals.....	86,385	93,317	6,932
Total direct program.....	243,935	253,671	9,736
Reimbursable program.....	1,151	1,151	...
10.00 Total program costs, funded obligations.....	245,086	254,822	9,736
<u>Financing:</u>			
Offsetting collections from:			
11.00 Federal funds.....	-616	-616	...
14.00 Non-federal sources.....	-535	-535	...
21.40 Unobligated balance available, start-of-year.....	-17	-17	...
22.40 Unobligated balance transferred from other accounts..	-4,370	-4,370	...
Budget authority.....	239,548	249,284	9,736
<u>Budget authority:</u>			
40.00 Appropriation.....	232,915	242,651	9,736
44.20 Supplemental for civilian pay raise.....	6,633	6,633	...
<u>Relation of obligations to outlays:</u>			
71.00 Obligations incurred, net.....	243,935	253,671	9,736
72.40 Obligated balance, start-of-year.....	17,452	17,452	...
74.40 Obligated balance, end-of-year	-22,444	-22,613	-169
90.00 Outlays, excluding pay raise supplemental.....	232,732	242,299	9,567
91.20 Outlays, civilian pay raise supplemental.....	6,211	6,211	...

## Supplemental requested, existing legislation

STANDARD FORM 304  
 May 1967, Bureau of the Budget  
 Circular No. A-11, Revised  
 504-103

DEPARTMENT OF JUSTICE  
 LEGAL ACTIVITIES  
**SALARIES AND EXPENSES, U.S. ATTORNEYS AND MARSHALS**  
**OBJECT CLASSIFICATION (in thousands of dollars)**

	1980 Presently Available	1980 Revised Estimate	1980 Proposed Supplemental
<b>15-0322 T-1-752</b>			
<b>Direct obligations</b>			
Personnel compensation:			
11.1 Permanent positions.....	142,431	145,649	3,218
11.3 Positions other than permanent.....	3,582	3,609	27
11.5 Other personnel compensation.....	7,804	10,777	2,973
11.8 Special personal services payments.....	114	114	...
Total personnel compensation.....	153,931	160,149	6,218
Personnel benefits:			
12.1 Civilian .....	15,902	16,337	435
13.0 Benefits for former personnel .....			
21.0 Travel and transportation of persons.....	10,329	12,118	1,789
22.0 Transportation of things.....	519	545	26
23.1 Standard level user charges.....	18,813	19,101	288
29.0 Rent, communications, and utilities.....			
23.2 Communications, utilities .....	11,313	11,561	248
24.0 Printing and reproduction .....	2,548	2,572	24
29.0 Other services .....	23,073	23,489	416
26.0 Supplies and materials.....	1,784	1,845	61
31.0 Equipment .....	5,690	5,921	231
120 - Lands and structures .....			
199.0 Investments and loans .....			
41.0 Grants, subsidies, and contributions .....			
42.0 Insurance claims and indemnities.....	16	16	...
49.0 Interest and dividends .....			
44.0 Refunds .....			
Unobligated balance start of year			
25.0 Other services .....	17	17	...
99.0 Total obligations.....	243,935	253,671	9,736

STANDARD FORM 300  
May 1962, GPO 1962, 1400-101  
GSA GEN. REG. NO. 27, 1962  
Supplemental requested, existing legislation  
See back of form for instructions

DEPARTMENT OF JUSTICE  
LEGAL ACTIVITIES

SALARIES AND EXPENSES, U.S. ATTORNEYS AND MARSHALS

Identification code	Object Classification (in thousands of dollars)	1980	1980	1980
		Presently Available	Revised Estimate	Proposed Supplemental
15-0322-1-1-752	Total reimbursable obligations...	1,151	1,151	...
99.00	Total obligations.....	245,086	254,822	9,736

## Supplemental requested, existing legislation

STANDARDS FORM 300  
2-2-1964, Bureau of the Budget  
Circular A-2-11, Revised  
500-101

DEPARTMENT OF JUSTICE  
LEGAL ACTIVITIES  
SALARIES AND EXPENSES, U.S. ATTORNEYS AND MARSHALS  
Personnel Summary

Identification code	1980	1980	1980
	Presently Available	Revised Estimate	Proposed Supplemental
<b>Direct:</b>			
Total number of permanent positions.....	7,109	7,333	224
Total compensable workyears...	6,557	6,840	283
Full-time equivalent of other positions.....	(210)	(212)	(2)
Full-time equivalent of overtime and holiday hours....	(290)	(407)	(117)
Average ES salary.....	\$50,010	\$50,010	***
Average GS grade.....	7.25	7.34	9.10
Average GS salary.....	\$16,316	\$16,630	\$18,985
Average salary of ungraded positions.....	\$34,436	\$34,397	\$27,000
<b>Reimbursable:</b>			
Total number of permanent positions.....	19	19	***
Total compensable workyears...	21	21	***
Full-time equivalent of other positions.....	(0)	(0)	***
Full-time equivalent of overtime and holiday hours.....	(5)	(5)	***
Average GS grade.....	8.00	8.00	***
Average GS salary.....	\$15,147	\$15,147	***

STANDARD FORM 306  
 July 1960, Bureau of the Budget  
 Circular No. A-11, Revised.  
 GSA-100

## Supplemental Requested, existing legislation

DEPARTMENT OF JUSTICE  
 SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS  
 DETAIL OF PERMANENT POSITIONS

Identification code 15-0322-1-1-752	1980 presently available	1980 Revised	1980 Proposed Estimates	Supplemental
Executive Level IV.....	5	5	...	
Subtotal.....	5	5	...	
ES-5.....	2	2	...	
ES-4.....	3	3	...	
ES-2.....	1	1	...	
GS-15.....	16	16	...	
GS-14.....	73	83	10	
GS-13.....	98	113	15	
GS-12.....	172	182	10	
GS-11.....	384	391	7	
GS-10.....	14	14	...	
GS-9.....	1,045	1,170	125	
GS-8.....	150	165	15	
GS-7.....	620	622	2	
GS-6.....	978	981	3	
GS-5.....	882	907	25	
GS-4.....	520	521	1	
GS-3.....	63	63	...	
GS-2.....	7	7	...	
Subtotal.....	5,028	5,241	213	
Ungraded.....	2,076	2,087	11	
Total permanent positions.....	7,109	7,333	224	
Unfilled positions, Sept. 30.....	-586	-564	-22	
Total permanent employment, end-of-year.....	6,523	6,769	246	

I have had many calls on this program from judges telling me that the establishment of the U.S. Trustees was a good idea, but that the program cannot work with the current resources. We are going to talk at length about this particular budget.

Why don't we begin with your statement on the supplemental request.

#### GENERAL STATEMENT

Mr. LEVINE. I appreciate your sensitivity, Mr. Chairman. With respect to the statements, we are not asking for any more money in 1981 than for the supplemental, so the reason you have two statements in front of you is that I would request permission to insert the longer one in the record and read from the shorter one, which is a summary of the longer one. But there is no difference with respect to the number of positions or the dollars other than uncontrollables with respect to what we are requesting for the supplemental or the 1981 budget.

Mr. EARLY. The shorter statement deals more with the supplemental?

Mr. LEVINE. I think the first paragraph may sound like that, Mr. Chairman, but, in fact, the points we make are identical for both.

Mr. EARLY. Why don't you read the shorter statement, and we will insert the longer statement in the record.

Mr. LEVINE. Thank you.

Mr. Chairman, and members of the subcommittee, I appreciate the opportunity of appearing before you today. Bankruptcy is probably of more critical importance than many people realize because of the number of persons involved. Specifically, in recent years there have been more than 215,000 debtors per year. Those debtors have hundreds of thousands of creditors.

It is for many—that is both creditors and debtors—their only exposure to any kind of court or court-related proceedings, other than perhaps a traffic ticket. It was against a background of concern for how the system was developing that Congress enacted the Bankruptcy Reform Act of 1978.

#### DATA ON PILOT DISTRICTS

Pursuant to the Reform Act, the U.S. Trustees were appointed by the Attorney General to administer bankruptcy cases in 18 experimental, or pilot districts. Those districts were designated by the Congress. Last year, in the pilot districts alone, there were more than 60,000 bankruptcy cases filed, which accounted for 27 percent of the total filings in the country. As my supplemental statement points out, that probably represents a good deal more than 27 percent of the actual dollars involved. My guess is it is closer to 35 or 40 percent of the dollars involved in bankruptcy.

The Administrative Office of the U.S. Courts has maintained statistics about the dollars, and their latest ones go through the fiscal year ended June 30, 1977. That is two years ago. And those figures, which are the most recent ones, show that in the pilot district the funds realized in liquidation cases were more than \$70 million. They also showed \$11 million received in chapter 13 cases, which are the old wage earner plans, so-called. Plans of arrangement in chapter 11, which is

the large corporate reorganization, paid more than \$49 million to creditors. These are just in the pilot districts. These figures do not include assets administered by receivers—and there are no receivers any more—trustees, or debtors-in-possession in chapter cases, but assets not turned over to creditors, such as the cash handled in operating a business. In a chapter 11, the business continues to operate while deals are trying to be worked out with creditors. There are no statistics available to measure the amount of money that the Trustees and the U.S. Trustees' appointees—trustees in cases—have the responsibility for.

Based on my personal experience extrapolating from the size of the cases in my practice before I came to this job, these figures for the pilot districts are probably in excess of \$2 billion, and the more I think of that, the more I think the figure is higher. I had two cases personally that totaled \$900 million worth of assets so if you extrapolate the amount of assets passing through the hands of a trustee, they are significant, and we are just talking about the pilot districts.

#### INITIAL 1980 ESTIMATES INADEQUATE

For fiscal year 1980, the U.S. Trustees were authorized 90 positions and \$2,661,000. Those figures were developed before the U.S. Trustees were appointed, and before the Department had established an office to coordinate their activities. Those figures were erroneous. I think everyone used good faith, and I am sure the Administrative Office of the U.S. Courts thought those figures were correct, as all of us did. We had no opportunity then to know how the system would work exactly. There was a lot left to the discretion of the courts and the Department in the bill.

Judges and lawyers have almost universally praised the system's beginning, but their praise has been tempered. They, along with the U.S. Trustees, the Attorney General, and I are all concerned that with the present staff levels, the U.S. Trustees will not long be able to maintain the quality of their work to date. I might insert I talked to a U.S. Trustee yesterday. I came in to my office yesterday at 8:00 in the morning, and the phone was ringing. It was a U.S. Trustee who had questions about a brief he was working on. As my supplemental statement points out, I am impressed that a U.S. Trustee takes the initiative to work on briefs, but all the time he spends doing research a lawyer could do, his time is not spent making decisions in actual cases. Each month brings approximately 5,000 additional cases to administer on top of the cases already filed.

That is the reason I am before you today, both to request our 1981 budget, and also to ask that you authorize us a supplemental budget. Specifically, we are asking for an additional 77 positions for a total of 167, and an additional \$2,804,000, for a total of \$5,465,000.

This will bring the program up to the strength which it should have had to begin with. It does not seek any new areas of involvement. To the contrary, it presupposes a voluntary limitation on areas of involvement. For instance we have elected not to send out notices. That is one of the areas I am referring to. Almost all of the new positions will go to the U.S. Trustees in the field instead of to the Washington office, and will enable the U.S. Trustees to make decisions more quickly, and to process more cases. It will not add to the bureaucratic paper-

work; it will substantially reduce the amount of time which the decision-makers will have to spend on bureaucratic and scrivening functions. It will result in less travel being necessary.

#### EVALUATION OF TRUSTEE PROGRAM

The dollars will enable us to begin the evaluation program which Congress has required of the Attorney General. Mr. Chairman, I might add that the way the statute is structured, it is a sunset statute and before April 1984, Congress will have to make a determination as to whether or not the pilot program in its present or modified form will continue or not. That is the reason this particular evaluation is so critical.

These dollars will particularly enable us to hire the persons needed to fulfill the functions demanded of the U.S. Trustees, and to contract for the evaluation.

#### RECRUITMENT OF STAFF

The U.S. Trustees have proved themselves able to recruit and hire competent persons quickly. They began work on October 1, 1979, the day the new Bankruptcy Code became effective, and have been working intensively ever since, frequently spending 15-hour days and 7-day weeks.

They have no control over their workload, and must administer all cases filed. They must organize creditors' committees. That is a function no one had to do before October 1, 1979. They must appoint a trustee in every liquidating case. I might add that the statutory structure, as Congress has enacted it, provides in many of those liquidating cases the trustee cannot receive more than \$20, so the recruiting of trustees has not been easy. They must ensure that creditors are dealt with fairly. That includes the U.S., which is frequently a creditor in bankruptcy proceedings.

In order to save the time of this committee, Mr. Chairman, I have requested permission to insert into the record a supplemental statement.

Mr. EARLY. We will insert your prepared statement at this point in the record.

[The information follows:]

STATEMENT OF THE DIRECTOR  
EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES  
RICHARD L. LEVINE  
BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON THE  
DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE,  
THE JUDICIARY AND RELATED AGENCIES

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before you in support of the FY 1980 supplemental and FY 1981 requests for the United States Trustees. The various offices of United States Trustees were created by the Congress in the Bankruptcy Reform Act of 1978 and began to exercise their duties on October 1, 1979. They were established as part of the reform of the bankruptcy process which Congress mandated. The responsibilities of the United States Trustees in administering bankruptcy cases has been extensive. Based on figures from July 1, 1978 through June 30, 1979, the 18 federal districts in which United States Trustees have administrative responsibility accounted for 27 percent, or over 60,000, of the 225,000 bankruptcy cases filed in this country last year. Although there are no detailed figures for the exact amount of money involved in these cases, it would be a fair assumption that because the United States Trustees' districts include large metropolitan areas, such as New York City, Los Angeles, Chicago, Boston, Birmingham, Denver, Wichita and St. Paul/Minneapolis, the amount of money involved is probably significantly greater than 27 percent of the total amount of money involved in bankruptcy cases.

The latest statistics available from the Administrative Office of the U.S. Courts, for the Fiscal year ended June 30, 1977, show that in the pilot districts the funds realized in liquidation cases were more than \$70 million, and \$11 million in Chapter XIII cases; Plans of Arrangement in Chapter XI's paid more than \$49 million to creditors. These figures do not include assets administered by trustees, receivers, or debtors-in-possession in Chapter cases but not turned over to creditors, such as the cash handled in operating a business. There are no statistics available to measure that, but based on my own experience, those figures for the pilot districts should be approximately \$2 billion.

The United States Trustees are part of an experiment designed to terminate on April 1, 1984, unless Congress determines otherwise.

In the 4 1/2 months in which the United States Trustees have been operating, they have already been widely praised for relieving Bankruptcy Judges of many of the administrative burdens involved in bankruptcy cases. United States Trustees have appointed committees of creditors in each Chapter 11 bankruptcy, which for the most part are business bankruptcies. They have worked together with these committees, particularly in those parts of the country where there has not been a tradition of significant creditor involvement, in order to

begin to build a tradition of creditor involvement in bankruptcy cases. They have in addition selected panels of individuals to serve as trustees in individual cases. At all times, the goal of the United States Trustees has been to insure less governmental involvement and more significant involvement by creditors and by the private trustees appointed in cases. This has not been without a significant cost in terms of the diminished time and energy available to make the kind of decisions Congress entrusted to each United States Trustee.

The current fiscal year resource level of 90 positions is proving inadequate to maintain even a minimum service level. Indeed--several Bankruptcy Judges have expressed grave concern as to whether the United States Trustees can fulfill the role intended by Congress.

The addition of the 77 positions requested in this supplemental, for a total resource level of 167 positions, and the same number requested for fiscal year 1981, will enable us to provide a minimum level of services as mandated by the Bankruptcy Reform Act. When I first became Director, I instituted a system of time reports to be filled out on a weekly basis by the United States Trustees, the Assistant United States Trustees, and the so-called Bankruptcy Analysts, who are the journeyman professionals in each of the offices. These confirm what I had detected from various conversations with the United States

Trustees, and that is that they have frequently worked 15 hour days and have frequently worked 7 day weeks. The United States Trustees have a workload over which they have no control, in that once a case is filed, the United States Trustees must administer it. Thus, with each month's new filings, the workload of the United States Trustees includes the previously filed cases as well as the new cases. In some districts this workload has been crushing.

For instance, because of the present budget, the United States Trustee who is charged with the responsibility for the Districts of Massachusetts, Maine, New Hampshire and Rhode Island, has a total staff of 8 persons. That includes himself, one Assistant U.S. Trustee, and the clerical personnel who must both perform secretarial work and also review the work of the trustees to insure that creditors, including the United States, are being treated fairly. That U.S. Trustee is now supervising more than 1600 cases, of which 68 are complex Chapter 11 cases. The administration of the Chapter 11 cases alone would occupy the full time of the United States Trustee and his staff. With a staff of 3 professionals to scrutinize the activities of 68 businesses, as well as the Chapter 7 liquidations and the extensive supervision

entailed in Chapter 13 cases, the continued ability of the United States Trustee to do an adequate job becomes extremely difficult. In addition, one-third of a Fiscal Year has now elapsed, but the number of filings in this district already exceeds one-third of last year's filings. This kind of story is generally repeated throughout the country.

Another task which the United States Trustees must take very seriously is the statutory mandate to appoint committees of creditors in cases, a function which previously no one had the responsibility to do, not even Judges. In order to convince at least 7 persons to serve on a committee, the United States Trustee or member of his staff must telephone sometimes as many as two dozen creditors in order to get them interested in the case. This does not include the time spent in educating them as to how to function as a creditors' committee. Incidentally, the United States Trustee does not routinely use the telephone to assemble creditors' committees, but, Mr. Chairman, you and the members of the committee might be interested to know that in most significant Chapter 11 cases, it has been the custom for years past, and is in my opinion a valid need, for creditors' committees to begin operating usually within 48 hours of the filing of a bankruptcy petition. This is because once a petition is filed, the debtor must immediately adjust his finances as he operates during the bankruptcy, and this adjustment may seriously affect creditors.

The current allocation of positions among the other United States Trustees' offices are as bleak as I have described in the northeast district. A single United States Trustee, located in St. Paul, must serve all of North Dakota, South Dakota, and Minnesota. He has on his staff 6 people, including himself and clerical support.

Only one U.S. Trustee's office has a full-time attorney. This means that the other ten are without any individual to even draw basic pleadings. For instance, if a U.S. Trustee determines that he or she wishes to object to an attorney's request for fees, or move that a trustee be appointed in a Chapter 11 to protect creditors, the U.S. Trustee must personally draw the pleadings. If the action sought by the U.S. Trustee is contested, he will have to appear personally in court even for simple motions, and will have to do his own research. That a U.S. Trustee should do some of these things in major cases is acceptable. That a U.S. Trustee, or an Assistant U.S. Trustee, must do all of these things in every case--whether large or small--means that the U.S. Trustee or Assistant U.S. Trustee cannot spend time on making the decisions and supervising cases as Congress had intended. Accordingly, if the budget request is approved, I would authorize one attorney for each of the offices. It is possible that in future years, the work load for research will increase, but I feel that one attorney is an appropriate starting place.

Another problem area which is developing involves Chapter 13 work. In these cases, U.S. Trustees supervise the work of so-called "standing trustees," who receive weekly payments from debtors and then distribute the funds to creditors. In a district such as Alabama, for instance, the amount of funds handled in a single year by a single standing trustee can exceed \$7 million. Because of some legal technicalities now developing concerning the method of paying standing trustees, there is a risk that some standing trustees may resign, leaving the burden of administering these cases on the U.S. Trustees. Even if the standing trustees do not resign, the responsibility of insuring that they are reviewing every plan filed by a debtor, that they are adequately advising the courts as to the appropriateness of a plan, and that they are properly handling the funds entrusted to them, is significant.

Although creditors, attorneys and debtors frequently need to consult with the United States Trustees, we have only one regional office (the District of Kansas and Colorado has one office in Kansas and one in Colorado) and no branch offices. That means that a creditor or debtor in Bangor, Maine who wishes to consult with the United States Trustee must fly to Boston, or wait for the U.S. Trustee to come to Bangor, and it also means that a bankruptcy case filed in Bangor cannot be acted on by the United States Trustee until the mails favor him with notice of the filing. This has led to some delays in establishing meetings of creditors and the like.

Mr. Chairman, the present budget is impeding the ability of the United States Trustees to actually make decisions in cases. The exhaustive and the exhausting hours which the Trustees and their staffs have been expending will harm this program before we have the opportunity to prepare any reasonable kind of evaluation. The present staff size impedes our program from representing a realistic kind of test; at some time the 15 hour days and the 7 day weeks are not going to be able to be sustained, and when that happens, the administration of bankruptcy cases in these pilot districts will suffer.

The request which we are making, Mr. Chairman, is to avoid a breakdown of the program, and the number of positions which we are requesting is enough only to be able to accomplish that. The original 1980 budget was prepared and presented to the Congress prior to initiation of the Program and before there was any experience with it. We are now feeling the consequences of this, one which the Judges and the bar have frequently commented on.

With respect to the budget of the Executive Office, we have the same kind of problem. You will notice that we are requesting only 10 additional positions for the central office, as compared with 67 for the field.

A major function of the Executive Office is to provide coordination to the United States Trustees; this includes obtaining space and equipment for the U.S. Trustees in the field, processing of personnel actions, and the implementation of fiscal and budgetary controls. We are seeking one person each to be

responsible for the needs of the field offices in standard areas; budget, procurement, personnel, space and fiscal controls. We will have only one attorney to answer any inquiries of law, either from the United States Trustees in the field, from me, from other agencies of the government or from the Congress. The office has one Director, one Deputy Director, one Administrative Officer and one Director of Management Systems, whose responsibilities include helping the United States Trustees establish and maintain working offices and develop and implement methods to keep track of the several thousand cases for which they are responsible, and to coordinate the evaluation of the entire program which Congress will need before April 1984.

We will contract for the evaluation which is so critical to the Congress before it makes its decision in April 1984, since we do not have the personnel to do the evaluation in-house; we will endeavor to keep at a relatively low level the number of meetings of United States Trustees and Assistant United States Trustees. All we are asking for in our Supplemental budget--which is the same request as for 1981--is the ability to perform the tasks which we have been charged by the Congress to do.

The requested positions will enable decisions in the field to be made more speedily, and more responsively. The requested dollars will enable the office to commence a realistic evaluation program, and to be able to supervise its case loads.

That concludes my prepared statement. I shall be pleased to answer any questions you or other Members of the Subcommittee may have.

Mr. LEVINE. If you have questions, I shall be pleased to respond to the best of my ability.

#### INTRODUCTION OF NEW DEPUTY DIRECTOR

May I add one more thing by way of introduction? Although I have no one with me today to testify with me, I would like to point out in the room is the new Deputy Director of the office, who is only in the second week on the job. William Sager, who comes to us with many years' experience at the IRS and Treasury.

#### PILOT DISTRICT CASELOAD

Mr. EARLY. My first question refers to page one of your statement where you say, "Last year in the pilot districts alone, there were more than 60,000 bankruptcy cases filed."

Can you tell the committee how many were filed in those districts this year?

Mr. LEVINE. Yes, Mr. Chairman. One of the things we have been able to do, sometimes I think it is miraculous, we already have been able to keep monthly statistics of filing.

Mr. EARLY. Would it be more or less?

Mr. LEVINE. From October 1, 1979, when the program began, through the end of January of 1980, which is where we have the statistics from, there were approximately 20,800 bankruptcy cases filed in the pilot districts. The only number I can compare that to, since that represents a third of the year, is to take a third of last year's, and to answer your question directly, Mr. Chairman, that indicates a rate slightly higher than last year; in other words, a third of last year—

Mr. EARLY. You included January in the statistics?

Mr. LEVINE. Yes, through January 31, we have had about 20,800 filings; a third of last year's figures would come out to about 20,000. There is some skewing also that probably means slightly more bankruptcies this year than the figures indicate. That skewing is that the new bankruptcy code provides a husband and wife can file a single petition, so, therefore, if a husband and wife filed one petition, it would only count as one.

We will, of course, refine those figures over time, so it is probably safe to add another couple hundred on there. It looks like we are slightly higher than the rate of filings last year, bearing in mind that October was a slow month; a lot of people were afraid to file because they were not sure how the new bankruptcy code works.

[The following information was submitted subsequent to the hearing:]

#### NUMBER OF JOINT BANKRUPTCY FILINGS

A spot-check review of filings since the testimony indicates that the number of joint (i.e., husband and wife) petitions is much larger than originally indicated. Specifically, it now seems more accurate to assume that there have been more than 4,000 joint filings so far in the pilot districts. Therefore, the figure of 20,800 filings referred to in the testimony probably reflects 25,000 total actual debtors from October 1, 1979 to January 31, 1980.

## HANDLING OF BANKRUPTCY CASES RECEIVED

**Mr. EARLY.** On page 2, you state "Each month brings an additional 5,000 cases." With the staff you have today, how many of those 5,000 cases are you resolving?

**Mr. LEVINE.** In all frankness, Mr. Chairman, the chapter 7 cases get resolved because there is a trustee in every case. What we can't do in the chapter 7 with the present staff is take a careful look at how well the private trustees are doing the job. They are the ones who handle the billions of dollars. In the chapter 11 cases, Mr. Chairman, we probably are able with the present staff to seriously focus on maybe 40 percent of those that we would like to.

If I can expand on that a little bit, Mr. Chairman, we see it as part of our job to train creditors' committees, to protect their rights. There are certain jurisdictions in this country where there is an active tradition of creditors' committee involvement. Your own State of Massachusetts—

## CREDITOR COMMITTEES

**Mr. EARLY.** This is a new idea, isn't it?

**Mr. LEVINE.** The answer to the question is yes and no. It is not new that there should be creditors' committees; what is new is that they are no longer voluntary and assembled ad hoc by individual attorneys. In many cases creditors' committees were assembled by attorneys for attorneys. In other areas, Massachusetts—your own State being one—New York being another, there was a tradition of very sophisticated creditors' committees, where there were active creditors' committees protecting the rights. It is the job of the U.S. Trustee to supervise chapter 11 cases. Judges formerly did that.

However, in the majority of the States of this country, there is not a traditional creditor committee involvement. For example, in New York there is an active creditors' committee tradition. In New Jersey, across the river, active creditors' committees are relatively infrequent.

In those jurisdictions, while the U.S. Trustees are trying to build a tradition of credit or committee involvement, the U.S. Trustee, himself, must supervise the cases. By supervision of the cases, I mean this among other things: a bankrupt case should not be permitted to go bankrupt, Mr. Chairman. Once a case is filed, if a debtor cannot at least pay the expenses being incurred in the bankruptcy, no one will ever do business again with a debtor who is seeking to reorganize. It is the job of the U.S. Trustee, where the committee isn't playing the role, to get weekly or monthly reports, (in some cases daily reports, where there might be a question of the honesty or competence of present management) to insure that all creditors are being paid the expenses in the chapter 11 cases and to make sure that the company isn't feeding off of itself so that even though it is paying expenses, it is paying out of assets which would otherwise be available to creditors if there was liquidation.

There is where the crunch is coming now. We unfortunately do not have the manpower to supervise all of these cases. I can give this committee little assurance that I could say to you in every chapter 11 case in the country we know that the company is not losing money, or that we know that the assets of the creditors are not being dissipated.

## ADDITIONAL STAFFING FOR PRESENT WORKLOAD

**Mr. EARLY.** I am disturbed about your statement that was submitted for the record in which you mention your request for 77 new positions to enable you to provide a minimum level of service as mandated by the Bankruptcy Reform Act.

**Mr. LEVINE.** We will be able, Mr. Chairman, with the 77 positions, almost all of which are going to the field, to at least be able to pay attention to the cases. That is the minimum acceptable level. I suppose there are levels above that, Mr. Chairman, but I think in all fairness and frankness, with the 77, we would be able to at least give the assurance to the committee that I have just indicated.

**Mr. EARLY.** You suggested in your statement that you received praise from several judges, but that the praise has been tempered. They have been tempered in my area. The judges suggest you can't do the job with the staff you have.

**Mr. LEVINE.** I received a phone call three weeks ago from the Chief Judge of the busiest bankruptcy court in the U.S. He is one of the most sophisticated judges. I try to stay in touch with the judges. The Chief Judge said the program as far as he is concerned is excellent, the U.S. Trustee is on his toes, but as far as the Judge is concerned, he cannot believe and has no confidence that kind of pace, especially as the cases increase, can be maintained. The Chief Judge has no confidence that is going to happen, and that lack of confidence pervades some of the general reaction of these judges. That is an example. He thinks we are doing a great job, but he is saying this is not going to last long. With 5,000 extra cases a month, at the end of one year there will be 60,000 cases, and they don't end in a year necessarily. So another 60,000 next year. We are talking about building not leveling. Some cases will be closed, but not as many will be closed as open, because the law has delays built into it.

**Mr. EARLY.** Aren't you suggesting that if we approve the 77 positions requested in the supplemental, you will eliminate almost all of the 60,000 cases?

**Mr. LEVINE.** I am suggesting if Congress approves the 77 additional positions in the supplemental, we will be able to stay on top of the rate of filings that we now see, which is slightly greater than last year. That is what I am suggesting, Mr. Chairman 60,000 for this year, 60,000, again for next year, minus, let's say, 20,000 of this year's 60,000, which may get closed.

I am saying with the 77 new positions we can perform—when I said minimum, I meant minimum acceptable—a minimally acceptable level of supervising these cases, assuming the same or close to the same rate of filings.

**Mr. EARLY.** It doesn't appear to me, at least, that when this program is terminated in 1984, the record is going to show that you gave better service to more people. We are just going to keep the status quo.

**Mr. LEVINE.** No, Mr. Chairman, we hope that the U.S. Trustees can do a job well enough within the 167 total people that that could give a basis for a test. There is this aspect. Come 1984, if the Congress decides this is a program that should be continued, at that point, of course, I suspect Congress will be making some allocation in clerks'

offices as well. It won't be keeping a double staffing, but I do think with the 77 I am asking for, based on what we now see are the figures, that it will at least be enough for Congress to have an idea as to whether this kind of system works.

**Mr. EARLY.** Will you supply for the record what you think the number of people will be that you would need to carry out the mandate of Congress 100 percent?

**Mr. LEVINE.** Yes, Mr. Chairman.

[The information follows:]

#### ADDITIONAL STAFFING NEEDS

This program has been operating for 5 months only, and the specific dictates of Congress concerning the administration of cases generally, and the role of the U.S. Trustees specifically, are being developed on an ongoing basis. Accordingly, as this development occurs the resource needs will become clearer. Any budget is based on assumptions, and those were referred to in the prepared statements and the testimony. Based on what we know now, the request before the Congress is adequate. It is, however, the smallest number of positions which is adequate. Below the number of positions sought, the program cannot function effectively.

Where possible, short cuts as to positions were used. For instance, the evaluation program, which is so critical, will be contracted for rather than be performed in-house. This means that no extra positions need be created solely for evaluation. These are examples of an attempt to keep the budget down, but at an acceptable level.

#### PILOT OFFICE STAFFING PROBLEMS

**Mr. EARLY.** I don't know how you can have one regional office that covers all of New England with only eight people to staff it. You also indicate that every region doesn't have an attorney.

**Mr. LEVINE.** Only one region has an attorney. That is the New England one. No other region has an attorney. That is what the reference was to scrivening. With apologies to any lawyers present in the room, much of a lawyer's job, even a necessary part, is scrivening, and I don't think frankly a U.S. Trustee should have to do that. He can't make decisions in cases if he has to do the research and write a brief. He has to sometimes, but he should not have to routinely, but not at 10:00 at night, and not seven days a week.

We only have, as I say, one attorney. The budget figures submitted with this indicate 14 attorneys, but that is because those count people such as the U.S. Trustees and Assistant U.S. Trustees who happen by coincidence to be attorneys, and those figures are accurate as far as the number of attorneys, but we only have one attorney doing attorney functions.

**Mr. EARLY.** What would these 77 positions be?

**Mr. LEVINE.** Generally I can break it down for you, Mr. Chairman. First of all, of the 77 positions, I have been able to swallow hard and put 67 of them in the field, so 67 of the 77 I plan to have in the field. Those positions, Mr. Chairman, would enable us to increase the professional staffs, not at the high-paid end, Mr. Chairman, not the Assistant U.S. Trustee end, but something we call bankruptcy analysts. That is one area we think we need a lot of assistance, and that is the name we arbitrarily have given to the professional in the office. The U.S. Trustee in Massachusetts—his name is Tucker—if Mr. Tucker wants to know if a particular business is operating, he now has only

one analyst on his staff that he is able to send out and take a look at the plant. We would increase the analyst positions, and we would, in addition, increase some of the clerical positions.

To use Mr. Tucker, for example, he doesn't have a secretary. He is supposed to write reports for me and the Attorney General and make filings in court. He has no secretary. What he is doing is taking somebody who is supposed to be a clerk just to keep track of the filings and using that person as a secretary. They are all doing that. We have no secretaries allocated for the U.S. Trustees, so we hope to give them at least enough so when a case comes in, it can be placed in a file folder and somebody can answer a question about it and update the statistics.

#### TRUSTEE BONDS

For example, Mr. Chairman, it is important that we know whether or not a trustee's bond is adequate. What that means is this: If a private trustee has a case, what is to stop the trustee. Even if the U.S. Trustee is the best in the world, the trustee could steal the money, commit a tort for which he could be sued, do all sorts of things. It is traditional in bankruptcy cases that a trustee, every trustee in a case, has to have a bond, filed by a bonding company, in every case. So if the private trustee defaults and if he cannot be found, or if he can be found and he goes bankrupt, there is a bond to reimburse the creditors for their loss.

It is very important to us to keep track of whether a trustee bond equals the assets he is handling. If he has 40 cases and each has a thousand dollars, somebody at least has to do the menial but critical step of making sure that there is \$40,000 worth of bonding on him.

Mr. EARLY. You are saying you don't have clerical help that does that?

Mr. LEVINE. We do handle that as well as we can. That is just an example of a critical area. However, I could say there are 15 other tasks like that of equal importance, which could suffer.

Mr. EARLY. Would that function be handled through the central office?

Mr. LEVINE. No. That function is done by each U.S. Trustee. In the central office we would need more people than any of us would have the nerve to ask you for.

Mr. HIGHTOWER. Mr. Chairman?

Mr. EARLY. Go ahead. I yield to Mr. Hightower.

Mr. HIGHTOWER. On this matter of the trustee bond, our new arrangement is different because our trustees are Federal government employees are they not?

Mr. LEVINE. No. Mr. Hightower, and it is my fault for not being clear. In all of my testimony today, the word trustee is used in two separate meanings; it is the way the—

Mr. HIGHTOWER. The bonded trustee you are talking about is the old traditional receiver-type of trustee.

Mr. LEVINE. That is right. The U.S. Trustee appoints private trustees in every case. My reference to the bonding was to those private trustees appointed by the U.S. Trustees.

Mr. HIGHTOWER. Our U.S. Trustee is not bonded?

Mr. LEVINE. He is a salaried employee.

Mr. HIGHTOWER. Thank you, Mr. Chairman.

## ALLOCATION OF SUPPLEMENTAL RESOURCES

Mr. EARLY. So of these 77 people, 10 are for your office. How many do you have now in your office?

Mr. LEVINE. We have been authorized, Mr. Chairman, six. In addition, in my office some of the functions in the office are performed for the benefit of the field, so some of the people who are very often in my office are frequently in the field, too. We have 17 in my office now, so that it would be fair to attribute them to part of the allocation Congress gave us for the field although we could not assign it to any one office.

For example, Mr. Chairman, we have one person in charge of space. That one person is supposed to get space, telephones, and everything else. He travels around the country. He is under field allocation.

Quite frankly, Mr. Chairman, that isn't my idea of what the word field meant, but it is all we can do now. We hope if this goes through, this budget would let us have in writing exactly what the fact is, that somebody who sits in Washington would be attributable to the executive office, even though performing field functions. All we are asking for in the budget is to validate the use of those 10 positions.

Mr. EARLY. You have 10 trustees authorized?

Mr. LEVINE. Yes.

Mr. EARLY. Have they been appointed?

Mr. LEVINE. Yes.

Mr. EARLY. Will you supply for the record exactly what those 77 positions are?

Mr. LEVINE. Yes, Mr. Chairman.

[The information follows:]

**DISTRIBUTION OF 1980 SUPPLEMENTAL POSITIONS**

The 77 positions would increase the number of positions in the field from 83 to 150, and would increase the number of positions in the Executive Office from 7 to 17. Attached and labelled "A" is an analysis of the 82 positions now allocated for the field, and as "B" a proposed allocation of the 150 positions. This allocation is approximate, but the final allocation will be close to that indicated. The allocations in A and B divide employees among eleven field offices for servicing the 18 pilot districts. Locations listed without personnel represent future possible offices. Attached as "C" is a list of the 17 positions for the Executive Office.

DISTRIBUTION OF 1980 STAFF IN U.S. TRUSTEE  
OFFICES BY JUDICIAL DISTRICT

Exhibit A

POSITIONS	GRADES	I	II	III	IV	V	VI	VII	VIII	IX	X	K. C. / Totals						
		Boston	Portland	New York	Newark	Trenton	Alexandria	Richmond	Birmingham	Dallas	Chicago	Minneapolis	Sioux Falls	Los Angeles	Santa Ana	San Bernardino	Denver	Wichita
U.S. TRUSTEE	47,700	1		1	1		1	1	1	1	1	1			1		10	
ASSISTANT U.S. TRUSTEE	37,600	1		1						1		1		1		1	1	5
ATTORNEY	11-14	1						1	1									3
BANKRUPTCY		2		2	2		1			2	2		3			1	1	16
ANALYST	12-14																	
SUPERVISORY LEGAL TECH.	6-9	1		1	1	1		1	1	1	1	1	1		1	1	1	11
SECRETARY	6-7															1	1	18
CLOSING		1		2	2		2		1	2	2	1	3			1	1	
AUDITOR	6-9																	
CHAPTER 13 CLERK	6-9	1							2	2	1	1			1	1	1	9
CLAIMS EXAMINER	6-9																	
ADMINISTRATIVE CLERK	4-6					1					1		1					3
DOCKET CLERK	5-6				1	1	1	1					1					5
NOTICING CLERK	3-5																	
RECEPTIONIST	3-5									1		1						2
TOTAL		8	9	7	6	7	5	11	6	13		5	5					82

DISTRIBUTION OF U.S. TRUSTEE STAFF BY JUDICIAL DISTRICT INCLUDING 1980 SUPPLEMENTAL FUNDING

Exhibit B

POSITIONS	GRADES	I	II	III	IV	V	VI	VII	VIII	IX	X									
		Boston	Portland	New York	Newark	Trenton	Alexandria	Richmond	Baltimore	Dallas	Chicago	Minneapolis	St. Paul	Los Angeles	Santa Ana	San Bernardino	Denver	Wichita	K. C. / Topeka	TOTALS
U.S. TRUSTEE	47,700	1		1	1		1	1	1	1	1		1		1	1			10	
ASSISTANT U.S. TRUSTEE	13-15	2		1	1		1	1	1	2			2			1	1		1	11
ATTORNEY	11-15	1		1	1		1	1	1	1	1	1	1	1		1	1		1	11
BANKRUPTCY ANALYST	11-14	3		3	2		2		1	4	2		4			1	1		1	23
SUPERVISORY LEGAL TECH.	9	1		1	1		1		1	1	1	1	1			1	1		1	11
SECRETARY	7	1		1	1		1		1	1	1	1	1		1		1	1		11
CLOSING AUDITOR	7	4		3	4		4		2	2	5	3		4		3	3		3	37
CHAPTER 13 CLERK	7	1							2	3	1		1			1	1		1	10
CLAIMS EXAMINER	7																			3
ADMINISTRATIVE CLERK	6				1						1			1						20
DOCKET CLERK	6	2		2	2		2		2	1	3	1		3		1	1			2
NOTICING CLERK	5																			
RECEPTIONIST	5										1		1			10	10			149
TOTAL				16	14	13	13		12	7	23	11	20							

1 attorney available to several offices

EXECUTIVE OFFICE FOR U.S. TRUSTEES

DIRECTOR	1
DEPUTY DIRECTOR	1
MANAGEMENT INFO. ANALYST	1
SPACE MANAGEMENT SPECIALIST	1
PERSONNEL MANAGEMENT SPECIALIST	1
ADMINISTRATIVE OFFICER	1
BUDGET ANALYST	1
LEGAL ADVISOR	1
ASST. ADMIN. OFFICER	1
SECRETARY TO DIRECTOR	1
SECRETARY TO DEPUTY DIRECTOR	1
PERSONNEL ASSISTANT	1
SECRETARY TO DIR & DEP DIR	1
SECRETARY TO PMS & LA	1
Clerks	<u>3</u> <u>17</u>
Staff Assistant*/	<u>1</u> <u>18</u>

\* / 1 year appointment only

## FIELD OFFICE STAFFING PATTERNS

**Mr. EARLY.** How many lawyers are included in your request? Is it your goal to put a lawyer in each office?

**Mr. LEVINE.** Yes, Mr. Chairman.

**Mr. EARLY.** Why don't you insert in the record the staffing pattern of a typical office? Are these 18 offices relatively identical?

**Mr. LEVINE.** I happen to have with me, because I didn't know the questions you would be asking, a breakdown of how the 82 field positions are broken down office-by-office, and I also have a breakdown of how, if we got the 67 positions in the field, how they would be distributed. I can leave those.

**Mr. EARLY.** Put both of those in the record.

[The information follows:]

## DISTRIBUTION OF POSITIONS BY OFFICE

A full distribution of the staffing pattern of all offices is provided in an earlier display.

**Mr. EARLY.** Are these 18 offices relatively identical?

**Mr. LEVINE.** Yes, but the offices are different because some have heavier workloads. An office with 15,000 bankruptcies needs more people than one with 2,000 bankruptcies.

**Mr. EARLY.** Not if we listen to the Justice Department statisticians. They will tell you that they are not all the same, that some of the cases are more extensive and need much more time.

**Mr. LEVINE.** Our allocation was made on weighted cases—obviously a chapter 11 case takes more time than the others. But a chapter 11 in California is the same as a chapter 11 in New York.

**Mr. EARLY.** You have 10 offices in 18 districts.

**Mr. LEVINE.** No, we have 10 U.S. Trustees. We do have one office which has a regional office, the District of Colorado and Kansas. Congress created a single district, and we have a separate office in Kansas. We have 10 U.S. Trustees, but 11 offices. The one in Kansas is headed by an Assistant U.S. Trustee. In 18 districts, however, there are 10 U.S. Trustees and 11 offices.

## RECRUITMENT AND LAPSE RATE

**Mr. EARLY.** Do you anticipate any problem with recruiting if these 77 positions are approved?

**Mr. LEVINE.** No, Mr. Chairman. One of the reasons I think Congress predicted a lapse rate—that was proven because of the unique nature of the U.S. Trustees to be unrealistic. The U.S. Trustees were sworn in by the Attorney General in his office on October 2. By mid-November or the end of November, we had something like 80 percent of the positions filled. We were able in some cases to get schedule B authority on a temporary basis, although we internally imposed competitive recruitment for the positions. We just made an all-out effort to get the people. I think we will not have a problem.

**Mr. EARLY.** How much lapse time have you suggested in your supplemental request?

**Mr. LEVINE.** I would have to ask the budget people.

**Mr. HOUR.** Twenty percent, Mr. Chairman.

**Mr. EARLY.** Providing that funds are available as of what date?

**Mr. LEVINE.** The 1st of February, Mr. Chairman.

**Mr. EARLY.** Would you supply for the record what amount would be needed if the number of positions were approved but funds were not available until July 1?

**Mr. LEVINE.** Yes.

[The information follows:]

**SUPPLEMENTAL FUNDING REQUIRED FOR 1980**

If supplemental funds were made available July 1, \$1,802,000 would be needed for 1980.

**Mr. EARLY.** I will yield to Mr. Hightower.

**Mr. HIGHTOWER.** I have no further questions. Thank you, Mr. Chairman.

**Mr. EARLY.** That concludes the discussion of the supplemental. Thank you for your testimony, Mr. Levine.

**Mr. LEVINE.** Thank you, Mr. Early.

WEDNESDAY, FEBRUARY 27, 1980.

**UNITED STATES ATTORNEYS AND MARSHALS**

**UNITED STATES MARSHALS SERVICE**

**WITNESSES**

**WILLIAM E. HALL, DIRECTOR**

**WILLIAM H. RUSSELL, ASSISTANT DIRECTOR FOR ADMINISTRATION**

**HOWARD SAFIR, ASSISTANT DIRECTOR FOR OPERATIONS**

**F. A. LONG, CHIEF, BUDGET AND ACCOUNTS DIVISION**

**JOHN A. STANLEY, CHIEF, PLANS AND PROGRAMS DIVISION**

**KEVIN D. BOONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION**

**CHARLES R. NEILL, CONTROLLER**

**WADE B. HOUK, DIRECTOR, BUDGET STAFF, JUSTICE MANAGEMENT DIVISION**

**Mr. EARLY** [presiding.] Next we are going to consider the supplemental request for the U.S. Marshals Service, in the amount of \$6,932,000 and 147 positions.

[The justification material appears on pages 94-105.]

Why don't you read your statement on the supplemental?

**GENERAL STATEMENT**

**Mr HALL.** May I introduce Mr. William Russell, Assistant Director for Administration; Howard Safir, Assistant Director for Operations; and to his left F. A. Long, and Mr. Stanley, of my budget staff.

I am prepared to read the statement for the supplemental request, Mr. Chairman. I am pleased to appear before you in support of this appropriation request for the U.S. Marshals Service.

The additional request for fiscal year 1980 is for 147 positions and \$6,932,000. The 147 positions together with \$3,104,000 are required for the service of private process.

As you know, in anticipation of the enactment of legislation to relieve the Marshals Service of the duties involving the service of private

process, the fiscal year 1980 appropriation was reduced by 147 positions and the related funding. To date this legislation has not been enacted. However, it is our understanding that the administration will resubmit the proposal that the U.S. Marshals Service be relieved of the service of private process, in fiscal year 1981 except for indigents. In the meantime, we are mandated by law to continue to perform this function.

The remaining \$3,828,000 is required to fund extraordinary security details currently in progress for which resources are not available. Of this sum, \$1,417,000 is for major protective details for persons not in the regular protective witness program. Included in this category are the details associated with the Hell's Angels trial in the Northern District of California.

Protection for judicial officers and their families established after the murder of Judge Wood is still continuing. The costs associated with these extraordinary details aggregate \$1,655,000. The balance of \$756,000 is required for the unusual trial security for the Hell's Angels trial, above and beyond that normally provided in criminal proceedings.

In summary, Mr. Chairman, the amounts being requested are really beyond the control of the Marshals Service and, due to the nature of our other activities, cannot be absorbed within existing resources.

Included in this supplemental request is a language change which proposes the removal of the numerical limitation on the total number of passenger motor vehicles and law enforcement vehicles that may be leased by the Service and authorizes the acquisition of vehicles from other agencies.

The language change requests authority to lease, maintain, and operate aircraft to be utilized for the transport of Federal prisoners via the National Prisoner Transportation System.

This concludes my statement, Mr. Chairman, and we will now be glad to answer any questions the committee may have.

#### **WITNESS SECURITY**

**Mr. EARLY.** On page 5, you show a requested increase of \$1,417,0000 for witness security. Could you comment a little further on the need for those additional funds?

**Mr. HALL.** This request is to provide funding for witness security personnel for a number of highly sensitive witnesses who must be kept in a safe environment during the course of certain sensitive criminal trials. The type of protection provided is above that normally contemplated by the program.

#### **LANGUAGE CHANGE FOR VEHICLES**

**Mr. EARLY.** On page 2 of your statement, you propose a language change which would remove the numerical limitation on the total number of passenger vehicles and law enforcement vehicles that may be leased by the Service. Do you want that open-ended?

**Mr. HALL.** I don't think it would be necessary to have it open-ended. We anticipate the need for more than 1,200 vehicles in the next fiscal year to meet our operational requirements.

**Mr. EARLY.** Why is this language needed?

Mr. HALL. I would like Mr. Russell to respond to that.

Mr. RUSSELL. The language change is not only needed to increase the number of vehicles per se but to allow acquisition by other than GSA. Our experience through GSA has been very unfortunate in that they have not been able to provide the kind of quantity of vehicles our Service needs to transport prisoners and perform warrant work in the community as well as some of the other aspects of our duties.

The language change is required to give us the option to acquire these vehicles through private lease. We feel by doing that we can get at least the same number of vehicles for similar or lower cost than through GSA. We feel that a better way to control vehicles, is by controlling the dollars spent on them. By acquiring vehicles outside of GSA, we believe we can get a better fleet with more up-time and more capacity to respond to the mission needs than through GSA.

Mr. EARLY. Why should that be unique to the U.S. Marshals?

Every agency can come up with a problem that is unique to it alone to justify why it can't use the regular GSA vehicles.

Mr. HALL. Many of the vehicles are used in transporting prisoners, sometimes over great distances. To use a compact car, if that is what we are required to use, would be almost impossible to carry two prisoners over long distances for extended periods of time with security needs recognized. That would be a primary problem.

Mr. EARLY. That is not a unique problem. That has always been—

Mr. HALL. We think it is unique to us because not many agencies transport prisoners.

Mr. EARLY. You have been doing it for years.

Mr. HALL. Yes, and now we are not being provided the type or number of vehicles that we need. We are being provided whatever is available, and when something is available it is often not satisfactory. If GSA could meet our requirements—

Mr. EARLY. Have they met your requirements in the past?

Mr. RUSSELL. We have asked for three successive years, both from them and through the appropriations process, to be taken from under them. We are currently the only law enforcement bureau in the Department of Justice tied to GSA.

#### ACQUISITION OF AIRCRAFT

Mr. EARLY. How many prisoners are now transported by air?

Mr. HALL. Mr. Safir, the Assistant Director for Operations, will give you the specific data on that.

Mr. SAFIR. Right now, we are moving about 200 prisoners per week by air. About 800 per month. When I say prisoners, that is prisoner moves. The Service moves 70,000 prisoners per year, and of those 70,000, about 14 percent right now are being moved by our airlift.

Mr. EARLY. That seems very high. Would you supply for the record a little more detail on why that figure is so high?

[The information follows:]

#### TRANSPORT OF PRISONERS BY AIR

The National Prisoner Transportation System (NPTS) is a prisoner airlift program designed by the Marshals Service to maximize utilization of both fixed aircraft and bus routes with support by USMS van and automobile feeder lines.

The need for the system became apparent with the coincident rise in com-

mercial air costs and air industry resistance to transporting Federal prisoners on scheduled flights. Further impetus was initiated because of requirements of the Speedy Trial Act.

The NPTS enables the Service to move prisoners cross country within a few days including those considered to be high risks to the public.

In addition to the increased safety to the general public by not utilizing commercial flights, a preliminary analysis indicates that the cost of government-owned and operated aircraft (obtained from a pool of excess Federal aircraft) is approximately 50% of contract service aircraft.

#### NEED FOR AIRPLANES

**Mr. EARLY.** How many airplanes are you hoping to acquire?

**Mr. HALL.** Two presently.

**Mr. EARLY.** And you will need a pilot?

**Mr. HALL.** We have pilots.

**Mr. EARLY.** What do they do now without an airplane?

**Mr. HALL.** They perform regular Deputy U.S. Marshal responsibilities. They are fully qualified to fly some of the type of aircraft we are considering.

**Mr. EARLY.** How many pilots are there?

**Mr. HALL.** Probably four or five.

**Mr. EARLY.** Mr. Hightower, do you have any questions on the statement?

**Mr. HIGHTOWER.** I don't believe so at this time, Mr. Chairman.

#### SERVICE OF PRIVATE PROCESS

**Mr. EARLY.** How many positions are you requesting in your supplemental?

**Mr. HALL.** 147.

**Mr. EARLY.** How much lapse is reflected in these positions?

**Mr. RUSSELL.** There is none really. These are continuations of positions that exist now.

Let me explain what is going on. We have been told to discontinue service of private process when the bill is passed. We have not reduced our activities in that area. If the supplemental is approved, we would have adequate funding to pay the personnel currently on duty who are serving private process.

**Mr. EARLY.** What is the status of the legislation to relieve the marshals of the service of private processing?

**Mr. ROONEY.** The Office of Management and Budget will soon resubmit it to this Congress.

**Mr. EARLY.** That concludes the discussion on the supplemental. We appreciate your testimony, Mr. Rooney.

**Mr. ROONEY.** Thank you, Mr. Early.

THURSDAY, FEBRUARY 28, 1980.

## IMMIGRATION AND NATURALIZATION SERVICE

## WITNESSES

DAVID W. CROSLAND, ACTING COMMISSIONER

PAUL SAENZ, ASSOCIATE DEPUTY COMMISSIONER, PLANNING,  
EVALUATION AND BUDGETINGTHOMAS N. PERRELLI, DIRECTOR, PROGRAM PLANNING AND  
BUDGET STAFFMICHAEL D. MOSBACHER, CHIEF, PROGRAM PLANNING AND RE-  
SOURCES DEVELOPMENT GROUP

CARL J. WACK, ASSOCIATE COMMISSIONER, EXAMINATIONS

ROBERT A. KANE, ASSOCIATE COMMISSIONER, OPERATIONS  
SUPPORT

CHARLES C. SAVA, ASSOCIATE COMMISSIONER, ENFORCEMENT

JAMES A. KENNEDY, ASSOCIATE COMMISSIONER, MANAGEMENT

KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMIN-  
ISTRATION

CHARLES R. NEILL, CONTROLLER

WADE B. HOUK, DIRECTOR, BUDGET STAFF

Mr. HIGHTOWER [presiding]. We have a supplemental request for the Immigration and Naturalization Service in the amount of \$1,626,-000. The request appears under a separate tab in the supplemental justification book. We shall insert pages 1 through 10 at this point in the record.

[The information follows:]

DEPARTMENT OF JUSTICE  
Immigration and Naturalization Service  
SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$1,626,000. The appropriation under this head in the Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriation Act, 1980 may be used for the payment of allowances (at a rate not to exceed four dollars per day) to aliens, while held in custody under the immigration laws, for work performed. The number of vehicles which may be purchased for police-type use is increased to four hundred sixty-one, of which three hundred fifty-eight shall be for replacement only.

Immigration and Naturalization Service

Salaries and Expenses

Appropriation Summary Sheet  
(Dollars in thousands)

	<u>Permanent Positions</u>	<u>1980 Appropriation Anticipated</u>
Permanent anticipated.....	10,943	\$334,881
Revised estimate.....	10,978	336,507
Proposed supplemental.....	35	1,626

Explanation of Request

The purpose of this request is to provide for processing of 84,000 additional Indochinese Refugees.

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Immigration and Naturalization Service  
Salaries and Expenses

Summary of Requirements  
(Dollars in thousands)

<u>Comparison by Activities</u>	1980 Presently Anticipated		1980 Revised Estimates		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
1. Border Enforcement.....	4,700	\$133,810	4,700	\$133,810	...	...
2. Interior Enforcement.....	1,019	32,538	1,019	32,538	...	...
3. Detention and Deportation.....	1,106	39,497	1,106	39,497	...	...
4. Intelligence.....	47	1,416	47	1,416	...	...
5. Service to Public.....	2,043	53,276	2,073	54,817	30	\$1,541
6. Support Operations.....	1,196	40,633	1,201	40,680	5	47
7. Program Direction.....	832	33,711	832	33,749	...	38
Total Requirements.....	10,943	334,881	10,978	336,507	35	1,626

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JUSTIFICATION OF REQUIREMENTS  
 (Dollars in thousands)

Activity: Service to Public	1980 Presently Anticipated		1980 Revised Estimate		1980 Proposed Supplemental	
	Pos.	BA	Pos.	BA	Pos.	BA
Item: Adjustment of Indochinese Refugees	2,043	\$53,276	2,073	\$54,817	30	\$1,541

The purpose of this request is to provide for the processing of Indochinese Refugees. Presently, it is anticipated that a total of 208,000 refugees will be authorized for entry into the U.S. in FY 1980. The Indochinese authorizations had occupied 84,000 of the initial 124,000 spaces. This equates to a flow of 7,000 per month. When that flow increases to 14,000 per month, 168,000 Indochinese Refugees will be authorized and a total of 208,000 refugees will be authorized from all locations throughout the world. A previously approved Budget Amendment for FY 1980 (42 positions and \$1,898,000) provided the resources necessary to handle a yearly flow of 124,000. When the flow of Indochinese Refugees is increased from 7,000 a month to 14,000 a month, IANS will require an additional 30 positions and \$1,541,000 to process the additional refugees.

During FY 1978, 9,800 officer hours were required to process 24,211 Indochinese Refugees. This yields a per unit factor of .404 hours per refugee (this factor is lower than the worldwide average of .62 on which the prior Amendment was based). Based on the FY 1978 experience, 20 additional officer positions will be required to process the additional 84,000 Indochinese Refugees in FY 1980 (84,000 additional authorizations X .404 hours per unit = 33,396 additional hours of processing time, 33,396 additional hours = 20 workyears). Based on a ratio of one clerk to every 2.5 officers, 8 additional clerks are required to support the 20 additional officers. The IANS Central Office requires an increase of one officer and one clerk to deal with the special problems and inquiries which will result from these added authorizations.

Activity: Support Operations	1980 Presently Anticipated		1980 Revised Estimate		1980 Proposed Supplemental	
	Pos.	RA	Pos.	RA	Pos.	RA
Creating files and maintaining records for additional Indochinese Refugees.....	1,196	\$40,633	1,201	\$40,680	5	\$47

The increased flow of refugees will add a considerable workload to the Central Office Records operation. The increase of 84,000 authorizations equates to an increase of 7,000 refugees per month. This increased flow is an unanticipated increase in workload. At a minimum, a record check and the creation of a file is required for each refugee processed. The increased workload resulting from these record checks and the creation of new files will require five additional records clerks.

Activity: Program Direction	1980 Presently Anticipated		1980 Revised Estimate		1980 Proposed Supplemental	
	Pos.	RA	Pos.	RA	Pos.	RA
Item: Security investigations and payroll costs for new employees.....	832	\$33,711	832	\$33,749	...	\$38

Security investigations are required for all new employees of the Department of Justice. These costs are administered through the Personnel operation within Program Direction. A total of \$33,000 is required to conduct the investigations for 35 new employees. Payroll costs associated with these new employees are estimated at \$5,000. These costs are administered through the Accounting function within Program Direction.

Immigration and Naturalization Service

Salaries and Expenses

Financial Analysis  
(Dollars in thousands)

Item	1980 Proposed Supplemental Amendment Pos.	Increase to Overseas Program		Increase to Records Program		Increase to Program Direction	
		Pos.	Amount	Pos.	Amount	Pos.	Amount
<u>Grades</u>							
GS-12.....	21		\$519	21	\$519	...	...
GS-5.....	5		56	...	...	5	\$56
GS-4.....	1		11	1	11	...	...
Foreign service Locals (Ungraded).....	8		80	8	80	...	...
Total positions and annual rates.....	35		666	30	610	5	56
Lapse.....	-2		-33	...	...	-2	-33
Total workyears and personnel compensation.....	33		633	30	610	3	23
Personnel benefits.....	...		450	...	443	...	7
Travel and transportation of persons.....	...		121	...	121	...	...
Transportation of things.....	...		100	...	100	...	...
Standard Level User Charges.....	...		4	...	...	4	...
Communications, utilities, and other rent	...		34	...	30	...	4
Printing and reproduction.....	...		5	...	5	...	...
Other services.....	...		211	...	173	...	...
Supplies and materials.....	...		9	...	5	4	...
Equipment.....	...		59	...	54	...	5
Total workyears and obligations, 1980..	33		1,626	30	1,541	3	47
							38

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STANDARD FORM 300  
 July 1964, Revision A  
 Circular No. A-14, Revised.  
 500-104

DEPARTMENT OF JUSTICE  
 IMMIGRATION AND NATURALIZATION SERVICE  
 SALARIES AND EXPENSES

Program and financing (in thousands of dollars)

Identification code 15-1217-1-1-751	<u>1980</u>	<u>1980</u>	<u>1980</u>
	<u>Presently Anticipated</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
<b>Program by activities:</b>			
<b>Direct program:</b>			
Operating costs:			
1. Border Enforcement.....	133,007	133,007	...
2. Interior Enforcement.....	32,247	32,247	...
3. Detention and Deportation....	39,716	39,716	...
4. Intelligence.....	1,367	1,367	...
5. Service to Public.....	53,536	55,077	1,541
6. Support Operations.....	38,509	38,556	47
7. Program Direction.....	33,620	33,658	38
Total operation costs.....	332,002	333,628	1,626
Unfunded adjustments to total operating costs. Depreciation included above.....	-3,847	-3,847	...
Total operating costs, funded...	328,155	329,781	1,626
Capital investment, funded:			
1. Border Enforcement.....	2,977	2,977	...
2. Interior Enforcement.....	794	794	...
3. Detention and Deportation....	164	164	...
4. Intelligence.....	59	59	...
5. Service to Public.....	169	169	...
6. Support Operations.....	6,046	6,046	...
7. Program Direction.....	375	375	...
Total capital investment.....	10,584	10,584	...
Total, direct program.....	338,739	340,365	1,626

STANDARD FORM 300  
July 1964, Bureau of the Budget  
Circular No. A-11, Revised  
500-101

DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
SALARIES AND EXPENSES

Program and financing (in thousands of dollars)

Identification code <b>15-1217-1-1-751</b>	<b>* 80</b>	<b>* 80</b>	<b>* 80</b>
	<u>Presently Anticipated</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
Refimbursable program.....	<b>8,864</b>	<b>8,864</b>	...
10.00 Total program costs, funded - obligations.....	<b>347,603</b>	<b>349,229</b>	<b>1,626</b>
<b><u>Financing:</u></b>			
Offsetting collections from:			
11.00 Federal funds.....	<b>-734</b>	<b>-734</b>	...
14.00 Non-Federal sources.....	<b>-8,260</b>	<b>-8,260</b>	...
21.40 Unobligated balance available start of year.....	<b>-3,728</b>	<b>-3,728</b>	...
22.40 Unobligated balance transferred from other accounts.....	<b>-5,389</b>	<b>-5,389</b>	...
40.00 <u>Budget Authority</u> .....	<b>329,492</b>	<b>331,118</b>	<b>1,626</b>
<b><u>Relation of obligations to outlays:</u></b>			
71.00 Obligations incurred, net....	<b>338,609</b>	<b>340,235</b>	<b>1,626</b>
72.40 Obligated balance, start of year.....	<b>38,335</b>	<b>38,335</b>	...
74.40 Obligated balance, end of year.....	<b>-43,479</b>	<b>-43,490</b>	<b>-11</b>
90.00 Outlays excluding pay raise supplemental.....	<b>323,168</b>	<b>324,783</b>	<b>1,615</b>
91.10 Outlays from wage-board pay raise supplemental	<b>80</b>	<b>80</b>	...
91.20 Outlays from civilian pay raise supplemental.....	<b>10,217</b>	<b>10,217</b>	...

STANDARD FORM 304  
May 1964, Bureau of the Budget  
Circular No. A-11, Revised.  
104-103

DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
SALARIES AND EXPENSES

OBJECT CLASSIFICATION (in thousands of dollars)

Identification code	1980	1980	1980
	Presently <u>Anticipated</u>	Revised <u>Estimate</u>	Proposed <u>Supplemental</u>
15-1217-1-1-751			
Personnel compensation:			
11.1 Permanent positions.....	187,229	187,862	633
11.3 Positions other than permanent.....	4,993	4,993	...
11.5 Other personnel compensation.....	32,390	32,390	...
11.8 Special personal services payments.....	187	187	...
Total personnel compensation.....	224,799	225,432	633
Personnel benefits:			
12.1 Civilian.....	27,564	28,014	450
21.0 Travel and transportation of persons.....	14,412	14,533	121
22.0 Transportation of things.....	2,002	2,102	100
23.1 Standard Level User Charges.....	14,745	14,749	4
23.2 Communications, utilities, and other rent.....	10,835	10,869	34
24.0 Printing and reproduction.....	2,470	2,475	5
25.0 Other services.....	23,875	24,086	211
26.0 Supplies and materials.....	6,747	6,756	9
31.0 Equipment .....	6,882	6,941	59
32.0 Lands and structures.....	424	424	...
42.0 Insurance claims and indemnities.....	27	27	...
44.0 Refunds .....	19	19	...
91.0 Unvouchered	80	80	...
Total direct obligations.....	334,881	336,507	1,626
Total reimbursable obligations.....	8,864	8,864	...
99.0 Total obligations.....	343,745	345,371	1,626
			9

STANDARD FORM 300  
July 1954, Bureau of the Budget  
Circular No. A-14, Revised.  
200-101

DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
SALARIES AND EXPENSES

Personnel Summary

<u>Identification code</u> <u>15-1217-1-1-751</u>	<u>» 80</u>	<u>» 80</u>	<u>» 80</u>
	<u>Presently Anticipated</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
<b>Direct:</b>			
Total number of permanent positions.....	10,943	10,978	35
Full-time equivalent of other positions.....	482	482	...
Total compensable workyears.....	12,209	12,242	33
Average GS-grade.....	8.18	8.19	10.40
Average GS-grade.....	\$16,921	\$16,933	\$21,703
Average salary of ungraded positions.....	\$15,164	\$14,600	\$10,000

## GENERAL STATEMENT

**Mr. HIGHTOWER.** Do you have a statement you would like to make in regard to the supplemental request, Mr. Crosland?

**Mr. CROSLAND.** If I could, I would like to submit a statement into the record on this.

**Mr. HIGHTOWER.** All right. That would be fine.

[The information follows:]

**STATEMENT OF DAVID CROSLAND, ACTING COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE CONCERNING THE 1980 SUPPLEMENTAL REQUEST**

Mr. Chairman, and members of the Subcommittee, the supplemental request is for 35 positions and \$1,626,000. The purpose is to provide for the processing of an additional 7,000 Indochinese refugees per month as approved by the President in June 1979. Presently, it is anticipated that a total of 208,000 refugees will be authorized for entry into the U.S. in FY 1980. The Indochinese authorizations had occupied 84,000 of the initial 124,000 spaces. This equates to a flow of 7,000 per month. When that flow increases to 14,000 per month, 168,000 Indochinese refugees will be authorized.

**NUMBER OF INDOCHINESE REFUGEES PROCESSED**

**Mr. HIGHTOWER.** Is all of this request associated with the processing of additional Indochinese refugees?

**Mr. CROSLAND.** Yes.

**Mr. HIGHTOWER.** How many were processed in fiscal year 1979?

**Mr. CROSLAND.** 75,778 for fiscal year 1979. Projected for 1980 is 168,000.

**Mr. HIGHTOWER.** There were 75,180—

**Mr. CROSLAND.** 75,778 in fiscal year 1979; projected for 1980 is 168,000.

**Mr. HIGHTOWER.** On page 4, you mention an increase in the flow of Indochinese refugees from 7,000 to 14,000 per month. Has such an increase been approved?

**Mr. CROSLAND.** Yes.

**FUNDS ALLOCATED TO INDOCHINESE REFUGEE PROGRAM**

**Mr. HIGHTOWER.** How much of your 1980 budget is currently allocated to the Indochinese refugee program from the appropriation presently available?

**Mr. CROSLAND.** We will have to submit that for the record. We don't have it broken down.

[The information follows:]

**INDOCHINESE REFUGEE FUND ALLOCATION**

At present, the Service allocates its funds on a program by program basis. Since the Overseas Program encompasses more than just the Indochinese Refugee operation, there is no capability to isolate those obligations.

**LAPSE ON POSITIONS FOR OVERSEAS PROGRAM**

**Mr. HIGHTOWER.** On page 6, you show 30 positions under the heading "Increase to Overseas Program." Yet I don't see any lapse at all of those positions. When do you anticipate having these funds available?

**Mr. CROSLAND.** I will ask Mr. Wack, the Associate Commissioner for Examinations, to respond to that.

Mr. WACK. We have already advertised and have the people lined up, anticipating that in the event the supplemental passes, we will be able to put them on immediately.

Mr. HIGHTOWER. How much would be needed if funds were not available until July 1, 1980?

If you would like you may supply that amount for the record.

Mr. WACK. Probably as much, because at the present time we are doing the work by sending the people on detail overseas. For example, we detailed 21 people to Southeast Asia for two months each, and each detail is in excess of \$10,000. We have detailed 14 people to Italy on the Soviet Jewish refugee program. Every time we do that, it is \$5,000, so there actually would be a savings.

#### REFUGEES PROCESSED THROUGH ITALY

Mr. HIGHTOWER. The Italian office is going to be slowing down, isn't it or hasn't it already been cut considerably?

Mr. WACK. No, sir, we are anticipating an increase from 5,000 to 36,000.

Mr. HIGHTOWER. Didn't I read a few days ago of the change of policy in Russia, where the number has been substantially—

Mr. WACK. So far, that is a one-month trend.

Mr. HIGHTOWER. It is not a trend yet.

Mr. WACK. That is right. That is why I emphasize a one-month trend.

Mr. HIGHTOWER. Thank you, Mr. Crosland. I know you have a very difficult job, and we want to be supportive of you in trying to provide the means to solve the problem even though it does get bigger all the time. We appreciate your testimony today, Mr. Crosland.

Mr. CROSLAND. Thank you very much.

Mr. HIGHTOWER. The committee will adjourn until Monday at one o'clock.

#### ADDITIONAL JUSTICE SUPPLEMENTALS

[H. Doc. 96-294 of April 15, 1980 included several supplemental requests for the Department of Justice. These include \$6,400,000 for the Federal Bureau of Investigation, \$4,492,000 for the Immigration and Naturalization Service, and \$2,504,000 for the Drug Enforcement Administration. These amounts were proposed as transfers from the Office of Justice Assistance, Research, and Statistics, "Law Enforcement Assistance". Justifications for these proposals follow.]

DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
Salaries and Expenses

For an additional amount for "Salaries and expenses", \$6,400,000 to be derived by transfer from the appropriation under the heading "Office of Justice Assistance, Research, and Statistics", Law enforcement assistance.

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Federal Bureau of Investigation  
Salaries and Expenses

Appropriation Summary Sheet  
(Dollars in Thousands)

	<u>Permanent Positions</u>	<u>1980 Appropriation</u>
Presently Available.....	19,738	\$613,906
Revised Estimate.....	19,738	620,306
Proposed Supplemental.....	...	6,400

Explanation of Request

This proposed supplemental appropriation would provide funding for the increased cost of gasoline and commercial travel.

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Federal Bureau of Investigation  
Salaries and Expenses

Summary of Requirements  
(Dollars in Thousands)

Comparison by activities:	1980 Presently Available		1980 Revised Estimated		1980 Proposed Supplemental	
	Perm.	Pos.	Perm.	Pos.	Perm.	Amount
	Amount		Amount		Amount	
1. Criminal, security, and other investigations.....	11,301	\$385,561	11,301	\$391,961	...	\$ 6,400
2. Coordination of investigations...	456	14,238	456	14,238	...	...
3. Investigative support.....	2,283	90,942	2,283	90,942	...	...
4. State and local assistance.....	4,349	84,986	4,349	84,986	...	...
5. Program direction.....	1,349	38,179	1,349	38,179	...	...
Total requirements.....	19,738	613,906	19,738	620,306	...	6,400

SPL

Federal Bureau of Investigation  
Salaries and Expenses

Justification of Requirements  
(Dollars in Thousands)

	1980 Presently Available	1980 Revised Estimate	1980 Proposed Supplemental
Activity: Criminal, security and other investigations..	\$385,581	\$391,981	\$6,400
Item: Gasoline.....	4,818	9,318	4,500

Included in the FBI's fiscal year 1980 appropriation is \$4.8 million for gasoline. This amount was budgeted based on FY 1976 consumption and mileage. In the fiscal year 1980 budget submission gasoline was budgeted at \$.67 per gallon for 6.9 million gallons; however, actual usage in fiscal year 1980 is anticipated to be 7.5 million gallons and it is projected that the cost will exceed \$1.30 per gallon. Further, a reduction in mileage driven is not anticipated due to the increasing complexity of FCI, White-Collar, and Organized Crime matters. These matters require extensive surveillance by automobile and aircraft and greater numbers of personal contact interviews than do the more routine criminal investigations. The FBI continues efforts to reduce gasoline consumption through the purchase of vehicles with greater fuel economy ratios; however, this is a slow process due to budget constraints and GSA replacement guidelines. Based on the projected consumption of 7.5 million gallons and continued price escalation, an additional \$4,500,000 is requested.

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Item: Travel and transportation of persons.....	\$11,498	\$13,398	\$1,900
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Travel and transportation of persons is vital to the mission of the FBI and by communication dated October 1979, the Director of the FBI restricted travel to that of a priority investigative nature or other essential travel. The FBI has been underfunded in the area of travel and transportation of persons for a number of years. For example, in fiscal year 1978 expenditures exceeded the budgeted amount

Federal Bureau of Investigation  
Salaries and Expenses

Justification of Requirements  
(Dollars in Thousands)

by seventeen percent. In fiscal year 1979 the overrun reached twenty-four percent. Funds available for fiscal year 1980 amount to \$11,498,000. Actual direct expenditures for fiscal year 1979 were \$12,963,000; therefore, \$1,465,000 is required just to maintain the 1979 level. Since the submission of the fiscal year 1980 budget several unforeseen events have occurred, the most costly of which is the increase in airfares. Department of Labor data indicate that in fiscal year 1979 airfares increased 16.4 percent; subsequently, in fiscal year 1980 airfares have increased an additional 20 to 25 percent for a total of approximately 35-40 percent. A 5.08 percent increase (\$173,494) for airfares was allowed for fiscal year 1980 based on estimated air travel costs for fiscal year 1977. Air travel costs for fiscal year 1979 are estimated at \$3,710,530. Applying the 16.4 percent increase to this amount results in a need of \$608,527 or an increase of \$435,033 over the amount allowed. Based on the above, \$1.9 million in supplemental funds is being requested. Without the requested amount, serious damage will result to the FBI's investigative mission.

Federal Bureau of Investigation  
Salaries and Expenses

Financial Analysis  
(Dollars in Thousands)

	<u>Gasoline</u>	<u>Travel and Transportation of Persons</u>
Total work-years and compensation.....	\$ ...	\$ ...
Travel and transportation of persons.....	... 1,900	
Supplies and materials.....	<u>4,500</u>	...
Total work-years and obligations, 1980.....	4,500	1,900

STANDARD FORM 300  
July 1962, Bureau of the Budget  
G-11, Revised  
5010-101

Supplemental Requested, Existing Legislation  
Department of Justice  
Federal Bureau of Investigation  
Salaries and Expenses

A-11-39B

Program and Financing (in thousands of dollars)

Identification code	\$80 <small>estimated</small>	\$ 80 <small>estimated</small>	\$80 <small>estimated</small>
15-0200-1-1-751			
<u>Program by activities:</u>	<u>Presently Available</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
Direct program:			
1. Criminal, security, and other investigations.....	385,561	391,961	6,400
2. Coordination of investigations.....	14,238	14,238	...
3. Investigative Support.....	90,942	90,942	...
4. State and local assistance.....	84,986	84,986	...
5. Program direction.....	38,179	38,179	...
Total direct program.....	613,906	620,306	6,400
Reimbursable program:.....	5,243	5,243	...
Total program costs funded....	618,149	625,549	6,400
10.00 Total obligations.....	618,149	625,549	6,400
<u>Financing:</u>			
Offsetting collections from:			
11.0 Federal funds.....	-4,740	-4,740	...
14.0 Non-Federal sources.....	-503	-503	...
22.40 Unobligated balance transferred from other accounts.	...	-6,400	-6,400
Budget authority.....	613,906	613,906	...
<u>Budget authority:</u>			
40.00 Appropriation.....	613,906	613,906	...
<u>Relation of obligations to outlays:</u>			
71.00 Obligations incurred, net..	613,906	620,306	6,400
72.40 Obligated balance, start of year.....	52,748	52,748	...
74.40 Obligated balance, end of year.....	-55,391	-56,691	-1,300
90.00 Outlays.....	611,263*	616,363*	5,100

\*Excludes carryover of \$3,500 thousand

## Supplemental Requested, Existing Legislation

Department of Justice

Federal Bureau of Investigation

Salaries and Expenses

STANDARD FORM 304  
DA 1960, Bureau of the Budget  
Circular No. A-11 Revised  
304-101

## OBJECT CLASSIFICATION (in thousands of dollars)

Identification code	1960 Actual	1960 Estimate	1960 Estimate
	Presently Available	Revised Estimate	Proposed Supplemental
Personnel compensation:			
11.1 Permanent positions .....	388,240	388,240	...
11.3 Positions other than permanent .....	59	59	...
11.5 Other personnel compensation.....	42,367	42,367	...
11.8 Special personal services payments.....	...	...	...
Total personnel compensation.....	430,666	430,666	...
Personnel benefits:			
12.1 Civilian .....	50,455	50,455	...
13.0 Benefits for former personnel.....			
21.0 Travel and transportation of persons.....	11,498	13,398	1,900
22.0 Transportation of things.....	3,105	3,105	...
23.1 Standard level user charges.....	33,359	33,359	...
23.2 Communications, utilities and other rent .....	26,942	26,942	...
24.0 Printing and reproduction.....	1,677	1,677	...
25.0 Other services.....	17,267	17,267	...
26.0 Supplies and materials.....	11,940	16,440	4,500
31.0 Equipment .....	26,845	26,845	...
32.0 Lands and services.....			
33.0 Investments and loans.....			
41.0 Grants, subsidies, and contributions.....			
42.0 Insurance claims and indemnities.....	82	82	...
43.0 Interest and dividends.....			
44.0 Refunds.....			
90.1 Unvouchered.....	70	70	...
99.0 Total direct obligations.....	613,906	620,306	6,400

Supplemental Requested, Existing Legislation  
 STANDARD FORM 300 Department of Justice  
 July 1964, Bureau of the Budget Federal Bureau of Investigation  
 Circular No. A-11, Revised Salaries and Expenses  
 300-101

Object Classification (in thousands of dollars)

Page 2

Objectification code	#80 <small>estimated</small>	# 80 <small>estimated</small>	#80 <small>estimated</small>
	<u>Presently Available</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
Reimbursable Obligations.....	5,243	5,243	...
90.00 Total Obligations.....	619,149	625,549	6,400

DEPARTMENT OF JUSTICE  
Immigration and Naturalization Service

1981 Budget Appendix Page	Heading	Supplemental Request Pending	1980 Amendment to Proposed Supplemental	1980 Revised Request
1092	Salaries and expenses (In the appropriation language under the above heading delete "\$1,626,000" and insert in lieu thereof the following: <u>\$6,118,000 of which</u> <u>\$4,492,000 is to be</u> <u>derived by transfer</u> <u>from "Office of Justice</u> <u>Assistance, Research and</u> <u>Statistics, Law enforcement</u> <u>assistance."</u> )	\$1,626,000	\$4,492,000	\$6,118,000

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In addition to the above language the following language was included in a supplemental request with the FY 1981 President's budget:

The appropriation under this head in the Departments of State, Justice, and Commerce,  
the Judiciary and Related Agencies Appropriation Act, 1980, may be used for the payment  
of allowances (at a rate not to exceed four dollars per day) to aliens, while held in  
custody under the immigration laws, for work performed. The number of vehicles which  
may be purchased for police-type use is increased to four hundred sixty-one, of which  
three hundred fifty-eight shall be for replacement only.

Immigration and Naturalization Service

Salaries and Expenses

Appropriation Summary Sheet  
(Dollars in thousands)

/	Permanent Positions	1980 Appropriation Anticipated
Presently anticipated.....	10,978	\$336,507
Revised estimate.....	10,978	340,999
Proposed amendment to the supplemental.....	...	4,492

Explanation of Request

This revised request would provide funds for: (1) the increased cost of gasoline, \$3,302,000; (2) housing of Haitian detainees in the Miami area, \$470,000; and (3) the increased expenses of detaining other undocumented aliens, \$720,000.

9/ The 1980 amount presently anticipated includes the effect of the proposed Refugee Program Supplemental Request for 35 positions and \$1,626,000.

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Immigration and Naturalization Service  
Salaries and Expenses

Summary of Requirements  
(Dollars in thousands)

<u>Comparison by Activities</u>	1980 Presently Anticipated <sup>a/</sup> Perm.		1980 Revised Estimates Perm.		Amendment to the 1980 Proposed Supplemental Perm.	
	<u>Pos.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Amount</u>
1. Border Enforcement.....	4,700	\$133,810	4,700	\$136,397	...	\$2,587
2. Interior Enforcement.....	1,019	32,538	1,019	32,949	...	411
3. Detention and Deportation.....	1,106	39,497	1,106	40,853	...	1,356
4. Intelligence.....	47	1,416	47	1,416	...	...
5. Service to Public.....	2,073	54,817	2,073	54,872	...	55
6. Support Operations.....	1,201	40,680	1,201	40,680	...	...
7. Program Direction.....	832	33,749	832	33,832	...	83
Total Requirements.....	10,978	336,607	10,978	340,999	...	4,492

<sup>a/</sup> The 1980 amount presently anticipated includes the effect of the proposed Refugee Program Supplemental Request for 35 positions and \$1,626,000.

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Immigration and Naturalization Service  
Salaries and Expenses

Justification of Requirements  
(Dollars in thousands)

Comparison by Activities	Amendment to the 1980 Proposed Supplemental		Increased Fuel Costs		Housing of Haitians in Miami and Funding of Increased Detention Costs	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
1. Border Enforcement.....	...	\$2,587	...	\$2,587	...	...
2. Interior Enforcement.....	...	411	...	411	...	...
3. Detention and Deportation.....	...	1,356	...	166	...	\$1,190
4. Intelligence.....	...	...	...	...	...	...
5. Service to Public.....	...	55	...	55	...	...
6. Support Operations.....	...	...	...	...	...	...
7. Program Direction.....	...	83	...	83	...	...
Total Requirements.....	...	4,492	...	3,302	...	1,190

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JUSTIFICATION OF REQUIREMENTS  
(Dollars in thousands)

	1980 Presently Anticipated		1980 Revised Estimate		1980 Proposed Supplemental	
	Pos.	BA	Pos.	BA	Pos.	BA
Multi-Activity Item: Increased Fuel Costs	...	\$3,821	...	\$7,123	...	\$3,302

The Consumer Price Index shows a 49.1 percent increase in fuel costs from October 1, 1978 through September 30, 1979 (58.4 percent from October 1, 1977). The Service has realized major actual increases in fuel costs during that time period and can no longer afford to absorb additional costs without serious negative impacts on operations. The only alternative to this supplemental is to reduce enforcement activities.

Vehicle Fuel:

Based on actual miles driven in 1979, and assuming an average cost for 1980 of \$1.30 per gallon, at 10.0 mpg, it is estimated that the minimum uncontrollable amount needed for vehicle fuel is \$3,116,000.

$$\begin{aligned} 53,358,000 \text{ miles driven} &+ 10.0 \text{ mpg.} = 5,335,800 \text{ gallons} \\ 5,335,800 \text{ gallons} &\times \$1.30/\text{gal.} = \$6,937,000 \end{aligned}$$

\$6,937,000 (Projected Total Cost)  
 -3,821,000 Total Available (1978 Actual plus \$177,000 added for new 1979 vehicles plus \$527,360 added for new 1980 vehicles.)  
 3,116,000 Increase Required

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Aircraft Fuel:

The cost increases being experienced for aircraft fuel approximate those in vehicles fuel.

\$391,000	FY 1980 Estimated Requirements
-205,000	Total Available (FY 1978 Actual)
186,000	Increase Required

Summary:

\$3,116,000	Vehicle Fuel Increase
186,000	Aircraft Fuel Increase
3,302,000	Total Fuel Increase

Activity: Detention and Deportation	1980 Presently Anticipated		1980 Revised Estimate <sup>a/</sup>		1980 Proposed Supplemental <sup>a/</sup>	
	Pos.	BA	Pos.	BA	Pos.	BA

Item: Housing of Haitians in Miami and funding of increased detention costs.....	1,106	\$39,497	1,106	\$40,687	...	\$1,190
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This item consists of two parts: (1) Costs associated with detaining Haitians in the Miami area; and (2) Increased cost of non-Service detention facilities.

The recent influx of Haitians, most of whom are undocumented and subject to exclusion or deportation, has now caused the Immigration Service to take immediate steps to detain these aliens until verification can be made that they are not carriers of contagious diseases.

The Bureau of Prisons (BOP) has consented to make space available at the Federal Correction Institution (FCI) at Richmond, Florida. \$470,000 is required to reimburse the Bureau of Prisons for the cost of this detention.

<sup>a/</sup> These amounts do not include the Detention and Deportation portion of the multi-activity request for vehicle fuel. The amount requested for this activity is \$166,000.

During the period 1976 - 1978, the number of aliens detained by IANS increased 68.5 percent or 138,315 aliens. Non-Service detentions have increased 27 percent, or 27,370 aliens, while detentions in IANS facilities have increased by 110 percent or 110,945 aliens. Coupled with this increase in detained aliens, has been a corresponding increase in the average cost per man-day of detention. Non-Service detention costs per man-day have increased 50.8 percent or an average of \$3.79 per average man-day, while the average cost per man-day in Service operated facilities has increased 85.4 percent or \$7.98 per average man-day. In addition, many non-Service facilities are now charging IANS a "booking fee". Los Angeles County Jail booking charge for male and female is \$50.48 and \$46.65, respectively. Orange County, California raised its booking charge on July 1, 1978 from \$25.87 for males and \$11.63 for females, to \$38.51 for both males and females. Orange County jail also raised its daily rates from \$19.70 for males and \$5.46 for females, to \$20.33 for both males and females.

The Detention Program requires an additional \$720,000 in order to meet the increase in apprehensions and to maintain parity with rising detention costs. This will allow the apprehending activities to operate at their full potential.

Immigration and Naturalization Service

Salaries and Expenses

Financial Analysis  
(Dollars in thousands)

Item	Amendment to the 1980 Proposed Supplemental Request			Multi-Decision Unit Item: Increased Fuel Costs			Increase for Detention Program	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
	Other services.....	...	\$1,190	...	...	...	...	\$1,190
Supplies and materials.....	...	3,302	...	\$3,302	...	...	...	
Total workyears and obligations, 1980..	...	4,492	...	3,302	...	...	1,190	

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STANDARD FORM 300  
 July 1964, Bureau of the Budget  
 Circular A-11, Revised  
 500-101

DEPARTMENT OF JUSTICE  
 IMMIGRATION AND NATURALIZATION SERVICE  
 SALARIES AND EXPENSES

Program and financing (in thousands of dollars)			
Identification code	=80 Presently Anticipated	=80 Revised Estimate	=80 Amendment to Proposed Supplemental
15-1217-1-1-751			
<b>Program by activities:</b>			
Direct program:			
Operating costs:			
1. Border Enforcement.....	133,007	135,594	2,587
2. Interior Enforcement.....	32,247	32,658	411
3. Detention and Deportation.....	39,716	41,072	1,356
4. Intelligence.....	1,367	1,367	...
5. Service to Public.....	55,077	55,132	55
6. Support Operations.....	38,556	38,556	...
7. Program Direction.....	33,658	33,741	83
Total operation costs.....	333,628	338,120	4,492
Unfunded adjustments to total operating costs: Depreciation included above.....	-3,847	-3,847	...
Total operating costs, funded.....	329,781	334,273	4,492
Capital investment, funded:			
1. Border Enforcement.....	2,977	2,977	...
2. Interior Enforcement.....	794	794	...
3. Detention and Deportation.....	164	164	...
4. Intelligence.....	59	59	...
5. Service to Public.....	169	169	...
6. Support Operations.....	6,046	6,046	...
7. Program Direction.....	375	375	...
Total capital investment.....	10,584	10,584	...
Total, direct program.....	340,365	344,857	4,492
Refimbursable program.....	8,864	8,864	...
10.00 Total program costs, funded - obligations.....	349,229	353,721	4,492

*a/* The 1980 amount presently anticipated includes the effect of the proposed Refugee Program Supplemental Request for 35 positions and \$1,626,000.

STANDARD FORM 300  
July 1964, Bureau of the Budget  
Circular No. A-11, Revised.  
500-101

DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
SALARIES AND EXPENSES

Program and financing (in thousands of dollars) (continued)

Identification code	<u>1980</u>	<u>1980</u>	<u>1980</u>
	<u>Presently <sup>b/</sup> Anticipated</u>	<u>Revised Estimate</u>	<u>Amend to Proposed Supplemental</u>
<b>Financing:</b>			
Offsetting collections from:			
11.00 Federal funds.....	-734	-734	...
14.00 Non-Federal sources.....	-8,260	-8,260	...
21.40 Unobligated balance available, start of year.....	-3,728	-3,728	...
22.40 Unobligated balance transferred from other accounts.....	-5,389	-9,881	-4,492
40.00 Budget Authority.....	320,091	320,091	...
44.10 Supplemental for wage board pay raises.....	86	86	...
44.20 Supplemental for civilian pay raise.....	10,941	10,941	...
Relation of obligations to outlays:			
71.00 Obligations incurred, net.....	340,235	344,727	4,492
72.40 Obligated balance, start of year.....	38,335	38,335	...
74.40 Obligated balance, end of year.....	-43,490	-43,715	-225
90.00 Outlays excluding pay raise supplemental.....	324,783	329,050	4,267
91.10 Outlays from wage-board pay raise supplemental.....	80	80	...
91.20 Outlays from civilian pay raise supplemental.....	10,217	10,217	...

<sup>b/</sup> The 1980 amount presently anticipated includes the effect of the proposed Refugee Program Supplemental Request for 35 positions and \$1,626,000.

STANDARD FORM 304  
May 1964, Bureau of the Budget  
Circular No. A-11, Revised.  
504-103

DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
SALARIES AND EXPENSES

OBJECT CLASSIFICATION (in thousands of dollars)

Identification code 15-1217-1-751	'78 Presently &/ Anticipated	'78 Revised Estimate	'78 Amendment to Proposed Supplemental
Personnel compensation:			
11.1 Permanent positions.....	187,992	187,992	...
11.3 Positions other than permanent.....	4,993	4,993	...
11.5 Other personnel compensation.....	32,389	32,389	...
11.8 Special personal services payments.....	187	187	...
Total personnel compensation.....	225,561	225,561	...
Personnel benefits:			
12.1 Civilian.....	28,015	28,015	...
12.0 Travel and transportation of persons.....	14,533	14,533	...
22.0 Transportation of things.....	2,102	2,102	...
23.1 Standard Level User Charges.....	14,750	14,750	...
23.2 Communications, utilities, and other rent.....	10,869	10,869	...
24.0 Printing and reproduction.....	2,475	2,475	...
25.0 Other services.....	24,507	25,697	1,190
26.0 Supplies and materials.....	6,756	10,058	3,302
31.0 Equipment.....	6,941	6,941	...
32.0 Lands and structures.....	3,730	3,730	...
42.0 Insurance claims and indemnities.....	27	27	...
44.0 Refunds.....	19	19	...
B1.0 Unvouchered			
Total direct obligations.....	80	80	...
Total reimbursable obligations	340,365	344,857	4,492
8,864	8,864	8,864	...
99.0 Total obligations.....	349,229	353,721	4,492
<i>1/ The 1980 amount presently anticipated includes the effect of the proposed Refugee Program Supplemental Request for 35 positions and \$1,626,000.</i>			

STANDARD FORM 300  
MAY 1964, Bureau of the Budget  
GSA GEN. REG. NO. A-12, Revised.  
200-101

DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
SALARIES AND EXPENSES

Personnel Summary

Identification code 15-1217-1-1-751	#80 Presently &/ Anticipated	#80 Revised Estimate	# 80 Amendment to Proposed Supplemental
<b>Direct:</b>			
Total number of permanent positions...	10,978	10,978	...
Total compensable workyears.....	12,242	12,242	...
Full-time equivalent of other positions.....	(482)	(482)	...
Full-time equivalent of overtime and holiday hours.....	(1,484)	(1,484)	...
Average ES-grade.....	50.005	50,005	...
Average GS-grade.....	8.19	8.19	...
Average GS-1 grade.....	\$16,933	\$16,933	...
Average salary of ungraded positions.....	\$14,600	\$14,600	...
<i><u>s/</u> The 1980 amount presently anticipated includes the effect of the proposed Refugee Program Supplemental Request for 35 positions and \$1,626,000.</i>			

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," \$2,504,000 to be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law Enforcement Assistance."

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Drug Enforcement Administration

Salaries and Expenses

Appropriation Summary Sheet  
(Dollars in thousands)

	<u>Permanent Positions</u>	<u>1980 Appropriation</u>
Presently available.....	4,074	\$201,717
Revised estimate.....	4,074	204,221
Proposed supplemental.....	...	2,504

Explanation of Request

The proposed supplemental funding would provide for the unbudgeted costs for office space rental and for the increased costs of gasoline.

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Drug Enforcement Administration

Salaries and Expenses

Summary of Requirements  
(Dollars in thousands)

Comparison by activities	1980 Presently Available		1980 Revised Estimates		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
1. Enforcement of Federal law and investigations:						
a. Domestic enforcement.....	1,853	\$88,127	1,853	\$89,721	...	\$1,594
b. Foreign cooperative investigations.....	350	23,734	350	23,753	...	19
c. Compliance and regulation....	408	13,942	408	14,007	...	65
d. State and local assistance...	344	22,177	344	22,406	...	229
2. Intelligence.....	387	17,469	387	17,577	...	108
3. Research and development.....	26	1,901	26	1,909	...	8
4. Support operations.....	322	19,798	322	20,195	...	397
5. Program direction.....	384	14,569	384	14,653	...	84
Total requirements.....	4,074	201,717	4,074	204,221	...	2,504

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Drug Enforcement AdministrationSalaries and ExpensesJustification of Requirements  
(Dollars in thousands)

<u>Comparison by activities</u>	1980 Proposed Supplemental		<u>Increased Space Costs</u>	<u>Fuel Cost Increase</u>
	<u>Perm. Pos.</u>	<u>Amount</u>		
1. Enforcement of federal law and investigations:				
a. Domestic enforcement.....	...	\$1,594	\$500	\$1,094
b. Foreign cooperative investigations.....	...	19	19	...
c. Compliance and regulation....	...	65	52	13
d. State and local assistance...	...	229	74	155
2. Intelligence.....	...	108	52	56
3. Research and development.....	...	8	8	...
4. Support operations.....	...	397	330	67
5. Program direction.....	...	84	65	19
Total requirements.....	...	2,504	1,100	1,404

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**JUSTIFICATION OF REQUIREMENTS**  
(Dollars in thousands)

Item: Increased Space Costs

<u>Comparison by Activities</u>	<u>1980 Presently Available</u>	<u>1980 Revised Estimate</u>	<u>1980 Proposed Supplemental</u>
1. Enforcement of federal law and investigations:			171
a. Domestic enforcement.....	\$5,915	\$6,415	\$500
b. Foreign cooperative investigations..	224	243	19
c. Compliance and regulation.....	611	663	52
d. State and local assistance.....	867	941	74
2. Intelligence.....	613	665	52
3. Research and development.....	96	104	8
4. Support operations.....	1,539	1,869	330
5. Program direction.....	763	828	65
Total requirements.....	10,628	11,728	1,100

The purpose of this request is to provide additional funds for the payment to General Services Administration (GSA) for Standard Level User Charges (SLUC). We are required to reimburse GSA for the change in costs of space allocated to DEA. This increase results from rate increases and the approval in 1980 of long-standing requests for additional space at locations throughout the United States.

This request is based on the actual first and second quarter FY 1980 billings from the General Services Administration. The annualized amount for FY 1980 is \$1,100,000 greater than presently available funding.

The Drug Enforcement Administration had no increase for SLUC costs in the FY 1980 budget.

This payment is required. If supplementary funding is not approved, it will be necessary to reallocate from other programs, which will seriously affect the continuation of ongoing enforcement operations.

JUSTIFICATION OF REQUIREMENTS  
(Dollars in thousands)

Item: Increase in Fuel Costs

<u>Comparison by Activities</u>	<u>1980 Presently Available</u>	<u>1980 Revised Estimate</u>	<u>1980 Proposed Supplemental</u>
1. Enforcement of federal law and investigations:			172
a. Domestic enforcement.....	\$1,170	\$2,264	\$1,094
b. Foreign cooperative investigations..	160	160	...
c. Compliance and regulation.....	16	29	13
d. State and local assistance.....	190	345	155
2. Intelligence.....	65	121	56
3. Research and development.....	10	10	...
4. Support operations.....	82	149	67
5. Program direction.....	23	42	19
Total requirements.....	1,716	3,120	1,404

The purpose of this request is to provide funding necessary to compensate for the increase in the cost of gasoline. The Drug Enforcement Administration's FY 1980 base for gasoline is predicated on a total of 2,640,000 gallons at \$.65 per gallon. Costs being experienced in FY 1980 already range up to \$1.30 per gallon and it is expected that by year-end the cost will exceed this amount. As of February DEA had used 78 percent of its base. The calculation supporting the \$1,404,000 requested supplemental increase is as follows:

Base availability = 2,640,000 gallons at \$.65 = \$1,716,000

Adjusted FY 1980 funding = 2,400,000 gallons at \$1.30 = \$3,120,000

Requested supplemental funding increase = \$1,404,000

The motor vehicle fleet is a critical tool of drug law enforcement. Reallocation of funds from other programs to provide for operations of the fleet would seriously affect ongoing enforcement operations.

Drug Enforcement Administration

Salaries and Expenses

Financial Analysis  
(Dollars in thousands)

<u>Item</u>	<u>1980 Proposed Supplemental Perm. Pos.</u>	<u>Amount</u>	<u>Increased Space Costs</u>	<u>Fuel Cost Increase</u>
Standard Level User Charges.....	...	\$1,100	\$1,100	...
Supplies and Materials.....	...	1,404	...	\$1,404
Total workyears and obligations, 1980.....	...	2,504	1,100	1,404

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## Supplemental requested, existing legislation

STANDARD FORM 300  
MAY 1964, Bureau of the Budget  
GSA GEN. REG. NO. 27, 16 CFR Part 27  
5000-101

DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION  
SALARIES AND EXPENSES

## Program and financing (in thousands of dollars)

Identification code 15-1100-1-1-751	<del>"80 amount</del>	<del>"80 amount</del>	<del>"80 amount</del>
	Presently Available	Revised Estimate	Proposed Supplemental
<b><u>Program by activities:</u></b>			
<b>Direct program:</b>			
1. Enforcement of federal law and investigations:			
(a) Domestic enforcement.....	88,127	89,721	1,594
(b) Foreign cooperative investigations.....	23,734	23,753	19
(c) Compliance and regulation..	13,942	14,007	65
(d) State and local assistance.	22,177	22,406	229
2. Intelligence.....	17,469	17,577	108
3. Research and development.....	4,429	4,437	8
4. Support operations.....	19,798	20,195	397
5. Program direction.....	14,569	14,653	84
Total, direct program.....	204,245	206,749	2,504
<b>Reimbursable program:</b>			
1. Enforcement of federal law and investigations:			
(a) Domestic enforcement.....	761	761	...
(b) Foreign cooperative investigations.....	2,485	2,485	...
(c) Compliance and regulation..	...	...	...
(d) State & local assistance...	1,241	1,241	...
2. Intelligence.....	51	51	...
3. Research and development.....	50	50	...
4. Support operations.....	...	...	...
Total, reimbursable program...	4,588	4,588	...
<b>Total program costs, funded.....</b>	<b>208,833</b>	<b>211,337</b>	<b>2,504</b>

Supplemental requested, existing legislation

STANDARD FORM 300  
DEPT. OF JUSTICE  
CIRCLED NO. A-11, Revised.  
5010-101

DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION  
SALARIES AND EXPENSES

Program and financing (in thousands of dollars)			
Identification code <u>15-1300-1-1-751</u>	<u>= 80</u> Presently Available	<u>= 80</u> Revised Estimate	<u>= 80</u> Proposed Supplemental
Change in selected resources (undelivered orders).....	...	...	...
10.00 Total obligations.....	208,833	211,337	2,504
<u>Financing:</u>			
Offsetting collections from:			
11.00 Federal funds.....	-3,982	-3,982	...
14.00 Non-Federal sources.....	-606	-606	...
21.40 Unobligated balance available, start of year.....	-3,728	-3,728	...
22.40 Unobligated balance, transfer from other accounts.....	...	-2,504	-2,504
24.40 Unobligated balance available, end of year.....	1,200	1,200	...
Budget Authority.....	201,717	201,717	...
<u>Budget Authority:</u>			
40.00 Appropriation.....	193,836	193,836	...
42.00 Transferred from other accounts.....	...	...	...
43.00 Appropriation (adjusted)	193,836	193,836	...
44.20 Supplemental for civilian pay raises.....	6,804	6,804	...
46.20 Transfer in for civilian pay raises.....	1,077	1,077	...
<u>Relation of obligations to outlays:</u>			
71.00 Obligations incurred, net.....	204,245	206,749	2,504
72.40 Obligated balance, start of year.....	35,828	35,828	...

STANDARD FORM 300  
 DEPT. OF JUSTICE  
 DRUG ENFORCEMENT ADMINISTRATION  
 SALARIES AND EXPENSES  
 1970-71

Supplemental requested, existing legislation  
 DEPARTMENT OF JUSTICE  
 DRUG ENFORCEMENT ADMINISTRATION  
 SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

Identification code	<u># 80</u>	<u># 80</u>	<u># 80</u>
15-1100-1-1-751	Presently Available	Revised Estimate	Proposed Supplemental
74.40 Obligated balance, end of year.....	-39,595	-39,804	-209
77.00 Adjustments in expired accounts.....	...	...	...
90.00 Outlays, excluding pay raise supplemental.....	193,108	195,403	2,295
91.20 Outlays, from civilian pay raise supplemental.....	7,370	7,370	...

## Supplemental requested, existing legislation

STANDARD FORM 304  
 May 1964, Bureau of the Budget  
 GSA GEN. REG. NO. A-11, Section  
 104-105

DEPARTMENT OF JUSTICE  
 DRUG ENFORCEMENT ADMINISTRATION  
 SALARIES AND EXPENSES

## OBJECT CLASSIFICATION (in thousands of dollars)

Identification code	1960 Actual	1960 Estimate	1960 Estimate
	Presently Available	Revised Estimate	Proposed Supplemental
<b>15-1100-1-1-751</b>			
<b>Direct Obligations:</b>			
Personnel compensation:			
11.1 Permanent positions.....	101,758	101,758	...
11.3 Positions other than permanent.....	607	607	...
11.5 Other personnel compensation.....	10,536	10,536	...
11.6 Special personal services payments.....	1,000	1,000	...
Total personnel compensation.....	113,901	113,901	...
Personnel benefits:			
12.1 Civilian .....	15,973	15,973	...
13.0 Benefits for former personnel .....	...	...	...
21.0 Travel and transportation of persons.....	7,879	7,879	...
22.0 Transportation of things.....	1,645	1,645	
23.1 SLUC.....	10,628	11,728	1,100
23.2 Communications, and utilities.....	11,576	11,576	...
24.0 Printing and reproduction.....	1,048	1,048	...
25.0 Other services.....	33,388	33,388	...
26.0 Supplies and materials.....	4,869	6,273	1,404
31.0 Equipment .....	3,238	3,238	...
32.0 Lands and structures.....			
33.0 Investments and loans.....			
41.0 Grants, subsidies, and contributions.....			
42.0 Insurance claims and indemnities.....	100	100	...
43.0 Interest and dividends.....			
44.0 Refunds .....			
Total obligations.....	204,245	206,749	2,504

## Supplemental requested, existing legislation

STANDARD FORM 304

May 1969, Bureau of the Budget  
Circular No. A-11, Revised.  
504-103DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION  
SALARIES AND EXPENSES

OBJECT CLASSIFICATION (in thousands of dollars)

Identification code	1980 actual	1980 estimate	1980 estimate
15- 1100-1-1-751			
<b>Reimbursable Obligations:</b>			
Personnel compensation:			
11.1 Permanent positions.....	Presently Available 1,180	Revised Estimate 1,180	Proposed Supplemental ...
-11.3 ... Positions other than permanent.....			
11.5 Other personnel compensation.....	107	107	...
-11.8 --- Special personal services--payments.....			
Total personnel compensation.....	1,287	1,287	...
Personnel benefits:			
12.1 Civilian.....	112	112	...
-13.0 - Benefits for former personnel.....			
21.0 Travel and transportation of persons.....	483	483	...
22.0 Transportation of things.....	72	72	...
23.2 Communications, utilities, and other rents.....	81	81	...
24.0 Printing and reproduction.....	34	34	...
25.0 Other services.....	1,860	1,860	...
26.0 Supplies and materials.....	54	54	...
31.0 Equipment.....	605	605	...
-32.0 - Lands and structures.....			
-33.0 - Investments and loans.....			
-45.0 - Grants, subsidies, and contributions.....			
-42.0 - Insurance claims and indemnities.....			
-43.0 - Interest and dividends.....			
-44.0 - Refunds.....			
-----			
<b>reimbursable</b>			
Total Obligations.....	4,588	4,588	...
99.- Total Obligations.....	208,833	211,337	2,504

STANDARD FORM 300  
DEPARTMENT OF JUSTICE  
OMB No. 2550-0111, Revised  
500-101

DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION  
SALARIES AND EXPENSES

Personnel Summary

Identification code 15-1100-1-1-751	#80 Actual	#80 estimate	#80 estimate
	Presently Available	Revised Estimate	Proposed Supplemental
<b>Direct:</b>			
Total number of permanent positions..	4,074	4,074	...
Total compensable workyears.....	4,107	4,107	...
Full-time equivalent of other positions.....	(59)	(59)	...
Full-time equivalent of overtime and holiday hours.....	(27)	(27)	...
Average GS grade.....	10.53	10.53	...
Average GS salary.....	\$25,062	\$25,062	...
Average salary of ungraded positions.	\$14,317	\$14,317	...
<b>Reimbursable:</b>			
Total number of permanent positions..	45	45	...
Total compensable workyears.....	38	38	...
Full-time equivalent of other positions.....	(0)	(0)	...
Full-time equivalent of overtime and holiday hours.....	(0)	(0)	...
Average GS grade.....	12.13	12.13	...
Average GS salary.....	\$29,706	\$29,706	...

STANDARD FORM 306 Supplemental requested, existing legislation  
 July 1964, Budget of the Federal  
 Catalog No. A-11, Revised.  
 000-100

DEPARTMENT OF JUSTICE  
 DRUG ENFORCEMENT ADMINISTRATION  
 SALARIES AND EXPENSES  
 DETAIL OF PERMANENT POSITIONS

	1980 actual	1980 estimate	1980 estimate
Executive level III.....	1	1	...
Executive level V.....	1	1	...
Subtotal	2	2	...
GS-18.....	2	2	...
GS-17.....	12	12	...
GS-16.....	20	20	...
GS/GM-15.....	149	149	...
GS/GM-14.....	415	415	...
GS/GM-13.....	762	762	...
GS-12.....	1,166	1,166	...
GS-11.....	221	221	...
GS-10.....	10	10	...
GS-9.....	155	155	...
GS-8.....	52	52	...
GS-7.....	286	286	...
GS-6.....	351	351	...
GS-5.....	311	311	...
GS-4.....	135	135	...
GS-2.....	40	40	...
Subtotal	7	7	...
	4,094	4,094	...

STANDARD FORM 306  
 July 1960, Bureau of the Budget  
 Circular No. A-12, Revised  
 - 100-100

DEPARTMENT OF JUSTICE  
 DRUG ENFORCEMENT ADMINISTRATION  
 SALARIES AND EXPENSES  
 DETAIL OF PERMANENT POSITIONS

	1980 actual	1980 estimate	1980 estimate
	Presently Available	Revised Estimate	Proposed Supplemental
SR-18.....	1	1	...
SR-16.....	1	1	...
* Subtotal.....	2	2	...
Ungraded.....	21	21	...
Total permanent positions.....	4,119	4,119	...
Unfilled positions, end of year.....	+82	-82	
Total permanent employment, end of year.....	4,037	4,037	...

Office of Justice Assistance, Research, and Statistics

Law Enforcement Assistance

Summary of Requirements  
(Dollars in thousands)

<u>Comparison by activities</u>	<u>Unobligated Balance FY 79</u>	<u>Balance Available After Reduction</u>	<u>Impact of Pro- posed Supplemental</u>
1. Planning formula grants.....	\$372	\$164	-4208
2. Criminal justice formula grants.....	2,939	--	-2,939
3. Criminal justice programs.....	11,903	7,543	-4,360
4. Correctional programs.....	17,158	11,669	-5,489
5. Juvenile justice programs.....	13,485	13,485	..
6. Crime prevention programs.....	9,013	8,613	-400
7. Technical assistance.....	2,435	2,435	..
8. Training.....	17,523	17,523	..
9. Research, evaluation, and demonstration programs.....	1,893	1,893	..
10. Public safety officers' benefits program...	3,088	3,088	..
11. Administrative funds.....	1,018	1,018	..
 Total.....	80,827	67,431	-13,396

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**JUSTIFICATION OF REQUIREMENTS**  
(Dollars in thousands)

Activity: Crime control programs	Unobligated Balance FY 79		Balance Available After Reduction		Impact of Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Crime control programs.....	...	\$80,827	...	\$67,431	...	-\$13,396

Of the \$13,396,000 proposed reduction, \$6,711,000 represents funds which were not allocated to a specific program in FY 1980. The balance of \$6,685,000 will come from prior year balances which were not obligated in FY 1980 but were targetted for use in various program areas as follows:

- \$208,000 was planned for supplemental assistance to eligible Regional Planning Units which were in need of administrative funds to assist them in beginning the entitlement area process requirements of the Justice System Improvement Act.
- The Fraud Against Government program had been allocated \$927,000, however, no final program plan was ever developed.
- \$400,000 represents a portion of the unobligated balance of the Comprehensive Crime Prevention program allocation. Sufficient funds are available for operation of the program. Furthermore, funds are allocated to similar programs such as the Community Anti-Crime and Urban Crime Prevention programs.
- \$4,150,000 had been intended for use in the Corrections program in an area other than the Corrections Standards Implementation program which was announced in the Federal Register.
- The FY 1980 Transition Supplement program is intended to provide limited assistance to smaller states to assure that all states receive sufficient funds for action purposes. Funds will be awarded to supplement Part D formula grants. The \$3,000,000 initially allocated for this program will be reduced by \$1,000,000.

In considering the program areas to be reduced, careful attention was paid to those programs previously announced in the Federal Register to prevent elimination of programs for which applications are currently in process.

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STANDARD FORM 300  
 (5010-106) Bureau of the Budget  
 (Formerly GSA Form 2-10, Revised)  
 2000-1001

Supplemental requested, existing legislation

A-11-39B

DEPARTMENT OF JUSTICE  
 OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS  
 LAW ENFORCEMENT ASSISTANCE

Program and financing (in thousands of dollars)

Identification code	1980	1980	1980
	<u>Presently available</u>	<u>Revised estimate</u>	<u>Proposed supplemental</u>
<u>Program by activities:</u>			
Direct program:			
1. Juvenile justice formula grants ..	63,838	63,838	...
2. Criminal justice formula grants ..	59,809	59,809	...
3. National priority grants program ..	7,000	7,000	...
4. General criminal justice grants ..	7,000	7,000	...
5. Training .....	-1,546	-1,546	...
6. Crime prevention programs .....	25,000	24,000	-1,000
7. Juvenile justice programs .....	44,275	44,275	...
8. Public safety officers' benefits program .....	12,500	12,500	...
9. Crime control programs .....	323,712	365,405	41,693
10. Executive direction and control, OJARS .....	10,090	10,394	304
11. Administrative services, OJARS ..	10,874	12,594	1,720
Total, direct program .....	562,552	605,269	42,717
Reimbursable program .....	450	5,450	5,000
Total program costs, funded 1/.....	563,002	610,719	47,717
Change in selected resources (undelivered orders) .....	-65,225	-121,338	-56,113
10.00 Total obligations (Obj. class 41.0)	497,777	489,381	-8,396
<u>Financing:</u>			
Offsetting collections from:			
11.00 Federal funds .....	-450	-5,450	-5,000
21.40 Unobligated balance available, start of year .....	-80,827	-80,827	...

MONDAY, MARCH 24, 1980.

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

WITNESSES

ELSA A. PORTER, ASSISTANT SECRETARY FOR ADMINISTRATION  
GUY W. CHAMBERLIN, DEPUTY ASSISTANT SECRETARY FOR AD-  
MINISTRATION

HOMER MOYER, GENERAL COUNSEL

MARY BASS, INSPECTOR GENERAL

SID JEFFERS, PROJECT DIRECTOR, KNOXVILLE ENERGY EXPOSI-  
TION

JAMES E. BLUBAUGH, BUDGET OFFICER, GENERAL ADMINISTRA-  
TION

CLIFFORD J. PARKER, DIRECTOR, OFFICE OF BUDGET AND PRO-  
GRAM EVALUATION

Mr. HIGHTOWER [presiding]. We shall now consider the fiscal year 1980 supplemental request for General Administration in the amount of \$25,000,000. We will insert the justifications for the supplemental in the record at this point.

[The justification material follows:]

DEPARTMENT OF COMMERCE  
GENERAL ADMINISTRATION

**Salaries and Expenses  
Supplemental Budget Request  
Fiscal Year 1980**

Funding	Employment	Term. Pos.	Total Employment	Average Employment
Presently available.....	Presently available.....	623	617	
Revised estimate.....	Revised estimate.....	629	621	
Proposed supplemental.....	Proposed supplemental.....	6	6	

**STATEMENT OF PURPOSE AND NEED**

This request is separated into two parts. Six positions and \$200,000 are needed to supplement the resources of the Under Secretary for Trade due to the President's reorganization of trade activities in Government. Additionally, no positions and \$4,000,000 in funding are requested for promotion of U. S. Amateur Athletics.

**Under Secretary for Trade**

The Trade Agreements Act of 1979, the Trade Act of 1974, and other legislation vested authority in the President to establish major changes in the area of international trade. In implementing these changes, specific trade officers in the Department will be established through an annual funding increase of \$300,000. This supplemental request is two-thirds of that amount to initiate funding of these officers during the current fiscal year.

**U.S. Olympic Committee**

The Amateur Sports Act of 1978 (P.L. 95-606) was passed by Congress in November 1978 in order to promote and coordinate amateur athletics in the United States. Through enactment of P.L. 95-482, the Secretary of Commerce was authorized to grant funds to the U. S. Olympic Committee for this purpose. The budget amount requested here will be used by the Committee to stimulate participation with increased emphasis at the local level and to assist in the development of National Governing Bodies for each sport. A small amount is included to provide for adequate performance monitoring by the Department.

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FY 1980 Budget Supplemental Language

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

For expenses necessary to carry out the provision of Public Laws 95-606 (92 Stat. 3045), Reorganization Plan #3, and 95-482 (92 Stat. 1605), \$4,200,000, to remain available until expended.

Summary of Requirements  
(dollars amounts in thousands)

Appropriation: General Administration  
Salaries and Expenses

<u>Comparison by Activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Form. Pos.	Amount	Form. Pos.	Amount	Form. Pos.	Amount
Executive Direction of the Department	85	\$ 3,244	91	\$ 3,444	6	\$ 200
Departmental Staff	538	22,378	538	22,378	...	...
Secretary's Special Initiatives	...	2,000	...	2,000	...	...
U.S. Olympic Committee	...	...	...	4,000	...	4,000
	623	\$27,622	629	\$31,822	6	\$ 4,200

**JUSTIFICATION FOR PROPOSED SUPPLEMENTAL - UNDER SECRETARY FOR TRADE**

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Assistant Secretary - ITA	0	\$ 240	...	\$ ...	-8	\$-240
Under Secretary For Trade	2	77	7	214	+5	\$137
Deputy Under Secretary for Trade	1	- 39	4	132	+3	\$ 93
Assistant Secretary	1	39	3	109	+2	\$ 70
Assistant Secretary	1	39	3	109	+2	\$ 70
Assistant Secretary	1	39	3	109	+2	\$ 70
Total requirements	-14 1/	473 1/	-20	673	+6	\$200

By the authority vested in the President by the Trade Agreements Act of 1979, the Trade Act of 1974 and other legislation, major changes in the Federal government's organization and administration of international trade were instituted.

Specifically, Executive Order 12188 conferred vastly increased responsibilities on the Department of Commerce and stipulated that increased funding and staffing be provided through the complete transfer of functions from other areas of government.

Under Reorganization Plan No. 3 of 1979, the president's message stated, in part that the improvements under trade reorganization would be achieved with no increase in personnel or expenditures except for an annual expense of \$300,000 for salaries and support for additional senior Commerce officials to help provide administrative control in the international trade area. This supplemental request of \$200,000 will be needed to cover that portion of this \$300,000 during FY 1980.

Based on a detailed analysis of the requirements needed to properly staff and fund the Department's increased international trade function, there still remains a shortfall of six positions and \$233,000 which will be absorbed within the present resources of the appropriation.

This absorption is computed as follows:

	Perm. Pos.	Amount
Total requirements (FY 1980).....	20	\$ 785
Less - Presently available (FY 1980 base).....	- 8	-252
Sub-total.....	12	533
Less - Requested supplemental (annualized).....	- 6	300
Net absorption.....	6	233

// Reflects absorption of 6 positions and \$233,000

Details on the internal changes on the basis of the above figures are being transmitted to the Congress in a separate reprogramming request.

<u>Position Title</u>	<u>Grade</u>	<u>Number</u>	<u>Annual Salary (</u>
Under Secretary.....	EL - III	1	\$ 55,400
Deputy Under Secretary.....	EL - III	1	55,400
Assistant Secretary.....	EL - IV	2	105,600
Confidential Assistant.....	GR - 15	1	40,832
Confidential Assistant..... Total salaries.....	GS - 11	1	20,611
Lens Lapse.....			277,843
Total compensation.....			175,000
Personnel benefits.....			15,000
Travel and transportation.....			10,000
Total.....			200,000

**Justification for Proposed Budget Supplemental U. S. Olympic Committee**

U. S. Olympic Committee.....	1980					
	Presently Available		Revised Estimate		Proposed Supplemental	
	Per. Per. Pos.	Amount	Per. Per. Pos.	Amount	Per. Per. Pos.	Amount
	... ..	... ..	\$ 4,000	... ..	\$ 4,000	

Under authority of P.L. 95-482, the Secretary of Commerce is authorized to award a grant to the United States Olympic Committee for the purpose of assisting in the development of amateur athletics in America. The U. S. Olympic Committee exercises exclusive jurisdiction over all matters pertaining to the participating of the United States in the Olympics and in the Pan-American Games.

In the past, the U. S. Olympic Committee has directed the bulk of its funding to the identification, training, and fielding of the U. S. Olympic and Pan American teams. Very little support, direct or indirect, has been provided to any but the world-class athletes. This financing request is aimed at affording expanded opportunity to developing athletes; improving the organization of amateur athletics by strengthening the National Governing Bodies; and collecting and disseminating information on sports medicine.

It is not the purpose of this funding request to subsidize our athletes directly or to pay for their transportation to the Pan American and Olympic Games. The money is intended to stimulate greater private sector participation in sponsoring amateur athletics by providing seed money for worthwhile programs. The programs to be supported are those which have been delineated in the Amateur Sports Act of 1978 (P.L. 95-606) and recommended by the President's Commission on Olympic Sports.

Specifically, the funds will be used as follows:

**Sports Medicine**

\$ 500,000 would be used for the development of a sports medicine information retrieval system. This funding would cover both the purchase of hardware and software development.

**Administrative Support for National Governing Bodies (NGB's)**

This funding (\$1,000,000) would provide an impetus to emerging sports to increase the number of coaches, volunteers, and participants. Funds would support the initial cost of opening offices for NGB's for emerging sports for which one does not exist.

Organization at the local level

Implementation plans are needed to carry out reorganization under the Amateur Sports Act at the local level. Funding of \$1.75 million would support the development of several model plans for use by the States. Special education seminars will also be conducted to better integrate governing bodies with physical education groups.

Olympic Committee services to the NGB's

Further strengthening of the NGB's will be accomplished by the provision of central support services by the USOC. Automated systems will be developed to record such items as NGB mailing lists, fund raising lists, classifications of coaches, etc.

<u>Object Class</u>	<u>Amount</u>
Other Services.....	\$ 20,000
Grants, subsidies and contributions.....	3,980,000
Total.....	<u>\$4,000,000</u>

Summary or Requirement by Object Class  
(Dollar amounts in thousands)

Description: Salaries and expenses

Object Class

Personnel Compensation:

	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Post.	Av.No.	Amount	Post.	Av.No.	Amount	Post.	Av.No.	Amount
Permanent positions.....	629	610	\$16,665	635	616	\$16,820	+6	+6	\$ +175
Positions other than permanent.....	30	44	707	30	44	707	...	...	...
Other personnel compensation.....	...	...	62	...	...	62	...	...	...
Total personnel compensation.....	659	654	\$17,414	665	660	\$17,589	+6	+6	\$ +175

Object(s):

Personnel benefits: Civilian.....	\$ 1,441	\$ 1,456	\$ + 15
Travel and transportation of persons.....	667	677	+ 10
Transportation of things.....	21	21	...
Communications, utilities and other rent....	810	810	...
Standard level user charges.....	1,492	1,492	...
Printing and reproduction.....	299	299	...
Other services.....	5,231	5,251	+ 20
Supplies and materials.....	149	149	...
Equipment.....	98	98	...
Grants, subsidies, and contributions.....	...	3,980	\$13,980
Total requirements.....	\$27,622	\$31,822	\$14,200

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Justification by Object Class  
(Dollar amounts in thousands)

Object Class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av.No.	Amount	Pos.	Av.No.	Amount	Pos.	Av.No.	Amount
<b>11.1 Permanent positions</b>									
General schedule.....	613	593	\$15,899	615	597	\$15,919	+2	+2	\$ + 40
Executive level.....	14	13	716	18	17	851	+4	+4	+135
Huge Board.....	2	2	30	2	2	30	+1	+1	
Total Permanent positions.....	629	610	\$16,645	635	616	\$16,820	+7	+6	\$ +175
<b>11.3 Positions other than permanent</b>									
General schedule.....	30	44	707	30	44	707	...	...	...
<b>11.5 Other personnel compensation</b>									
Overtime.....			62			62			...
<b>12.1 Personnel benefits: Civilian</b>									
Civil Service Retirement.....			\$ 1,014			\$ 1,027			+1
Federal Insurance Contribution Act (FICA).....			47			47			...
Health insurance.....			257			259			+ 2
Life insurance.....			102			102			...
Employees Compensation Fund.....			6			6			...
Employee Awards.....			15			15			...
Total, personnel benefits.....			1,441			1,456			+15
<b>21.0 Travel and transportation of persons</b>									
Per diem.....			278			284			+6
Airfare.....			366			370			+4
Other common carrier.....			14			14			...
Privately owned automobiles.....			9			9			...
Total, travel and transportation of persons			667			677			+10

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	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av.No.	Amount	Pos.	Av.No.	Amount	Pos.	Av.No.	Amount
22.0 <u>Transportation of things</u> .....			\$ 21			\$ 21			\$ ...
23.1 <u>Standard level user charges</u> .....			1,492			1,492			...
23.2 <u>Communications, utilities and other rent*</u>									
Federal Telecommunications System.....			226			226			...
Other telephone, telegraph and teletype services			105			105			...
Postal services by UPS.....			59			59			...
Rental of automatic data processing equipment			25			25			...
Rental of office copying equipment.....			290			290			...
Other equipment rental.....			105			105			...
Total, other rent, communication, and utilities			810			810			...
24 <u>Printing and reproduction</u>									
Press releases.....			17			17			...
Publications.....			10			10			...
Public use forms.....			55			55			...
Administrative printing.....			178			178			...
Design and graphics.....			24			24			...
Photography.....			15			15			...
Total, printing and reproduction.....			299			299			...

	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av.No.	Amount	Pos.	Av.No.	Amount	Pos.	Av.No.	Amount
25.0	<u>Other services</u>								
	<u>Training</u>								
	University.....		\$ 17			\$ 17			\$ ...
	Office of Personnel Management.....		101			101			...
	Other.....		300			300			...
	Maintenance of equipment.....		52			52			...
	GSA alterations and repairs.....		520			520			...
	Centralized Departmental Services.....		1,334			1,334			...
	<u>Other Federal Agencies:</u>								
	Interior.....		99			99			...
	HED.....		99			99			...
	DCAA.....		62			62			...
	Non-Federal services.....		155			155			...
	Security investigations.....		60			60			...
	Contracts.....		2,432			2,432			+20
	Total, other services.....		5,231			5,251			+20
26.0	<u>Supplies and materials</u>								
	Office supplies.....		96			96			...
	Subscriptions, periodicals, etc.....		41			41			...
	AOP supplies.....		12			12			...
	Total, supplies and materials.....		149			149			...
31.0	<u>Equipment</u>								
	Office machines and equipment.....		98			98			...
41.0	<u>Grants, Subsidies, and Contributions</u> .....		...			3,980			+ 3,980

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DEPARTMENT OF COMMERCE  
GENERAL ADMINISTRATION

PARTICIPATION IN UNITED STATES EXPOSITIONS  
Revised Estimates  
Fiscal Year 1980

<u>Funding</u>		<u>Employment</u>	Perm. Pos.	Total Compensable Workyears
Request pending.....	...	Request pending.....	...	...
Proposed amendment.....	\$20,800	Proposed amendment.....	30	39
Revised request.....	\$20,800	Revised request.....	30	39

Statement of Purpose and Need

An international exposition on energy is to be held in Knoxville, Tennessee, from May to October 1982. The goals are to hold an informative, educational and entertaining exposition, with a strong thematic and appropriate cultural presentation which would be suitable as a national and international policy statement on energy, which will promote domestic and international tourism, encourage economic development and growth of the center city while providing a residual type structure which can be utilized by either the Federal government or the community.

The budget amendment request provides funds for federal participation in the Knoxville Energy Exposition at a total cost of \$20,800,000. Pavilion design and construction is estimated at \$12,300,000, exhibit design, fabrication, installation and dismantling \$4,500,000, operations \$1,023,000, administration \$2,079,000 plus \$898,000 for the Office of the U.S. Commissioner General.

General Statement

This is a request to provide \$20.8 million for Federal participation in the Knoxville International Energy Exposition to be held in Knoxville, Tennessee in 1982. Public Law 91-269 was enacted by Congress because it recognized that international expositions, when properly organized, financed, and executed, have a significant impact on the economic growth of the region surrounding the exposition and, under appropriate international sanction, are important instruments of national policy, particularly in the exchange of ideas and the demonstration of cultural achievements between peoples.

Requirements called for by P.L. 91-269, include: (a) evidence that the event has met the criteria for Federal recognition and has been accorded official recognition by the President; (b) evidence that the event has been registered by the Bureau of International Expositions (BIE) in Paris; and (c) a plan, prepared by the Secretary of Commerce, for Federal participation.

A plan outlining Federal participation in this exposition is being submitted with this budget amendment and will contain evidence that this exposition has met the criteria for Federal recognition and that this event has been registered with the BIE.

Background

The Expo '82 application was processed in accordance with the provisions of Public Law 91-269 governing Federal recognition of and participation in International Expositions in the United States. The provisions of that Act and supplementary regulations promulgated by the Commerce Department in the Federal Register (August 14, 1975) have been followed by the exposition sponsors. The purpose of P.L. 91-269 was to accord Federal recognition and to provide for Federal participation in only totally viable, adequately financed, locally supported projects in the U.S. This is a firm requisite in keeping with the U.S. status as a treaty member of the BIE in Paris. The BIE is an international organization which regulates the timing and frequency of expositions.

In June, 1976, the organizers of the Knoxville International Energy Exposition, Inc. (KIEE) applied to the Department of Commerce for Federal recognition to hold an international special category exposition in 1982. The proposed theme was "Energy Turns the World." This application was thoroughly reviewed under the mandates of P.L. 91-269 including on-site meetings with the organizers and civic leaders in order to properly evaluate all facets of this project. Based on this

evaluation, a detailed report was prepared by the Secretary of Commerce and forwarded to the President in March, 1977, recommending Federal recognition of Energy Expo '82. This report stated that the sponsor had fulfilled, to the extent possible at the time, all applicable requirements of Public Law 91-269 and the implementing regulations (15 C. F. R. Part 1202). The Secretary concluded that the theme "Energy" was timely and the Exposition site was appropriate to the region where there is a concentration of energy centers such as Oak Ridge National Laboratories and the Tennessee Valley Authority. It was also determined that the organizers had obtained sufficient financial support and sufficient state and local backing to reasonably assure the successful development and progress of the exposition.

The Secretary of State, as required by Public Law 91-269, also agreed that the exposition qualified for international recognition and recommended that the exposition be registered by the Bureau of International Expositions as a special category event.

Based on these favorable recommendations, on April 26, 1977, the President informed the Secretaries of State and Commerce of his recognition of the Knoxville International Energy Exposition as being in the national interest. Since that time, Expo 82 has received additional support from state, county, city and private sources including many of Tennessee's elected Federal and state officials. Firm commitments from the state government have been announced for completing Interstate Highway 640, for restructuring the I-75/I-40 intersection in Knoxville, for building the South Knoxville Bridge and completing all related improvements to the regional transportation system determined vital to handle expected exposition traffic.

In January of 1978, the First Boston Corporation of New York and Hall, Sledge & Company of Knoxville were appointed investment bankers/financial advisors to the Knoxville International Energy Exposition, Inc. The financial plan they proposed, which was adopted by KIEE, was to finance the entire project through a revolving credit agreement with local, regional and national commercial banks secured by an irrevocable trust fund from gate receipts. The credit plan provided for a quarterly draw-down of working funds totaling a maximum loan of \$25 million. Of this amount, Knoxville banks offered to provide \$2 million of the first \$25 million on a first in, last out basis. These funds are being used by KIEE to pay initial operating expenses. Commitments with regional and

national banks have been made to provide the total \$25 million.

On October 16, 1978, the City of Knoxville voted to provide \$11.6 million in Bond Anticipation Notes which have already been sold to acquire and prepare the redevelopment of the project site. In March, 1979, the Governor of the State of Tennessee has signed an appropriation for \$10 million for state participation in this Exposition. A feasibility study estimated that the total area required by typical design standards for the Exposition site was 72 acres. Based on existing tourism travel statistics and trends established by past expositions, this study confirmed a figure of 12.0 million visitors as the probable attendance level during a six-month period between May and October, 1982.

As a result of the cost projections, analysis of the feasibility study and the post expo development potential of Lower Second Creek, the Knoxville International Energy Exposition is economically feasible as an international exposition and therefore has been accorded federal recognition. Independent surveys conducted by a recognized private firm indicate that 4,500 or more jobs will be created in this area during the construction and operation period and there will be an estimated increase to the economy of some \$306.1 million of total new personal income in the Knoxville and Knox county area as a direct effect of Expo '82. On December 6, 1978, the President issued a proclamation and instructed the Secretary of State to invite the nations of the world to participate in this Exposition. In addition, a U.S. Commissioner General would be appointed and the United States would plan to participate in this Exposition.

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Expositions, by nature, are tourist attractions. Domestic visitors are expected to postpone foreign travel, thus providing a positive benefit from the dollars remaining in the United States. In addition, there will also be an increase of foreign travel to this Exposition which will provide a continuing tourism benefit to this area after the closing of this Exposition. It was estimated that over 55,000 foreign visitors attended Expo '74 held in Spokane, Washington.

#### Participation Plan

The plan on which this request for a budget amendment appropriation is predicated, calls for a Federal pavilion developed by the Department of Commerce in consultation with an interagency working group. While details of the plan are contained in a separate document, it should be noted here that the pavilion will be developed based on the characteristics of the site (4.6 acres to be conveyed in fee simple title without charge to the Federal Government), the storyline premise, the Energy theme and the post-exposition residual use.

Energy has been chosen as the theme for the United States Exposition primarily because there is no other single force as pervasive as energy in determining the quality of life of the peoples of the United States and the world. Indeed, the cost and availability of energy fundamentally shape the choices people have as to the endurance or enjoyment of life itself.

To insure scheduling and completion of the Federal Pavilion, this budget amendment request is being presented on the basis of prior experiences gained by the Department from other exposition projects. The participation plan is predicated on the needs for an exhibition structure and exhibit content which could jointly carry the theme of "Energy" and provide an energy conservation statement both during the exposition and through residual use of the facility. A competitively selected design firm will be responsible for the design and supervision of construction of the pavilion and the exhibits. The criteria which the selected design firm is to follow in developing the U.S. Exposition exhibit are as follows: The structure will be designed to provide approximately 100,000 sq. feet of exhibit, maintenance and administrative space which would provide for a dramatic federal presentation to the world, and would allow the secretary, in cooperation with the Administrator of General Services, to recommend an appropriate residual use of the facility. Two excellent uses are being reviewed. One is a consolidated Federal facility in Knoxville and the other is a nucleus for a proposed University of Tennessee research development center. This budget amendment also provides for the development, planning, management and operation of the Federal exposition.

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The \$20.8 million amendment request calls for obligations to begin in 1980. Resource requirements by fiscal year are:

	(In thousands of dollars)				<u>Total</u>
	<u>FY 1980</u>	<u>FY 1981</u>	<u>FY 1982</u>	<u>FY 1983</u>	
Appropriation.....	\$20,800	...	...	...	\$20,800
Obligations.....	6,135	9,799	4,429	437	20,800
Outlays.....	4,053	10,904	5,100	743	20,800
End-of-year permanent employment.....	16	25	30	...	

Summary of Requirements  
(dollar amounts in thousands)

Appropriation: Participation in United States Expositions

<u>Comparison by activities:</u>	1980 <u>Request Pending</u>		1980 <u>Proposed Amendment</u>		1980 <u>Revised Request</u>	
	Per. Pos.		Per. Pos.		Per. Pos.	
	<u>Amount</u>		<u>Amount</u>		<u>Amount</u>	
Design and construction.....	...	...	...	\$16,800	...	\$16,800
Operations.....	...	...	...	1,023	...	1,023
Administration.....	...	...	25	2,079	25	2,079
Office of The Commissioner General.	...	...	5	898	5	898
Total requirements.....	...	...	30	20,600	30	20,800

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Activity: Design and Construction

(dollar amounts in thousands)							
1980		1980		1980			
<u>Request Pending</u>	<u>Perm.</u>	<u>Proposed Amendment</u>	<u>Perm.</u>	<u>Revised Request</u>	<u>Perm.</u>	<u>Pos.</u>	<u>Amount</u>
<u>Pos.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Amount</u>		
Design and construction.....	...	...	...	\$16,800	...	...	\$16,800

The design and construction of the United States pavilion and exhibits will be developed around the theme of energy. The complexity of energy usage and development in the United States and throughout the world will be reflected in the pavilion structure and the exhibits. The effect on the everyday existence of all people throughout the world will provide the basis of the storyline needed by the designer to develop an effective federal exhibit at this international event. A detailed program outline containing information on the theme concept, site characteristics, and operation/management requirements will be provided to the architectural designer in order to develop final pavilion and exhibit designs. Final designs for the pavilion and related exhibits will be based on a residual use structure consisting of 100,000 square feet.

GSA

It is estimated, based on a building project survey made by GSA in July, 1977, that the cost for the construction of 171,000 occupiable square feet of office space would be approximately \$16.7 million. Therefore, the square foot cost for this type of construction would be \$98.00 a square foot. This cost basis has been utilized as a basis for the construction of the Federal Pavilion. In addition, a conservative 6.5% annual inflation rate has been used for the anticipated increased cost over the four years between the time the survey was made and the construction in 1981 which amounts to approximately 26%. On this basis the estimated cost would be \$123.00 per square foot to construct the United States Pavilion.

To determine the square foot cost of the exhibits, the technical and scientific complexity of the exhibit content was taken into consideration. Exhibit cost estimates were solicited from other Federal agencies and compared to the cost of the exhibits for Hemisfair '68 in San Antonio and Expo

'74 in Spokane. The exhibit cost of the Federal Pavilion at Hemisfair in 1968 was approximately \$1.5 million; six years later at Expo '74 the cost was \$3 million which represents an increase of one hundred percent. Cost estimates received from other agencies ranged from \$60 per square foot to \$200 per square foot. After reviewing the actual cost increase between 1968 and 1974, and the estimates received from other agencies, it was determined that the exhibit construction cost in 1982 should not exceed \$4.5 million, an average of \$73.00 per square foot. Of the 100,000 foot area, approximately 62,000 square feet will be allocated for exhibits specifically designed for this exposition, 25,000 square feet will be allocated to other agencies for exhibits related to the energy theme and 13,000 square feet will be for offices, operations and maintenance.

A breakdown of the dollar requirements is as follows:

Items of Expense:	(dollar amounts in thousands)			
	FY '80	FY '81	FY '82	Total
<b>25.0 <u>Design &amp; Construction of Federal Pavilion</u></b>				206
1. Design & Review Costs	\$200	\$300	\$300	\$800
2. Site Development and Building Costs	3,750	5,700	1,550	11,000
3. Estimated Change Order Costs (5%)	...	200	300	500
Subtotal, Federal Pavilion	3,950	6,200	2,150	12,300
<b>25.0 <u>Exhibit Design, Construction and Installation</u></b>				
1. Design and Construction	1,500	2,400	500	4,400
2. Installation	...	100	...	100
Subtotal Exhibits	1,500	2,500	500	4,500
Grand Total	5,450	8,700	2,650	16,800

Activity: Operations

(dollar amounts in thousands)							
1980		1980		1980		1980	
<u>Request Pending</u>		<u>Proposed Amendment</u>		<u>Revised Request</u>		<u>Perm.</u>	
<u>Perm.</u>	<u>Pos.</u>	<u>Perm.</u>	<u>Pos.</u>	<u>Perm.</u>	<u>Pos.</u>	<u>Perm.</u>	<u>Pos.</u>
	<u>Amount</u>		<u>Amount</u>		<u>Amount</u>		<u>Amount</u>
Operations.....	...	...	...	\$1,023	...	...	\$1,023

The Knoxville Exposition is scheduled to open May 1, 1982 and close October 31, 1982, a total of 184 days. It is estimated that 40 guides will be needed to staff the pavilion for 12 hours each day, 7 days a week. The hours of operation and maintenance total 84 hours per week not including emergency maintenance and repairs which would be accomplished after hours. Because of the long hours, both the operating staff and administrative staff must be of sufficient size to cover essential operations (which is equal to two normal 40 hour weeks). Only 16 guides and demonstrators will be available to assist visitors at any given time.

To the maximum degree possible, we expect to enter into contracts for maintenance personnel, film projectionists, cleaning, trash removal, and guard services. Normally the Expo organizers provide such services, by contract, to exhibitors.

The dollar estimate for operations, other than guides and demonstrators, was reached by utilizing applicable operation item costs from Hemisfair '68 and Expo '74. The cost for guides and demonstrators is based on an average GS 5 grade level for an estimated 30 week period.

A breakdown of the dollar estimate required by fiscal year is as follows:

<u>Operations:</u>	<u>FY '80</u>	<u>FY '81</u>	<u>FY '82</u>	<u>FY '83</u>	<u>Total</u>
11.3 Pos. other than permanent	...	...	\$203	\$40	\$243
12.0 Benefits	...	...	15	2	17
23.0 Other rent, communication and utilities	23	25	65	27	140
25.0 Other services	60	110	300	89	559
26.0 Supplies and materials	...	20	40	4	64
<b>Total</b>	<b>83</b>	<b>155</b>	<b>623</b>	<b>162</b>	<b>1,023</b>

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Activity: Administration

(dollar amounts in thousands)						
1980 Request Pending		1980 Proposed Amendment		1980 Revised Request		
Per. <u>Pos.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Amount</u>	
Administration.....	...	...	25	\$2,079	25	\$2,079

Development of Federal participation in Expo '82 will be coordinated by the Department's staff of exposition professionals. The U.S. Pavilion staff will consist of professionals employed in term positions for specific periods of time throughout the period of this project. As for previous expositions, existing Department skills such as contracting, legal, budget and accounting and personnel services and facilities will be utilized to the maximum extent possible. Other Federal departments and agencies will also be asked to cooperate in the development and execution of the Federal exposition on energy.

As in exhibit operations, the management staff responsible for executive direction, management, administration, building and exhibit maintenance, protocol scheduling, and special events scheduling will have to cover the daily operations of the Federal pavilion for a period of 12 to 14 hours per day, 7 days per week. This is equivalent to more than two 40 hour work weeks within seven days. This schedule will provide approximately 10 people per shift to be available each day during the operational period.

Other administrative cost estimates were derived from past exposition expenditures allowing approximately five percent per year for inflation.

A breakdown of estimated dollar requirements for administration is as follows:

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<u>Administration:</u>	<u>FY '80</u>	<u>FY '81</u>	<u>FY '82</u>	<u>FY '83</u>	<u>Total</u>
11.1 Permanent positions	\$237	\$400	513	\$42	\$1,192
11.5 Overtime	2	2	1	1	6
12.0 Benefits	19	29	36	3	87
21.0 Travel	39	61	45	8	153
22.0 Transportation of things	26	59	157	95	337
24.0 Printing	3	6	10	2	21
25.0 Other Services	35	92	106	23	256
26.0 Supplies and materials	6	4	8	3	21
31.0 Equipment	...	6	...	...	6
<b>Total</b>	<b>367</b>	<b>659</b>	<b>876</b>	<b>177</b>	<b>2,079</b>

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The twenty five positions reflected in this staffing pattern are considered to be term positions. The total salary cost for FY 1980 thru FY 1983 amounts to \$1,587,000. This amount is due to the sporadic hiring over the four-year period and is lapsed by \$395,000 which is approximately 25%.

Staffing Pattern - Federal Pavilion - Knoxville Expo '82

<u>Title</u>	<u>Grade</u>	<u>No.</u>
Commissioner (Federal Pavilion)	Exec. Level V	1
Exposition Director	GS 16	1
Exposition Coordinator	GS 15	1
Director of Support Group	GS 15	1
Director, Field Management	GS 15	1
Deputy Expositions Manager	GS 14	1
Protocol Officer	GS 14	1
Designer Coordinator	GS 14	1
Assistant Protocol Officer	GS 13	1
Maintenance Engineer	GS 13	1
Executive Assistant	GS 13	1
Procurement Specialist	GS 13	3
Exhibit Assistant	GS 12	1
Exhibit Assistant	GS 11	1
Fiscal Assistant	GS 11	1
Assistant Maintenance Engineer	GS 11	1
Secretary	GS 7	1
Secretary	GS 6	2
Clerk	GS 5	2
Clerk Typist	GS 4	2
Total		25

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Activity: Office of the Commissioner General

(dollar amounts in thousands)					
1980		1980		1980	
<u>Request</u>	<u>Pending</u>	<u>Proposed</u>	<u>Amendment</u>	<u>Revised</u>	<u>Request</u>
Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
Office of the Commissioner General.....	...	...	5	\$ 898	5 \$ 898

The Government of the United States in accordance with the requirements of the Paris Convention of the Bureau of International Expositions must appoint a Commissioner General for Expo '82. The Commissioner General works closely with the Exposition organizers in discharging its obligations under the requirements of the BIE and in accordance with the general and special regulations for Expo '82.

This position is considered to be equivalent to that of an Ambassador and will involve extensive protocol duties and functions. Therefore, \$12,000 is requested for entertainment of foreign officials during the term of this project and is included under Object Class 25.0, other services.

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The estimated dollar requirements for the Office of the Commissioner General are as follows:

Commissioner General:	FY '80	FY '81	FY '82	FY '83	Total
11.1 Permanent positions	\$131	\$134	\$136	\$23	\$424
11.5 Overtime	1	1	1	...	3
12.0 Benefits	10	10	9	1	30
21.0 Travel	14	19	17	4	54
22.0 Transportation of things	20	25	10	30	85
23.0 Other rent, communications and utilities	15	20	21	9	65
24.0 Printing	2	5	8	8	23
25.0 Other services	15	65	73	20	173
26.0 Supplies and materials	6	4	5	3	18
31.0 Equipment	21	2	---	---	23
Total	235	285	200	98	898

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The five positions reflected in this staffing pattern are considered to be term positions.

Staffing Pattern - Office of the Commissioner General

<u>Title</u>	<u>Grade</u>	<u>No.</u>
Commissioner General	Exec. Level IV	1
Assistant to Commissioner General	GS 14	1
Administrative Assistant	GS 11	1
Secretary	GS 9	1
Clerk Typist	GS 4	1
Total		<u>5</u>

Summary of Requirements by Object Class  
 (dollar amounts in thousands)

Appropriation: Participation in United States Expositions

<u>Object class</u>	1980 <u>Request Pending</u>			1980 <u>Proposed Amendment</u>			1980 <u>Revised Request</u>					
	<u>Pos.</u>	<u>Av.</u>	<u>No.</u>	<u>Ant.</u>	<u>Pos.</u>	<u>Av.</u>	<u>No.</u>	<u>Ant.</u>	<u>Pos.</u>	<u>Av.</u>	<u>No.</u>	<u>Ant.</u>
11 Personnel compensation:												
11.1 Permanent positions.....	...	...	...		30	19	\$1,616		30	19	\$1,616	
11.3 Positions other than permanent.....	...	...	...		40	20	243		40	20	243	
11.5 Other personnel compensation.....	...	...	...		...	...	9		...	...	9	
Total.....	...	...	...		70	39	1,868		70	39	1,868	
Other objects:												
12 Personnel benefits.....					...				134		134	
21 Travel and transportation of persons.....					...				207		207	
22 Transportation of things.....					...				422		422	
23 Rent, communications, and utilities.....					...				205		205	
24 Printing and reproduction.....					...				44		44	
25 Other services.....					...				17,788		17,788	
26 Supplies and materials.....					...				103		103	
31 Equipment.....					...				29		29	
Total requirements.....					...				20,800		20,800	

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Justification by Object Class  
(dollar amounts in thousands)

Object class	1980 Request Pending			1980 Proposed Amendment			1980 Revised Request		
	Pos.	Av. No.	Amt.	Pos.	Av. No.	Amt.	Pos.	Av. No.	Amt.
11.1 <u>Permanent positions</u> General schedule.....	...	...	...	30	19	\$1,616	30	19	\$1,616
11.3 <u>Positions other than permanent</u> General schedule.....	...	...	...	40	20	243	40	20	243
11.5 <u>Other personnel compensation-</u> Overtime.....			...			9			9
12 <u>Personnel benefits</u> Civil Service retirement.....			...			...			...
Federal Insurance Contributions Act (FICA).....			...			126			126
Health insurance.....			...			5			5
Life insurance.....			...			3			3
Total, personnel benefits.....			...			134			134
21 <u>Travel and transportation of persons</u> Per diem.....			...			103			103
Air fare.....			...			107			107
Other common carrier.....			...			7			7
Total, travel and transportation of of persons.....			...			207			207

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	1980			1980			1980				
	<u>Request Pending</u>			<u>Proposed Amendment</u>			<u>Revised Request</u>				
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amt.</u>		<u>Pos.</u>	<u>Av. No.</u>	<u>Amt.</u>		<u>Pos.</u>	<u>Av. No.</u>	<u>Amt.</u>
22	Transportation of things.....		...				\$ 422			\$ 422	
23	<u>Rent, communications, and utilities</u>										
	Federal Telecommunications System..		...				15				15
	Other telephone, telegraph and teletype services.....		...				37				37
	Postal services by USPS.....		...				52				52
	Utilities.....		...				80				80
	Other space rental.....		...				7				7
	Rental of office copying equipment.		...				<u>14</u>				<u>14</u>
	Total, rent, communications, and utilities.....		...				205				205
24	<u>Printing and reproduction</u>										
	Administrative printing.....		...				<u>44</u>				<u>44</u>
	Total, printing and reproduction...		...				<u>44</u>				<u>44</u>
25	<u>Other services</u>										
	Other Federal agencies										
	State Department.....		...				156				156
	Other contractual services.....		...				17,620				17,620
	Special limitations.....		...				<u>12</u>				<u>12</u>
	Total, other services.....		...				17,788				17,788
26	Supplies and materials.....		...				103				103
31	Equipment.....		...				29				29

DEPARTMENT OF COMMERCE  
GENERAL ADMINISTRATION

## Participation in U.S. Expositions

Program and Performance

Participation funds are to provide for the design, construction and operation of the federal pavilion and exhibit at the Knoxville International Energy Exposition in 1982. The Exposition, to be held from May 1 to October 31, 1982, is intended to promote cultural exchange, economic development and energy development and conservation in the U.S.

STANDARD FORM 306  
July 1960, Bureau of the Budget  
Circular No. A-1, Revised.

DEPARTMENT OF COMMERCE  
GENERAL ADMINISTRATION

CONSOLIDATED SCHEDULES OF PERMANENT POSITIONS PAID FROM FUNDS  
AVAILABLE TO GENERAL ADMINISTRATION

DETAIL OF PERMANENT POSITIONS

	<sup>1960</sup> <del>1960</del> Request Pending	<sup>1960</sup> <del>1960</del> Proposed Amendment	<sup>1960</sup> <del>1960</del> Revised Request
13-0120-1-1-376			
Executive Level I.....	1	...	1
Executive Level III.....	1	2	3
Executive IV.....	11	3	14
Executive Level V.....	1	1	2
Subtotal.....	<u>14</u>	<u>6</u>	<u>20</u>
ES-6.....	15	...	15
ES-5.....	13	...	13
ES-4.....	20	1	21
ES-2.....	1	3	4
ES-1.....	12	...	12
Subtotal.....	<u>61</u>	<u>6</u>	<u>65</u>
GS/GM-15.....	121	1	122
GS/GM-14.....	124	4	128
GS/GM-13.....	124	6	130
GS-12.....	134	1	135
GS-11.....	112	5	117
GS-10.....	19	...	19
GS-9.....	145	1	146
GS-8.....	35	...	35
GS-7.....	126	1	127
GS-6.....	59	2	61
GS-5.....	70	2	72
GS-4.....	52	3	55

STANDARD FORM 306  
 July 1968, Bureau of the Budget  
 Circular No. A-2, Revised  
 GSA GEN. REG. NO. 2

DEPARTMENT OF COMMERCE  
 GENERAL ADMINISTRATION

CONSOLIDATED SCHEDULES OF PERMANENT POSITIONS PAID FROM FUNDS  
 AVAILABLE TO GENERAL ADMINISTRATION  
 DETAIL OF PERMANENT POSITIONS

	<u>1980</u> <u>Actual</u>	<u>1980</u> <u>Budget</u>	<u>1980</u> <u>Target</u>
13-0120-1-1-376			
GS-3.....	16	...	16
GS-2.....	9	...	9
GS-1.....	2	...	2
Subtotal.....	<u>1,149</u>	<u>26</u>	<u>1,175</u>
Ungraded.....	<u>100</u>	<u>100</u>	<u>100</u>
Total permanent positions.....	1,324	36	1,360
Unfilled positions, end of year.....	-119	...	-119
Total permanent employment, end of year	1,205	36	1,241

## GENERAL STATEMENT

**Mr. HIGHTOWER.** Ms. Porter, if you have a statement with regard to the supplemental request, we would be glad to have it at this time.

**Ms. PORTER.** Thank you, Mr. Chairman. I am here today to explain our supplementary budget request for the current fiscal year—the 1980 fiscal year.

This request totals six positions and \$25 million and is composed of three separate functions: the Knoxville International Energy Exposition, \$20.8 million; promotion of U.S. amateur athletics, \$4 million; and the establishment of an Under Secretary for Trade, \$200,000.

The first two items are one-time only requests. The final item, the Under Secretary for Trade, will, if approved, add to our salaries and expenses appropriation. Let me begin with the largest request.

In 1976, the Knoxville International Energy Exposition, Inc. applied to the Secretary of Commerce for Federal recognition to hold an international energy exposition in 1982. The application was thoroughly evaluated and then approved by the Secretary under the provisions of P.L. 91-269, the basic statute by which the U.S. participates in international expositions.

Following this approval, the Secretary of State recommended to the Bureau of International Expositions, of which the U.S. is a treaty member, that this proposed exposition be the only one in the U.S. in 1982 and the sole one concerning energy in the world, under the auspices of the B.I.E.

In 1977, the President, acting under P.L. 91-269, recognized the exposition as in the national interest and the Secretary of State invited the nations of the world to participate. In 1979, the President requested and the Congress approved P.L. 96-169 authorizing the U.S. to participate in the exposition with a U.S. Pavilion and to appoint a U.S. Commissioner-General.

During this period the organizers of the exposition arranged a revolving credit agreement with a group of private banks in the amount of \$25 million; the State of Tennessee approved \$10 million for a state arena; the City of Knoxville has received \$12,450,000 from Federal grant agencies for site and utility development which have an economic and community value subsequent to the exposition.

The request before you today for \$20.8 million is for U.S. participation in the exposition with a major national pavilion, its exhibitory and operation, and its close-down and appropriate disposal for residual use following the exposition. Such residual use will probably be as a permanent U.S. installation or as an energy research center for the adjoining University of Tennessee.

In order to meet the now tight schedules for construction of the Pavilion for use by May 1, 1982, we must begin construction by May 15 of this year.

The second item is for \$4 million dollars to fund the U.S. Olympic Committee (USOC). In November of 1978, Congress passed the Amateur Sports Act (Public Law 95-606). This legislation was enacted to promote and coordinate amateur athletics in the United States. The Secretary of Commerce was then authorized to grant funds for this purpose under Public Law 95-482.

In implementing this responsibility, we plan to provide a grant to the USOC for the following purposes: to promote sports medicine

nationwide through development of an information retrieval system; to provide administrative support for the USOC's National Governing Bodies in their efforts to develop emerging sports; and, to assure wider participation in all amateur athletic programs.

Let me emphasize that none of this request, if granted, will be used to deviate from the traditional U.S. Government approach to amateur sports. We will not subsidize our athletes directly nor pay for their transportation to events such as the Pan American or Olympic games. The emphasis will be away from established world-class athletes and will encourage much wider involvement of individuals in a growing range of different sports.

Lastly, we must supplement the funding for the newly-created Under Secretary for Trade. Under the Trade Agreements Act of 1979 and other legislation, the President has vastly increased the Department's responsibility in the area of international trade. Specifically, the White House directed that the entire trade reorganization effort be carried out with no increase in funding except for the request we are presenting to you now; in the 1981 budget, that amount is six positions and \$300,000. Two-thirds of that, or \$200,000, are needed in the current fiscal year. The resources will finance the senior Commerce officials who will direct this important new effort. Even with this request and including our existing resources, we will still be absorbing six additional positions and \$233,000 in funding which is needed to fully staff this effort.

Finally, I would like to introduce Sidney R. Jeffers, who will be available with me to answer any questions you may have on the Knoxville International Energy Exposition. Mr. Jeffers is acting for us as the Project Director.

Mr. Chairman, that concludes my prepared statement. I will be glad to answer any questions that you might have.

Mr. HIGHTOWER. Thank you very much, Ms. Porter.

#### SALARIES AND EXPENSES

The fiscal year 1980 supplemental request for Salaries and Expenses is \$4,200,000. I note on page 2 of the justifications that you are requesting in the new appropriation language that these funds remain available until expended. Is this provision authorized by law?

Ms. PORTER. Yes, sir.

#### POSITIONS RELATED TO REORGANIZATION PLAN NO. 3

Mr. HIGHTOWER. The first portion of this request is for 6 positions and \$200,000. You say that you have a requirement for 20 additional positions in connection with the Reorganization Plan No. 3. Which positions are currently funded, which are you going to absorb, and which ones will be funded with these additional resources?

Mr. BLUBAUGH. Mr. Chairman, that is not 20 additional positions, that would be 20 positions in total. The budget as it now stands provides eight positions for the assistant secretary for international trade. Those eight positions, plus six we are requesting in the supplemental, plus six that we are absorbing, come to the 20 positions.

Mr. HIGHTOWER. What are the grades of these positions?

Mr. BLUBAUGH. They are generally in the Executive Level Series.

Mr. HIGHTOWER. Could you give us a breakdown by grades and also by functions of these positions for the record?

Mr. BLUBAUGH. Yes, sir, I would be glad to do so.  
[The information follows:]

#### MANAGEMENT OF NEW TRADE FUNCTIONS

The function of these offices is to provide administrative control and related support in the international trade area.

Where there had been one Assistant Secretary and a staff of seven, there will now be an Under Secretary for Trade, a Deputy Under Secretary, three Assistant Secretaries, and appropriate staff support. The grades and functions are as follows:

Under Secretary for Trade	EL- 8
Special Assistant	GS-15
Special Assistant	GS-11
Secretary	GS-12
Secretary	GS-10
Secretary	GS-10
Clerk	GS- 6
Deputy Under Secretary for Trade	EL- 4
Special Assistant	GS-14
Secretary	GS-11
Secretary	GS-10
Assistant Secretary for International Economic Policy	EL- 4
Secretary	GS-11
Secretary	GS- 9
Assistant Secretary for Trade Administration	EL- 4
Secretary	GS-11
Secretary	GS- 9
Assistant Secretary for Trade Development	EL- 4
Secretary	GS-11
Secretary	GS- 9

#### TRANSFER AND ABSORPTION OF TRADE-RELATED FUNCTIONS

Mr. HIGHTOWER. What assumptions regarding enactment of this supplemental did you make in developing this budget request? What kind of time assumptions did you make? When did you assume that the funds would be available?

Mr. BLUBAUGH. Mr. Chairman, the function has been transferred to us effective January 1, and we will begin paying for those new positions at that time. We are assuming—

Mr. HIGHTOWER. Did you say January 1, 1980?

Mr. BLUBAUGH. Yes, Sir.

Mr. HIGHTOWER. Well, how are these people being paid now?

Mr. BLUBAUGH. As we indicated in our supplemental justification, we are absorbing \$283,000 of the cost of these people.

Mr. HIGHTOWER. Well, were funds transferred with these positions?

Mr. BLUBAUGH. No, Sir. These are generally new positions. No positions were transferred for executive direction of the International Trade Administration.

Mr. HIGHTOWER. Have these people already been hired? How do you pay for them?

Ms. PORTER. They are before the Congress. That would be the Under Secretary for Trade, three assistant secretaries, and their staff. There is one deputy under-secretary who is already on board. Some of them are on board and being paid, but they are not in their official positions yet.

**Mr. HIGHTOWER.** They are on board as consultants!

**Ms. PORTER.** Well, some of them have been on 60-day appointments. One is a consultant, yes, sir.

#### PROMOTION OF AMATEUR ATHLETICS

**Mr. HIGHTOWER.** The second part of the request is for \$4 million for the U.S. Olympic Committee. The justifications state that one of the purposes of this request is aimed at affording expanded opportunities to developing athletes. However, none of the funds will be used for grants to athletes. Please explain what you mean by this statement of expanded opportunities.

**Ms. PORTER.** Well, Sir, in the development of athletics, amateur athletics, in the United States, a number of sports have very few U.S. participants; that is what we referred to as an underdeveloped sport. It is the intent of this grant to assist the U.S. Olympics Committee in developing National Governing Bodies which will encourage American athletes to become proficient in these sports. Bobsledding, canoeing, fencing, field hockey, the luge, ski jumping, handball, and so forth are examples where in Olympic competition there are rarely Olympic class athletes from the United States. The U.S. Olympics Committee would use a portion of these funds to establish, on a one-time basis, National Governing Bodies and model plans throughout the country which would encourage amateurs to enter these sports.

**Mr. O'BRIEN.** Would the gentleman yield?

**Mr. HIGHTOWER.** Sure.

**Mr. O'BRIEN.** Wouldn't that be the function of our school system? Shouldn't they handle the generation of interest in athletics? It seems to me for example, that soccer has become an American sport. When I was in college a long time ago, you never heard of it. I don't know that it needed Government stimulation to get off the ground and now we seem to be doing pretty well. Why should we spend money on this?

**Ms. PORTER.** The Olympic Committee, which is a non-profit amateur sports organization, has said that for international competition purposes that the United States itself is not adequately represented in national competition. It believes that those sports would not arise out of school systems normally and would like to use these funds to generate an athletic competition.

In other sports, the National Governing Bodies are generally made from volunteers in the communities who work and organize these sports—soccer is one. Track, and so forth. Basketball is another. You don't have any difficulty getting volunteers in these areas, but there is a great deal of difficulty in other sports where the United States is just not represented in international competition.

**Mr. HIGHTOWER.** It would seem to me that television is doing a great deal to expand interest in some of these sports that have not been as well known in the United States and not been as thoroughly competed in.

Certainly in the last couple of Olympics, we have become much more conscious of the gymnasts and some of those sports that did not receive very much publicity over the years. How much of the request will be provided for each of the items listed on pages 6 and 7, and for what purposes?

## DISSEMINATION OF SPORTS MEDICINE DATA

Ms. PORTER. \$500,000 would be provided for the development of a sports medicine information system. Again, there is no centralized place in the United States where medical information related to sports is located. So, this would be a one-time only funding of an information systems for sports medicine.

One million dollars is to be provided for—

Mr. HIGHTOWER. Is that a computer system?

Ms. PORTER. Yes, sir.

Mr. BLUBAUGH. It's not hardware, Mr. Chairman, it is basically development of programs to disseminate sports medicine information throughout the country.

Mr. HIGHTOWER. Who would operate it?

Mr. BLUBAUGH. The U.S. Olympic Committee.

Mr. HIGHTOWER. This would be an on-going program?

Mr. BLUBAUGH. It is the development of a program, computer program, which would then be on-going. But, the development cost—

Mr. HIGHTOWER. And, then, would it be operated by the U.S. Olympic Committee year-round in the future?

Mr. BLUBAUGH. Yes, sir.

Ms. PORTER. That's correct. \$1 million would be used for the development of the National Governing Bodies for undeveloped sports, as I have described. And, \$1,750,000 would be used for model plans for the States to use in implementing local level reorganization and generating interest in sports, the kind that, Mr. O'Brien, would respond to your suggestion that the schools themselves could do much more to develop and encourage.

Mr. O'BRIEN. Would the Chairman yield?

Mr. HIGHTOWER. Yes.

Mr. O'BRIEN. Why shouldn't we then have an automobile accident medicine information system? An injury is an injury it seems to me, if it is a traumatic one or whatever. Why should sports have to have a special category within the family of medicine?

Ms. PORTER. I'm not a medical doctor, sir, but I am told that HEW is very interested in this particular development, that there is a whole body of medical information that deals with specific sports-related injuries. I don't know whether the injuries and traumas that are experienced in automobile accidents are comparable, but sports medicine and the training of physicians who deal with athletics, is considered a specialty.

Mr. O'BRIEN. I would think that a fracture is a fracture which is an easy analogy, I suppose, but it seems to me that if what you are talking about might be specialized rehabilitation after an injury depending on what the patient is looking forward to doing, then I do not see the need for Federal involvement.

May I get back to something else, Mr. Chairman, just rather quickly? With respect to sports activity, does this program bump into the President's Commission on Physical Fitness? I think that is the name of it.

Ms. PORTER. No, sir; this activity would be a one-time grant to the U.S. Olympics Committee. I would assume that the President's program on physical fitness certainly is particularly interested in the work.

**Mr. O'BRIEN.** But I was thinking in terms of encouraging the development of sports activities which I think should be more concerned with young people growing up who aren't big enough to be a middle line backer or don't have fast enough eyes to be a baseball player, but maybe might conceivably be good at something else. I guess I'm backing away from Government getting involved in anything, Ms. Porter.

**Mr. HIGHTOWER.** Does the Olympic Committee stay in existence on a permanent basis? Does it have an on-going function between the every-four-year responsibility for holding Olympic games?

**Ms. PORTER.** Yes it does, Mr. Chairman. As I understand it, the Olympics Committee certifies National Governing Bodies, they call them, for sports. Those are volunteer organizations which then organize the tournaments and so forth, locally and nationally, that come together finally for the selection of U.S. athletes for international competition. It is a primarily voluntary, privately supported activity. This would be a one-time only grant to the Olympics Committee in response to the Amateur Sports Act in fulfillment of Congressional desires to assist the development of amateur sports in these underdeveloped areas.

#### UNDERDEVELOPED SPORTS

**Mr. HIGHTOWER.** What are the emerging sports which would be funded with the \$1 million for administrative support for the National Governing Bodies?

**Ms. PORTER.** There are eleven of those sports. If you like we will submit them for the record.

[The information follows:]

Biathlon	Bobsledding
Canoe/Kayak	Fencing
Field Hockey	Luge
Pentathlon	Ski Jumping
Team Handball	Volley Ball
Greco Wrestling	

#### STATE MODEL SPORTS PLANS

**Mr. HIGHTOWER.** How much of the \$1.75 million allocated for reorganization at the local level would be for development of model plans and how much for special education seminars?

**Ms. PORTER.** We'd have to supply that for the record, I do not have that broken out.

[The information follows:]

Of the \$1.75 million allocated for reorganization at the local level, 10 percent, or \$175,000, is for the special education seminars; remaining funds are for the implementation of the grass roots program.

#### COMPUTER SYSTEMS

**Mr. HIGHTOWER.** Would the funds for central support services for the U.S. Olympic Committee be used for computer systems?

**Ms. PORTER.** Yes it would be to complement the systems development that has already taken place. The funds would be used to increase hardware capacity and to develop some software applications, as I say, to complement the work that the U.S. Olympics Committee has already undertaken.

**Mr. BLUBAUGH.** Again, Mr. Chairman, we're not buying a computer. Basically the only hardware acquisition would be additional memory to handle the data that they will be keeping here and to write the programs to handle it.

#### AUTHORIZATION

**Mr. HIGHTOWER.** The authorization for this program expires at the end of fiscal year 1980. Do you plan to seek further authorization for any subsequent years?

**Ms. PORTER.** No sir.

#### BOYCOTT OF MOSCOW OLYMPICS

**Mr. HIGHTOWER.** Now, if the President has said that we will not participate in the Moscow games, will this decision in any way affect either of the items we have detailed here in regard to the Olympic participation?

**Ms. PORTER.** No sir, it will not. This Act and the proposed appropriation were presented obviously before the invasion of Afghanistan and are unrelated to the activities surrounding the Moscow Olympics.

**Mr. HIGHTOWER.** The authorization for this program is \$16 million. Would this authorizing legislation, in your opinion, authorize funding for an alternative set of games somewhere else for countries of the world that do not participate in the Moscow Olympics?

**Ms. PORTER.** I do not believe that it would authorize that. This is for a one-time only grant, just to develop underdeveloped sports.

#### PARTICIPATION IN UNITED STATES EXPOSITIONS

**Mr. HIGHTOWER.** In regard to Participation in the United States Expositions, the supplemental request for this item is \$20,800,000.

#### AUTHORIZATION

What is the authorization for this program?

**Ms. PORTER.** The program is authorized by Public Law 96-169, which was signed on December 29, 1979.

#### STATUS OF KNOXVILLE ENERGY EXPOSITION

**Mr. HIGHTOWER.** What is the status of the Knoxville Energy Exposition project?

**Ms. PORTER.** I would like to ask Mr. Jeffers, who is the project manager, to give the committee the statement.

**Mr. JEFFERS.** Mr. Chairman, here is where we are now. In the past year a competition was conducted to determine the best design for the proposed pavilion. That design competition was won by the firm of FABRAP and the exhibit design was won by the firm of Ramirez-Woods, with Francis Thompson as the proposed movie producer for the film part of the exhibit.

We've brought the project now to the point that we're ready to let, if an appropriation were passed, the construction management contract to begin construction of the project.

**Mr. HIGHTOWER.** Last year when these funds were initially requested, supporters of the project indicated that the funds had to be appropriated by January 1980, so that the project could be completed in time for the Knoxville Energy Exposition in May of 1982. Since these funds were not appropriated by that deadline, does that mean that the Federal Pavilion will not be built?

**Mr. JEFFERS.** No, sir, the Secretary has testified that in order for the presently designed pavilion to be built on schedule, we should begin construction within the month of May. At the time this exhibit that's before you was originally presented, estimates were made that the total cost of the U.S. participation, that is the construction of the project, the installing of the exhibitory, the administration of the project and its operational cost would be \$20.8 million. When that budget request was made, there was a 6½ percent construction inflation rate. We are now at around a 12-13 percent construction inflation rate. Because of the time span that has taken place since then, we have had to redesign the building from around 120,000 square feet total, to just over 100,000 square feet. That keeps it within that \$20.8 million cost.

We are determined that there will be no cost overruns. That is the reason for having a construction management type contract, to insure against construction overruns. We will stay within the budget.

We can still build that pavilion and have it ready by May 1, 1982, if we can begin construction, as the Secretary said, in May of this year.

#### PAVILION DESIGN AND CONSTRUCTION

**Mr. HIGHTOWER.** In order to have funds in May of this year, we will have to pass the supplemental appropriations bill; is that right?

**Mr. JEFFERS.** Yes, sir.

**Mr. HIGHTOWER.** And if we can't do that because there is no room left under the ceiling in the Budget Resolution for fiscal year 1980, where does that leave you?

**Mr. JEFFERS.** Frankly, Mr. Chairman, if the appropriation for construction had to be delayed until the budget ceiling was raised and we could not get an appropriation and apportionment by say, June, or July of this year, we could still have a pavilion but we would have to tell you that there would have to be redesign of the pavilion in order to get it done by May 1, 1982.

It could be done, but we would have to fast track all of our work and we would have to, in order to assure no cost overruns, possibly cut back certain items of the building to meet that May 1, 1982 deadline.

One item we've already cut back is the down escalators. We've taken out decorative grids over the Southern Railroad track. We've removed a waterfall from inside the building, which in my judgment was a wise move because it contributes to possible leakage of the building for residual use. We could still get the building built, but we would have to have some redesigns.

**Mr. HIGHTOWER.** In order to begin in May 1980, evidently you have already approved the plans?

**Mr. JEFFERS.** We have approved the general design, yes sir.

**Mr. HIGHTOWER.** Have your plans been let out to contractors for bids?

Mr. JEFFERS. No sir, that's the problem we face. We canot build this building, even if we were to begin in May, with a general contractor. In order for a general contractor to bid on a contract, he has to have all the blueprints available to give a bid. We intend to use the General Services Administration concept, which they've used before, of a construction manager. In other words, we intend to let RFPs for a construction manager within the month of April, with the understanding that no contract wil be awarded in lieu of an appropriation by the Congress. That construction manager will then take bids by segments of building.

Mr. HIGHTOWER. He won't get those things until April.

Mr. JEFFERS. He will get a general design by April. He will not get plans that he can cost until we know what the appropriation is. As a construction manager he has got to guarantee to take the building in at its budget price and build it at that price.

Mr. HIGHTOWER. You have a big job, lots of luck. Would it be possible to reprogram EDA funds for this project, if Congress cannot make a supplemental appropriation in time to meet that deadline because of the current budget ceiling?

Ms. PORTER. No sir, we have determined that it is not possible to reprogram EDA funds. In response to the Committee's request, a letter delineating the reasons has been sent to the Committee and to Congressman Ford of Tennessee who asked that question.

Mr. HIGHTOWER. Is this opinion by your general counsel?

Ms. PORTER. It was from EDA's general counsel.

Mr. HIGHTOWER. Thank you very much for your testimony, Ms. Porter.

Ms. PORTER. Thank you, Mr. Hightower.

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## BUREAU OF THE CENSUS

### PERIODIC CENSUSES AND PROGRAMS

[The President submitted a supplemental budget estimate of \$50,000,000 for fiscal year 1980 for "Periodic censuses and programs." This estimate is contained in H. Doc. 96-294 of April 15, 1980. Justification material provided to the committee in support of this request follows:]

DEPARTMENT OF COMMERCE  
BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS  
SUPPLEMENTAL BUDGET REQUEST  
FISCAL YEAR 1980

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DEPARTMENT OF COMMERCE  
BUREAU OF THE CENSUS

Periodic Censuses and Programs  
Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>	<u>Employment</u>	<u>Perm. Pos.</u>	<u>Average Total Employment</u>
Presently available.....\$604,900,000	Presently available.....	571	45,860
Revised estimate..... 654,900,000	Revised estimate.....	571	50,348
Proposed supplemental..... 50,000,000	Proposed supplemental.....	...	4,488

STATEMENT OF PURPOSE AND NEED

The purpose of this supplemental request is to provide funding for unforeseen requirements associated with data collection activities for the 1980 Decennial Census. One-half of the amount requested will cover a shortfall of \$25 million which exists at the present time and is caused by delays and cost overruns primarily in geographic areas. The second half of the estimate covers a projected "worst case" increase of followup costs in the data collection operation which could be caused by lower than budgeted mail questionnaire response rates, higher than budgeted turnover rates for enumerators, or changed assumptions which affect the level of followup activity. The proposed supplemental request may be adjusted in mid-April, when actual followup workload projections are known. Timing is critical; without a supplemental appropriation, program cuts affecting coverage must be implemented beginning May 12, 1980.

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DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

Periodic Censuses and Programs

(Supplemental now requested, existing legislation)

For an additional amount for "Periodic censuses and programs,"  
\$50,000,000, to remain available until expended.

Appropriation: Periodic censuses  
and Programs,  
Bureau of the Census

Summary of Requirements

(dollar amounts in thousands)

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Economic statistics programs:						
Economic censuses.....	101	\$6,929	101	\$6,929	...	...
Census of governments.....	24	594	24	594	...	...
Census of agriculture.....	99	11,104	99	11,104	...	...
Subtotal.....	224	18,627	224	18,627	...	...
Demographic statistics programs:						
Intercensal demographic estimates.....	59	2,078	59	2,078	...	...
Decennial census.....	129	576,676	129	626,676	...	\$50,000
Mid-decade census.....	15	453	15	453	...	...
Subtotal.....	203	579,207	203	629,207	...	50,000
Periodic programs and geographic support.....	144	3,253	144	3,253	...	...
Data processing equipment.....	...	3,013	...	3,013	...	...
General purpose equipment.....	...	800	...	800	...	...
Increase.....						50,000
Total requirements.....	571	604,900	571	654,900		

Justification for Proposed Supplemental

Activity: Demographic statistics programs

Subactivity: Decennial census

(dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Planning, direction, and review.....	63	\$6,421	63	\$6,421	...	...
Data collection.....	13	505,508	13	538,108	...	\$32,600
Operations.....	35	51,712	35	69,112	...	17,400
Publications.....	...	1,235	...	1,235	...	...
Sampling, statistical standards, and evaluation.....	18	11,800	18	11,800	...	...
Total requirements.....	129	576,676	129	626,676	...	30,000

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Increases for 1980

Data collection.....	13	505,508	13	538,108	...	32,600
Operations.....	35	51,712	35	69,112	...	17,400

The first portion of this request is related to problems caused primarily by the geographic preparatory activities. Some of the problems stem from difficulties first encountered in FY 1979.

In preparation for the census, the main geographic materials needed are maps for field enumeration and local review, and the Master Reference File which contains the geographic detail for tabulation purposes and for control of all census operations both in the field and in the computer processing. In FY 1979, delays were encountered in preparing the prelist maps (rural mail delivery areas--35 million addresses) which in turn delayed the field listing operations. The listing operations were further delayed by the high turnover rates in field personnel and low productivity. A post office coverage check for 45 million city delivery addresses obtained from commercial suppliers was delayed by a court injunction obtained by one of the list contractors. By the time the injunction action was settled, approximately 2 months had been lost. The compression in time resulted in a delay to all subsequent operations with increased costs due to overtime work and less efficiency because of truncated learning curves and operations. One specific direct impact of this delay was that significantly fewer addresses were matched to the Geographic Base File and much larger

numbers of unmatched addresses had to be sent to the district field offices for addition of the addresses to the control lists and for hand addressing mailing packages. In addition, the late delivery of label tapes to the labeling contractors resulted in a shorter time period and higher costs for the contractor to perform his operations.

Additional costs stem from the identification of underbudgeted and understaffed geographic work as well as the earlier curtailment of geographic work which resulted in a cascading effect of problems into later operations with attendant higher costs due to reduced efficiency and compression of operations. In addition to the geographic problems, other unanticipated costs occurred, including a bill from the Postal Service for training their personnel in carrying out various procedures required by the census.

Intensive reviews of the planned program have been conducted to determine areas for reduction which would have the least impact on final census products. Actions taken to reduce costs in 1980 include the postponement of two activities until FY 1981 and the implementation of some program reductions as offsets. In total, cost increases of \$69.3 million have been identified and have been partially offset by the postponements and reductions in other program areas.

The two activities to be postponed, which have been provided for in the 1981 budget, are the clerical coding of the long-form questionnaire and most of the field operations for the postenumeration survey. Very little impact will be felt from these delays since they were originally scheduled to begin very close to the end of fiscal 1980. More seriously, the Bureau has made a number of program modifications. These include, for example, the elimination of the Advance Post Office Check for addresses listed by census enumerators because of time constraints imposed by the delayed address listings. A number of other modifications will, in the Bureau's judgment, have very little impact on the completeness of the census count, but will degrade or delay somewhat the publication of the detailed characteristics of the Nation's population and housing stock. For example, it was originally planned to have a higher sampling fraction (1 in 2) for the long form in places of 5,000 population or lower. This program has been reduced to include only places of 2,500 or lower population. The number of sample cases for the field check to identify enumerators who are "curbstoning" and the quality control program for the nonresponse followup will be cut in half, but these programs will still provide adequate deterrence against the preparation of spurious census forms and incompetent enumeration. District office review activities for enumeration district and block data will be revised to increase office clerical activities and decrease field review. In the decentralized and centralized offices, there will be an increase in the number of missed entries accepted on a census questionnaire before it is designated for personal visit or telephone followup. The long-form edit will be done on a sample rather than 100 percent basis for census forms originally completed by enumerators for the respondents. (A sample edit was already planned for the short form.) Finally, the number of mail-return questionnaires which fail the edit in centralized offices and are sent for personal visit followup will be limited to those where contact by telephone is not possible.

These postponements and reductions amount to approximately \$44.3 million. After taking them into account, a shortfall of \$25 million still exists for the preparatory activities. However, any further cutbacks would result in a serious loss of census coverage.

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The second half of the request is related to a projected shortage of up to \$25 million which would be caused by a lower than budgeted mail questionnaire response rate and the unavailability of an adequate number of enumerators. The present budget for followup operations is based on the assumption that questionnaires will be returned by 80 percent of occupied households. A rule of thumb is that each percentage point difference in the mail return rate for occupied households is worth approximately \$2.5 million in followup costs. Thus, a return rate of 72 percent instead of 80 percent would result in a shortage of about \$20 million. Conversely, a better than expected mail response rate would result in savings which could be applied against the current funding shortage. After April 15, the mail response rate will be known and it will be possible to make a better projection of followup requirements. Of course, other factors will impact on budget requirements. These include the number of vacant units or units which have been deleted from the inventory and must be checked, problems in the hiring and retention of enumerators, and unforeseen exigencies.

A decision on the supplemental request will be required by May 12. The census followup activities occur in two phases. A second phase is scheduled to begin on May 22, and the positive knowledge of action on the supplemental would be required at least 10 days prior to that date in order to proceed without modification of the operation. The only alternative available would be to reduce the second phase of the followup to a level which would cover identified shortages since this is the last major field operation in FY 1980. The table below summarizes our best estimate of the impact of various levels of funding shortage on the program if supplemental funding is not approved. The structuring of field activities places primary emphasis on coverage and secondary emphasis on data quality. This situation would lead to the following sequence of reductions:

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Cumulative Level (millions)	Description of Program Reduction	Impact on Program
\$10	Only followup by telephone for missing data in centralized and decentralized offices. No personal visit, even if telephones are not available. (second followup phase-2)	Data for persons without telephones (e.g., the poor) will be inferior to that of persons with telephones. In rural areas where there are fewer telephones, the missing data rate will be greater than in urban areas.
20	Recanvass for coverage improvement in all prelisted enumeration districts eliminated (second followup phase-1)  The following items involve successively greater reductions in the check for misclassified vacant and deleted units (all relate to the second followup phase-1)	Loss of an unexpected yield of 387,000 housing units (about 800,000 persons)
25	Check restricted to 7/8 of the enumeration districts for a savings of \$5 million	Loss of an unexpected yield of approximately 350,000 persons (175,000 housing units not converted)

<u>Cumulative Level (millions)</u>	<u>Description of Program Reduction</u>	<u>Impact on Program</u>
\$35	Check restricted to only one-half of the enumeration districts for a savings of \$15 million	Loss of an expected yield of approximately 1,420,000 persons (710,000 housing units not converted)
50	Check eliminated completely for a savings of \$30 million	Loss of an expected yield of approximately 2,840,000 persons (1,420,000 housing units not converted)

If all of the above program reductions are made, approximately 1,800,000 housing units and 3,600,000 persons would not be counted in the census. This undercount would be added to the unknown number of persons that will be missed regardless of all efforts to reach them.

The object class detail for the increase is as follows:

<u>Object Class--1980 Decennial Supplemental</u>		
<u>Object Class</u>	<u>Workyears</u>	<u>Amount (in thousands)</u>
Positions other than permanent.....	4,488	\$42,331
Total compensation.....	4,488	42,331
Personnel benefits.....		2,960
Travel and transportation.....		2,144
Communications, utilities and other rent.....		365
Other services.....		2,200
Total.....	4,488	50,000

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SUMMARY OF REQUIREMENTS BY OBJECT CLASS  
(dollar amounts in thousands)

Appropriation: Periodic censuses and programs

<u>Object Class</u>	1980 <u>Presently Available</u>			1980 <u>Revised Estimate</u>			1980 <u>Proposed Supplemental</u>		
	<u>Pos.</u>	<u>Avg. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Avg. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Avg. No.</u>	<u>Amount</u>
<b>11 Personnel compensation:</b>									
11.1 Permanent positions.....	571	569	\$10,487	571	569	\$10,487	...	...	...
11.3 Positions other than permanent.....	13,625	45,142	424,015	13,625	49,630	466,346	...	4,488	\$42,331
11.5 Other personnel compensation.....	...	149	1,435	...	149	1,435	...	...	...
11.8 Special personal service payments...	...	...	...	...	...	...	...	...	...
Total, personnel compensation..	14,196	45,860	435,937	14,196	30,348	478,268	...	4,488	42,331
<b>Other objects:</b>									
12.1 Personnel benefits.....			29,712			32,672			2,960
21.0 Travel and transportation of persons			40,924			43,068			2,144
22.0 Transportation of things.....			2,658			2,658			...
23.1 Standard level user charges.....			3,565			3,565			...
23.2 Communications, utilities, and other rent.....			68,724			69,089			365
24.0 Printing and reproduction.....			4,565			4,565			...
25.0 Other services.....			7,663			9,863			2,200
26.0 Supplies and materials.....			6,934			6,934			...
31.0 Equipment.....			4,218			4,218			...
Total requirements.....			604,900			654,900			50,000

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Justification by Object Class  
(dollar amounts in thousands)

Appropriation: Periodic censuses  
and programs

Object class	1930 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Avg. No.	Amount	Pos.	Avg. No.	Amount	Pos.	Avg. No.	Amount
<u>11.1 Permanent positions</u>									
General schedule.....	563	561	\$10,112	563	561	\$10,112	...	...	...
Senior executive service.....	8	8	375	8	8	375	...	...	...
Total, permanent positions....	571	569	10,487	571	569	10,487	...	...	...
<u>11.3 Positions other than permanent</u>									
General schedule.....	13,625	45,142	424,015	13,625	49,630	466,346	...	4,488	42,331
Total, positions other than permanent.....	13,625	45,142	424,015	13,625	49,630	466,346	...	4,488	42,331
<u>11.5 Other personnel compensation</u>									
Overtime.....	...	149	855	...	149	855	...	...	...
Other.....	...	...	580	...	...	580	...	...	...
Total, other personnel compensation.....	...	149	1,435	...	149	1,435	...	...	...
<u>11.8 Special personal service payments..</u>	...	...	...	...	...	...	...	...	...
<u>12.1 Personnel benefits</u>									
Civil Service Retirement.....			3,549			4,542			993
Federal Insurance Contribution Act (FICA).....			24,997			26,638			1,641
Health insurance.....			949			1,214			265
Life insurance.....			217			278			61
Employee awards.....			...			...			...
Total, personnel benefits....			29,712			32,672			2,950

Object class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Avg. No.	Amount	Pos.	Avg. No.	Amount	Pos.	Avg. No.	Amount
21.0 <u>Travel and transportation of persons</u>									
Per diem.....		\$2,204			\$2,204				...
Air fare.....		1,726			1,726				...
Other common carrier.....		1,067			1,067				...
Privately owned automobiles.....		35,611			37,755			2,144	
GSA vehicles.....		151			151				...
Other.....		165			165				...
Total, travel and transportation of persons.....		40,924			43,068			2,144	
22.0 <u>Transportation of things</u>									
Freight.....		2,258			2,258				
Express.....		400			400				
Total, transportation of things..		2,658			2,658				...
23.1 <u>Standard level user charges</u>									
23.2 <u>Communications, utilities, and other rent</u>									
Federal Telecommunications System....		192			192				...
Other telephone, telegraph, and teletype services.....		10,653			10,653				...
Postal service by USPS.....		24,937			24,937				...
Other space rental.....		25,681			25,681				...
Rental of automatic data processing...		4,860			5,225			365	
Rental of office copying equipment...		1,304			1,304				...
Other equipment rental.....		1,097			1,097				...
Total, Communications, utilities and other rent.....		68,724			69,089			365	

Object class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Avg. No.	Amount	Pos.	Avg. No.	Amount	Pos.	Avg. No.	Amount
24.0 <u>Printing and reproduction</u>									
Publications.....			\$1,747			\$1,747			...
Public use forms.....			219			219			...
Envelopes.....			44			44			...
Other, printing and reproduction....			<u>2,555</u>			<u>2,555</u>			...
Total, printing and reproduction.....			4,565			4,565			...
25.0 <u>Other services</u>									
Training:									
University.....			47			47			...
Civil Service Commission.....			17			17			...
Other.....			55			55			...
Maintenance of equipment.....			190			190			...
GSA alterations and repairs.....			...			...			...
Centralized Departmental Services...			133			133			...
Other Federal Agencies:									
Internal Revenue Service.....			404			404			...
U.S. Postal Service.....			3,600			4,600		1,000	
Bureau of Economic Analysis.....			352			352			...
Local governments.....			350			350			...
Other non-governmental contracts....			<u>2,515</u>			<u>2,715</u>		1,200	
Total, other services.....			<u>7,663</u>			<u>9,863</u>		2,200	
26.0 <u>Supplies and materials</u>									
ADP supplies.....			400			400			...
Envelopes.....			78			78			...
Tabulating cards and paper.....			404			404			...
Miscellaneous administrative supplies.....			1,752			1,752			...
Other specialized supplies and materials.....			<u>4,300</u>			<u>4,300</u>			...
Total, supplies and materials..			<u>6,934</u>			<u>6,934</u>			...

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<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Avg.	No.	Pos.	Avg.	No.	Pos.	Avg., No.	Amount
<b>31.0 Equipment</b>									
ADP equipment.....			\$1,257			\$1,257			...
Office machines and equipment.....			334			334			...
Office furniture and fixtures.....			973			973			...
Computer tape.....			300			300			...
Other equipment.....			1,354			1,354			...
Total, equipment.....			<u>4,218</u>			<u>4,218</u>			...

Supplemental now requested, existing legislation

STANDARD FORM 300  
July 1962, Bureau of the Budget  
Edition No. A-2, Revised.  
GSA GEN. REG. NO. 27, 1961  
5010-101

DEPARTMENT OF COMMERCE  
BUREAU OF THE CENSUS  
PERIODIC CENSUSES AND PROGRAMS

Program and Financing (in thousands of dollars)

Identification code 13-0450-1-1-376	'79 Actual	'80 Estimate	'81 Estimate
<u>Program by activities:</u>			
Operating costs:			
1. Economic statistics programs:			
(a) Economic censuses.....	13,448	14,533	6,292
(b) Census of governments.....	1,051	729	815
(c) Census of agriculture.....	22,494	12,489	6,709
2. Demographic statistics programs:			
(a) Intercensal demographic estimates.....	2,179	2,716	10,190
(b) Decennial census.....	115,691	712,253	111,708
(c) Registration and voting.....	132	...	...
(d) Mid-decade census.....	59	851	...
3. Periodic programs geographic support.....	3,116	3,899	3,366
4. Data processing equipment.....	789	4,727	4,028
Total operating costs.....	158,959	752,197	143,108
Unfunded adjustments to total operating costs:			
Depreciation included above.....	-1,627	-1,070	-794
Other costs included above not requiring funding.....	-330	=672	-176
Total operating costs, funded.....	157,002	750,455	142,138

Supplemental now requested, existing legislation

AII-32B

STANDARD FORM 300  
July 1964, Revision A  
GSA GEN. REG. NO. 27, EDITION  
5010-101

DEPARTMENT OF COMMERCE  
BUREAU OF THE CENSUS  
PERIODIC CENSUSES AND PROGRAMS

Program and Financing (in thousands of dollars)

Identification code 13-0450-1-1-376	'79 Actual	'80 Estimate	'81 Estimate
<u>Capital investment:</u>			
1. Large-scale data processing equipment.....	624	6,439	6,980
2. Other capital investment.....	1,051	2,346	800
Total capital investment.....	1,675	8,785	7,780
Total program costs, funded.....	158,677	759,240	149,918
Change in selected resources (stores, undelivered orders, accrued annual leave).....	21,102	-25,032	-1,833
10.00 Total obligations.....	179,779	734,208	148,085
<u>Financing:</u>			
21.40 Unobligated balance available, start of year.....	-22,666	-44,815	...
24.40 Unobligated balance, available, end of year.....	44,815	...	...
Budget authority.....	201,928	689,393	148,085
<u>Budget authority:</u>			
40.00 Appropriation.....	201,928	654,900	148,085
44.20 Supplemental for civilian pay raises.....	...	34,493	...
<u>Relation of obligations to outlays:</u>			
71.00 Obligations incurred, net.....	179,779	734,208	148,085
72.40 Obligated balance, start of year.....	19,193	53,970	170,804
74.40 Obligated balance, end of year...	-53,970	-170,804	-89,292
90.00 Outlays, excluding pay raise supplemental.....	145,002	583,955	228,523
91.20 Outlays from civilian pay raise supplemental.....	...	33,419	1,074

STANDARD FORM 300  
MAY 1964, Revision of the Budget  
Estimate, GSA GEN. REG. NO. A-11, Revised.  
GSA GEN. REG. NO. A-11, Revised.

DEPARTMENT OF COMMERCE  
BUREAU OF THE CENSUS  
PERIODIC CENSUSES AND PROGRAMS

GEN-15

## Personnel Summary

13-0450-1-1-376	#79 Actual	#80 Estimate	#81 Estimate
<b>Direct:</b>			
Total number of permanent positions....	571	571	556
Total compensable workyears.....	4,210	50,348	6,797
Full-time equivalent of other positions.....	(3,641)	(49,630)	(6,184)
Full-time equivalent of overtime and holiday hours.....	(210)	(149)	(58)
Average ES salary.....	\$47,455	\$50,074	\$50,074
Average GS grade.....	8.18	8.18	8.18
Average GS salary.....	\$18,916	\$20,240	\$20,446

WEDNESDAY, APRIL 16, 1980.

**ECONOMIC DEVELOPMENT ADMINISTRATION**

**WITNESSES**

**ROBERT T. HALL, ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT**

**BRIAN B. WHALEN, BUDGET OFFICER**

**HAROLD W. WILLIAMS, DEPUTY ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT**

**GEORGE T. KARRAS, DEPUTY ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT OPERATIONS**

**VICTOR HAUSNER, DEPUTY ASSISTANT SECRETARY FOR ECONOMIC DEVELOPMENT POLICY AND PLANNING**

**EARL F. HORD, DEPUTY ASSISTANT SECRETARY FOR DEVELOPMENT FINANCE**

**EDWARD M. LEVIN, JR., CHIEF COUNSEL**

**ELSA A. PORTER, ASSISTANT SECRETARY FOR ADMINISTRATION**

**NANCY A. RICHARDS, DEPUTY DIRECTOR FOR BUDGET, OFFICE OF BUDGET AND PROGRAM EVALUATION**

Mr. ALEXANDER (presiding). The amended fiscal year 1980 supplemental request pending at this time for the Economic Development Administration is in the amount of \$157,854,000. This amount is a decrease of \$429,667,000 from the original supplemental request for EDA for fiscal year 1980. This is comprised of two items. The first is \$153,058,000 for the "Economic development assistance programs," and the second is \$4,796,000 for the "Salaries and expenses" appropriation item.

At this point, we will insert in the record the original justifications as well as a separate set of justifications in support of the budget amendment.

[The justification materials follow:]

SUMMARY STATEMENT

The Economic Development Administration (EDA) is presently funded under the provisions of a Continuing Resolution. The amount available under this Continuing Resolution will not allow EDA to adequately cover the total administrative and program costs that had been proposed for FY 1980. Therefore, EDA requests supplemental appropriations to support the total levels requested for FY 1980 as presented in January 1979 and amended in July 1979. In addition, increased staff and funding for the Local Public Works (LPW) program are required to assure the orderly monitoring, auditing, and close out of LPW projects.

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Congressional Submission  
April 1980

EDA-1

DEPARTMENT OF COMMERCE  
ECONOMIC DEVELOPMENT ADMINISTRATION

Salaries and expenses

Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>		<u>Employment</u>	<u>Perm. Pos.</u>	<u>Average total Employment</u>
Presently available.....	\$41,504,000	Presently available.....	1,000	980
Revised estimate .....	47,200,000	Revised estimate.....	1,314	1,008
Proposed supplemental ....	5,696,000	Proposed supplemental.....	314	28

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STATEMENT OF PURPOSE AND NEED

EDA is presently funded under the provisions of a Continuing Resolution. By far the greatest portion of this "supplemental" request is needed to reflect the total level requested for FY 1980 as presented last January and amended last July. There are 269 positions and \$3,079,000 required for this reason.

The remainder of this request relates to the need for additional staff and funding to assure the orderly monitoring, auditing, and close-out of LPW projects in a manner which will assure the attainment of program objectives and protect the federal financial interest in the projects. We are requesting an additional 45 positions and \$2,621,000 for this purpose.

STANDARD FORM 300  
 July 1954, Bureau of the Budget  
 Circular No. A-11, Revised.  
 300-101

DEPARTMENT OF COMMERCE  
 ECONOMIC DEVELOPMENT ADMINISTRATION  
 SALARIES AND EXPENSES

Identification code		10 Actual	10 estimate	10 estimate
Budget Appendix Page	Salaries and Expenses	Presently Available	Revised Estimate	Proposed Supplemental
1116	Salaries and Expenses	41,504	47,200	+5,696

**Appropriation: Salaries and expenses**

**Summary of Requirements  
(dollar amounts in thousands)**

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Economic development assistance programs:						
Planning and technical assistance .....	136	\$4,116	179	\$5,441	+43	+\$1,325
Public works and adjustment .....	185	6,978	247	8,888	+62	+1,910
Development financing .....	88	2,720	158	4,877	+70	+2,157
Research and evaluation .....	19	846	22	906	+3	+60
Direct supporting services .....	277	9,163	457	14,744	+180	+5,581
Executive direction.....	151	6,713	187	7,823	+36	+1,110
Subtotal, Administration of grants and loans .....	856	30,536	1,250	42,679	+394	+12,143
Local public works.....	144	10,968	64	4,521	-80	-6,447
Increase.....					+314	+5,696
Total requirements.....	1,000	41,504	1,314	47,200		

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Justification for Proposed Supplemental

Subactivity: Planning and Technical Assistance

(dollar amount in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Planning.....	86	\$2,593	112	\$3,428	+26	+835
Technical Assistance.....	50	1,523	67	2,013	+17	+490
Total Requirements .....	136	4,116	179	5,441	+43	+1,325

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

Subactivity: Public Works and Adjustment

Public Works and Adjustment..... 185 \$6,978 247 \$8,888 +62 +\$1,910

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

Subactivity: Development Financing

Development Financing ..... 88 \$2,720 158 \$4,877 +70 +\$2,157

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

## Subactivity: Research and Evaluation

(dollar amount in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Research and Evaluation.....	19	\$846	22	\$906	+3	+\$60

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

## Subactivity: Direct Supporting Services

Field Direction .....	75	\$2,474	98	\$3,777	+23	+\$1,303
Economic Development Reps .....	47	1,558	84	2,423	+37	865
Legal .....	44	1,466	86	2,497	+42	1,031
Environment .....	22	733	37	1,232	+15	499
Civil Rights .....	28	916	50	1,490	+22	574
Special Projects .....	5	183	11	331	+6	148
Operational Planning & Control .	22	733	35	1,158	+13	425
Accounting .....	17	550	29	926	+12	376
Industry Studies .....	17	550	27	910	+10	360
Total Requirements	277	\$9,163	457	\$14,744	+180	+\$5,581

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

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## Subactivity: Executive Direction

(dollar amount in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Assistant Secretary for Economic Development .....	12	\$567	15	\$602	+3	+75
Deputy Ass't Sec for Economic Development .....	11	470	14	702	+3	+75
Deputy Ass't Sec for Dev Grants .....	11	470	14	536	+3	+66
Deputy Ass't Sec. for Dev Policy Administration .....	11	470	13	534	+2	+64
Public Affairs .....	87	3,864	107	4,849	+20	+723
Congressional Relations .....	15	671	18	674	+3	+65
Total Requirements .....	151	6,713	187	7,823	+36	+1,110

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Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

## Activity: Local Public Works

Local Public Works .....	144	\$10,968	64	\$4,521	-80	-\$6,447
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Since the original budget for FY 1980 was submitted, it has become apparent that the amount requested will not be sufficient to assure the orderly continuation of close-cut activities in the LPW program. A 1980 supplemental amount of \$2.6 million is requested to provide the staffing and administrative support required to assure orderly monitoring, audit and close-out of local public works projects. This is the amount required above the original 1980 request of \$1.9 million for a total FY 1980 level of 64 positions and \$4,521,000. The continuing resolution amount of \$10,968,000 reflects the 1979 level.

At the current funding level of \$1.9 million, the current backlog of unprocessed audit reports would build up to more than 3,400 by the end of FY 1981. By the end of 1984 more than 1,600 audit reports would remain unprocessed.

A delay in processing of audit reports would reduce the effectiveness of these audits, and reported instances of waste and abuse would go uninvestigated for years.

Ultimately the total cost of close-out activities will be \$1.2 million lower, and the program will terminate one year sooner than the original plan.

- o The current plan provides level funding of approximately \$1.9 million each year through a closeout in 1986.
- o The revised plan has \$4.4 million in 1980 and decreases to \$561,000 in FY 1985.

Title I of the Public Works Employment Act of 1976 as amended, authorized \$6 billion for grants to States and local governments for public works projects to stimulate activity in the construction and construction-related industries and thereby contribute to the reduction of unemployment. The program was implemented in 1977 and completed except for monitoring and close-out activities. This supplemental budget request will provide for staff support and defray increased administrative expenses, including expenses for audits by the Office of the Secretary, to continue the administration of the Local Public Works program in FY 1980 as authorized initially by Title I.

During 1980, the EDA LPW staff will continue to have a heavy workload including the monitoring project completions, as well as processing project audits and closeouts. Project completion is dependent upon the monitoring of all special LPW requirements and the other Federal statutory requirements. The most time consuming of these elements are Davis-Bacon Wage rates, HSW compliance requirements, the minority business requirement, and the eligibility of project costs.

The Commerce Department's audit staff and EDA's staff have worked closely together to establish effective audit and close-out procedures for the LPW program. These procedures provide for the timely processing and resolution of audit recommendations and for the prompt collection of funds owed the Federal Government. To the maximum extent possible, without jeopardizing the overall effectiveness of the close-out of this major program, our staffs have developed procedures that have considerably streamlined and speeded up the close-out process.

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Appropriation: Salaries and expenses

Summary of Requirements by Object Class  
(dollar amounts in thousands)

Object Class:	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Avg No.	Amount	Pos.	Avg No.	Amount	Pos.	Avg No.	Amount
<b>11 Personnel compensation:</b>									
11.1 Permanent positions .....	1,000	980	\$22,864	1,314	1,008	\$23,620	+314	+28	+756
11.3 Positions other than permanent	55	55	889	79	79	1,291	+24	+24	+402
11.5 Other personnel compensation .	++	++	183	++	++	246	++	++	+63
Total .....	1,055	1,035	23,936	1,393	1,087	25,157	+338	+52	+1,221
<b>Other Objects:</b>									
12.1 Personnel benefits .....			1,917			2,395			+478
13 Benefits for former personnel			64			64			...
21 Travel and transportation of persons .....			1,699			1,763			+64
22 Transportation of things .....			287			407			+120
Rent, communication and utilities:									254
23.1 Standard level user charges...			1,345			2,253			+908
23.2 Other rent, communication and utilities .....			2,391			2,878			+487
24 Printing and reproduction....			554			630			+76
25 Other services.....			8,194			10,353			+2,159
26 Supplies and materials.....			268			302			+34
31 Equipment.....			849			998			+149
Total requirements.....			41,504			47,200			5,696

Justification by Object Class  
(Dollar amounts in thousands)

<u>Object Class:</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Avg No.	Amount	Pos.	Avg No.	Amount	Pos.	Avg No.	Amount
11.1 <u>Permanent positions</u> General schedule .....	1,000	980	\$22,864	1,314	1,008	\$23,620	+314	+28	+756
11.3 <u>Positions other than permanent</u> General schedule .....	55	55	889	79	79	1,291	24	24	+402
11.5 <u>Other personnel compensation</u> Other .....	...	...	183	...	...	246	...	...	+63
12.1 <u>Personnel benefits</u> Civil service retirement ...			1,096			1,366			+270
Federal Insurance Contributions Act (FICA) .			220			280			+60
Health Insurance .....			353			449			+96
Life Insurance .....			188			240			+52
Employees' compensation fund			60			60			
Total, personnel benefits			1,917			2,395			+478
13.0 <u>Benefits for former personnel</u> Severance pay .....			64			64			...
Total, benefits for former personnel .....			64			64			...

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Object Class:	1980			1980			1980				
	Presently Available			Revised Estimate			Proposed Supplemental				
	Pos.	Avg No.	Amount		Pos.	Avg No.	Amount		Pos.	Avg No.	Amount
21.0 <u>Travel and Transportation of persons</u>											
Per diem .....			\$570				\$582				+12
Air fare .....			456				461				+5
Other common carrier .....			384				418				+34
Privately-owned automobiles .....			204				215				+11
GSA vehicles .....			85				87				+2
Total, travel and transportation of persons .....			1,699				1,763				+64
22.0 <u>Transportation of things</u>											
Household moves .....			215				305				+90
Other .....			72				102				+30
Total, transportation of things .....			287				407				+120
<u>Rent, communication, and utilities:</u>											
23.1 <u>Standard level user charges:</u>											
GSA space rental (SLUR).....			1,345				2,253				+908
23.2 <u>Rent, communication, and utilities</u>											
Federal telecommunication systems.....			514				619				+105
Other telephone, telegraph and teletype services.....			350				386				+36
Postal services by USRS.....			300				350				+50
Rental of automatic data processing equipment.....			350				425				+75
Rental of office copying equipment .....			368				400				+32
Other equipment rental.....			120				156				+36
Other.....			389				542				+153
Total, rent, communication and utilities.....			2,391				2,878				+487

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Object Class:	1980			1980			1980		
	Presently Available Pos.	Avg No.	Amount	Revised Estimate Pos.	Avg No.	Amount	Proposed Supplemental Pos.	Avg No.	Amount
<b>24.0 Printing and reproduction</b>									
Publications.....		123				155			+32
Public use forms.....		92				116			+24
Other printing and reproduction .....		339				359			+20
Total, printing and reproduction .....		554				630			+76
<b>25.0 Other services</b>									
Training:									
University .....		\$57				\$70			+\$13
Civil Service Commission .		57				70			+13
Other .....		111				135			+24
Maintenance of equipment ...		107				130			+23
GSA alterations and repairs		742				903			+161
Centralized Department Services .....		604				735			+131
Other Federal Agencies:									
Department of Labor .....		1,561				1,900			+339
Small Business Administration .....		452				550			+98
Other .....		4,503				5,860			+1,357
Total .....		8,194				10,353			+2,159
<b>26.0 Supplies and materials</b>									
ADP equipment.....		55				62			+7
Other supplies.....		213				240			+27
Total, supplies and materials .....		268				302			+34
<b>31.0 Equipment</b>									
Office machines and equipment		849				998			+149
Total, equipment.....		849				998			+149

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STANDARD FORM 300  
 July 1964, Bureau of the Budget  
 Circular A-1-A, Revised.  
 500-101

DEPARTMENT OF COMMERCE  
 ECONOMIC DEVELOPMENT ADMINISTRATION  
 ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Program and Financing ( in thousands of dollars )			
Identification code:	19 actual	19 estimate	19 estimate
	FY 1980 Currently Available	FY 1980 Revised Estimate	FY 1980 Proposed Supplemental
<u>Program by Activities:</u>			
Direct Programs			
1. Economic Development Assistance Programs . . . . .	30,536	42,679	+12,143
2. Local Public Works . . . . .	10,968	4,521	-6,447
Total direct programs . . . . .	41,504	47,200	+ 5,696
Reimbursable Program 1/	350	350	...
10.00 Total obligations . . . . .	41,854	47,550	5,696
<u>Financing:</u>			
11.00 Offsetting collections from: Federal Funds . . .	-350	-350	...
40.00 Budget Authority (appropriation) Relations of obligations to Outlays	41,504	47,200	5,696
71.00 Obligations incurred net . . . . .	41,504	47,200	5,696
71.40 Obligated balance, start of year . . . . .	1,986	1,986	...
74.40 Obligated balance, end of year	-7,709	-9,376	-1,667
90.00 Outlays excluding pay raise supplemental . . . . .	35,781	39,810	4,029
Distribution of outlays by account:			
Salaries and expenses . . . . .	24,813	37,410	1,629
Local Public Works . . . . .	10,968	2,400	2,400
1/ Includes capital investment of \$485 thousand.			

EDA-13

DEPARTMENT OF COMMERCE  
ECONOMIC DEVELOPMENT ADMINISTRATION

Economic Development Assistance Programs  
Supplemental Budget Request  
Fiscal Year 1980

Funding

Presently available.....	\$507,525,000
Revised estimate.....	660,583,000
Proposed supplemental.....	153,058,000

Statement of Purpose and Need

At the present time, EDA is operating under Continuing Resolution Authority (P.L. 96-123). Until EDA's authorization and appropriation legislation is enacted for FY 1980, there is currently available for the "economic development assistance programs" account \$507,525,000, which represents the amount necessary to fund projects or activities at the same level as were conducted in FY 1979.

An increase in the form of a supplemental appropriation for \$153,058,000 is required to realign to the FY 1980 revised request total of \$660,583,000.

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STANDARD FORM 300  
DEPARTMENT OF COMMERCE  
Census No. A-1, M-1  
GSA GEN. REG. NO. 27  
ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Identification code	13-2050-6-1-452	\$ 80 <u>Initial</u>	\$ 80 <u>Initial</u>	\$ 80 <u>Initial</u>
Budget Appendix Page	Economic Development Assistance Programs	Presently Available	Revised Estimate	Proposed Supplemental
1117	Economic Development Assistance Programs	507,523	660,333	913,050

**Appropriation: Economic development assistance programs**

**Summary of Requirements  
(dollar amounts in thousands)**

<u>Comparison by activity:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
1. Planning grants:						
(a) Districts.....	...	\$ 17,245	...	\$ 12,980	...	-\$ 4,265
(b) States and territories.....	...	6,500	...	6,500	...	...
(c) Indian.....	...	4,000	...	3,800	...	-200
(d) Urban.....	...	10,500	...	11,700	...	+1,200
(e) Adjustment.....	...	...	...	2,300	...	+2,300
Subtotal, Planning grants	...	38,245	...	37,280	...	-965
2. Technical assistance grants:						
(a) Economic development:						
1. Districts.....	...	4,240	...	1,000	...	-3,240
2. Urban.....	...	5,840	...	2,500	...	-3,340
3. Indian.....	...	1,600	...	500	...	-1,100
4. Other.....	...	3,500	...	6,500	...	+3,000
Subtotal, Economic development.....	...	15,180	...	10,500	...	-4,680
(b) Development financing.....	...	...	...	7,500	...	+7,500
(c) Trade adjustment assistance	...	19,400	...	18,000	...	-1,400
Subtotal, T.A. grants.....	...	34,580	...	36,000	...	+1,420
3. Development grants:						
(a) Districts.....	...	93,950	...	126,938	...	+32,988
(b) Rural counties.....	...	27,315	...	39,775	...	+12,460
(c) Urban.....	...	86,735	...	145,562	...	+58,827
(d) States and territories.....	...	20,000	...	20,000	...	...
(e) Indian.....	...	20,500	...	20,500	...	...
Subtotal, Develop. grants	...	248,500	...	352,775	...	+104,275

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	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
<b>Comparison by activity:</b>						
4. Economic adjustment grants.....	...	\$ 88,500	...	\$ 36,175	...	-\$52,325
5. Direct loans:						
(a) Development loans:						
1. Rural.....	...	12,973	...	27,300	...	+14,327
2. Urban.....	...	30,271	...	63,700	...	+33,429
Subtotal, Dev. loans.	...	43,244	...	91,000	...	+47,756
(b) Trade adjustment.....	...	18,533	...	25,430	...	+6,897
Subtotal, Direct loans...	...	61,777	...	116,430	...	+54,653
6. Loan guarantee authority:						
(a) Development guarantees:						
1. Rural.....	...	(114,750)	...	(121,500)	...	(+6,750)
2. Urban.....	...	(267,750)	...	(283,500)	...	(+15,750)
Subtotal, Development guarantees.....	...	(382,500)	...	(405,000)	...	(+22,500)
(b) Trade adjustment.....	...	(42,500)	...	(45,000)	...	(+2,500)
Subtotal, Loan guarantee authority.....	...	(425,000)	...	(450,000)	...	(+25,000)
7. Loan guarantee payments.....	...	27,923	...	27,923	...	...
8. Interest rate subsidies:						
(a) Development subsidies:						
1. Rural.....	...	...	...	13,500	...	+13,500
2. Urban.....	...	...	...	31,500	...	+31,500
Subtotal Dev. Subs.	...	...	...	45,000	...	+45,000
(b) Trade adjustment.....	...	...	...	5,000	...	+5,000
Subtotal, Interest rate subsidies.....	...	...	...	50,000	...	+50,000

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<u>Comparison by activity:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
9. Economic research.....	...	\$ 5,500	...	\$ 2,500	...	-\$ 3,000
10. Program evaluation.....	...	2,500	...	1,500	...	- 1,000
Increase.....						+\$153,058
Total requirements.....	...	\$507,525	...	\$660,583		

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Justification for Proposed Supplemental

Activity: Planning

(dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Districts.....	...	\$17,245	...	\$12,980	...	-\$4,265
States and territories.....	...	6,500	...	6,500	...	...
Indian.....	...	4,000	...	3,800	...	-200
Urban.....	...	10,500	...	11,700	...	+1,200
Adjustment.....	...	...	...	2,300	...	+2,300
Total requirements.....	...	38,245	...	37,280	...	-965

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extention of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

Activity: Technical Assistance

Economic development:

Districts.....	...	\$ 4,240	...	\$ 1,000	...	-\$3,240
Urban.....	...	5,840	...	2,500	...	-3,340
Indian.....	...	1,600	...	500	...	-1,100
Other.....	...	3,500	...	6,500	...	+3,000
Subtotal, Economic development..	...	15,180	...	10,500	...	-4,680
Development financing.....	...	...	...	7,500	...	+7,500
Trade adjustment assistance.....	...	19,400	...	18,000	...	-1,400
Total requirements.....	...	34,580	...	36,000	...	+1,420

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The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

**Activity: Development Grants**

(dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
<b>Development grants:</b>						
Districts .....	...	\$93,950	...	\$126,938	...	+\$32,988
Rural counties.....	...	27,315	...	39,775	...	+\$12,460
Urban.....	...	86,735	...	145,562	...	+\$58,827
States and territories.....	...	20,000	...	20,000	...	...
Indian.....	...	20,500	...	20,500	...	...
Total requirements.....	...	248,500	...	352,773	...	+\$104,275

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

**Activity: Economic adjustment grants**

Total requirements.....	...	\$88,500	...	\$36,175	...	-\$52,325
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The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

## Activity: Direct loans

(dollar amounts in thousands)

Perm. Pos.	1980 Presently Available	1980		Perm. Pos.	1980 Proposed Supplemental
		Perm. Pos.	Revised Estimate		
<b>Development loans:</b>					
Rural.....	... \$12,973	...	\$ 27,300	...	+\$14,327
Urban.....	... 30,271	...	63,700	...	+\$33,429
Subtotal, Development loans....	... 43,244	...	91,000	...	+\$47,756
Trade adjustment.....	... 18,533	...	25,430	...	+\$6,897
Total requirements.....	... 61,777	...	116,630	...	+\$54,653

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

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## Activity: Loan guarantee authority

Development guarantees:					
Rural.....	... (114,750)	...	(121,500)	...	(+\$6,750)
Urban.....	... (267,750)	...	(283,500)	...	(+\$15,750)
Subtotal, Development guarantees	... (382,500)	...	(405,000)	...	(+\$22,500)
Trade adjustment.....	... (42,500)	...	(45,000)	...	(+\$2,500)
Total requirements.....	... (425,000)	...	(450,000)	...	(+\$25,000)

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

**Activity: Loan guarantee payments**

(dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Loan guarantee payments.....	...	\$27,923	...	\$ 27,923	...	...

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

**Activity: Interest rate subsidies**

**Development subsidies:**

Rural.....	...	...	...	\$13,500	...	+\$13,500
Urban.....	...	...	...	31,500	...	+\$31,500
Subtotal, development subsidies.	...	...	...	45,000	...	+\$45,000
Trade adjustment.....	...	...	...	5,000	...	+\$5,000
Total requirements.....	...	...	...	50,000	...	+\$50,000

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

## Activity: Economic research

(dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Total requirements.....	...	\$5,500	...	\$2,500	...	-\$3,000

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

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## Activity: Program evaluation

Total requirements.....	...	\$2,500	...	\$1,500	...	-\$1,000
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The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the revised FY 1980 EDA supplemental budget request, which now reflects the March 1980 reductions.

**Summary of Requirements by Object Class**  
 (dollar amounts in thousands)

<u>Object class</u>	1980 <u>Presently Available</u>			1980 <u>Revised Estimate</u>			1980 <u>Proposed Supplemental</u>			
	<u>Pos.</u>	<u>Avg.</u>	<u>No.</u>	<u>Pos.</u>	<u>Avg.</u>	<u>No.</u>	<u>Pos.</u>	<u>Avg.</u>	<u>No.</u>	<u>Amount</u>
Other objects:										
25.0 Other services.....		\$ 2,500			\$ 2,500				...	
33.0 Investments and loans....		88,700			143,353				\$ 54,653	
41.0 Grants, subsidies and contributions.....		<u>416,325</u>			<u>514,730</u>				<u>98,405</u>	
Total requirements.....		507,525			660,583				153,058	

**Justification by Object Class**  
 (dollar amounts in thousands)

25.0 <u>Other services</u>										
Care and preservation of collateral (non-recoverable expenses)..		1,000			1,000				...	
Development research proposals and contracts...		500			500				...	
Program evaluation contracts.....		<u>1,000</u>			<u>1,000</u>				...	
Total, other services..		<u>2,500</u>			<u>2,500</u>				...	

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Object class	1980			1980			1980					
	Presently Available			Revised Estimate			Proposed Supplemental					
	Pos.	Avg.	No.	Amount	Pos.	Avg.	No.	Amount	Pos.	Avg.	No.	Amount
33.0 <u>Investment and loans:</u>												
Commercial and industrial development loans.....				\$41,000				\$70,010				+\$29,010
Working capital loans....				14,777				36,820				+ 22,043
Working capital loan guarantees.....				5,165				5,165				...
Fixed asset loan guarantees.....				22,758				22,758				...
Purchase of senior liens and recoverable expenses for care and preservation of collateral....				5,000				8,600				+3,600
Total, investments and loans.....				88,700				143,353				+54,653
41.0 <u>Grants, subsidies and contributions:</u>												
Planning:												
Administrative support (Section 301) planning grants to:												
Districts and areas.....				17,245				12,980				-4,265
Indian.....				4,000				3,800				-200
Economic development (Section 302) planning grants to:												
States and territories...				6,500				6,500				...
Urban.....				10,500				11,700				+1,200
Adjustment planning grants.....				...				2,300				+2,300
Technical assistance grants.....				34,580				36,000				+1,420
Direct public works grants.....				211,500				308,955				+97,455

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<u>Object class</u>	1980			1980			1980					
	<u>Presently Available</u>			<u>Revised Estimate</u>			<u>Proposed Supplemental</u>					
	<u>Pos.</u>	<u>Avg.</u>	<u>No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Avg.</u>	<u>No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Avg.</u>	<u>No.</u>	<u>Amount</u>
Supplementary grants to EDA direct grants.....				\$20,000				\$ 24,520				+\$ 4,520
Supplementary grants to other Federal programs.				7,000				8,800				+1,800
Bonus grants.....				10,000				10,500				+500
Economic adjustment grants.....				88,500				36,175				-52,325
Interest rates subsidies:				...				50,000				+50,000
Research grants.....				5,000				2,000				-3,000
Program evaluation grants				1,500				500				-1,000
Total grants, subsidies and contributions....				416,325				514,730				+98,405

STANDARD FORM 300  
 July 1964, Bureau of the Budget  
 Circular A-11, Revised  
 300-101

DEPARTMENT OF COMMERCE  
 ECONOMIC DEVELOPMENT ADMINISTRATION  
 ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

A-11-39B

Identification code 13-2050-6-1-452	\$80 <u>actual</u>	\$80 <u>estimate</u>	\$80 <u>estimate</u>
	Presently Available	Revised Estimate	Proposed Supplemental
<u>Program by activities:</u>			
Operating costs, funded:			
Direct program:			
1. Planning grants . . . . .	35,000	35,000	...
2. Technical Assistance grants . .	31,000	35,000	+4,000
3. Development grants . . . . .	232,000	279,100	+47,100
4. Economic adjustment grants . .	81,272	76,647	-4,625
7. Interest rate subsidies . . . . .	...	30,000	+30,000
8. Economic research . . . . .	5,100	5,100	...
9. Program evaluation . . . . .	800	800	
10. Collateral protection . . . . .	3,500	3,500	...
Total direct program . . . . .	388,672	465,147	+76,475
Reimbursable program . . . . .	...	...	...
Total operating costs, funded	388,672	465,147	+76,475
Capital investment, funded:			
5. Direct Loans . . . . .	82,568	134,721	+52,153
6. Loan guarantee payments . . .	...	...	...
Total capital investment, funded . . . . .	82,568	134,721	+52,153
Total program costs, funded	471,240	599,868	+128,628
Change in selected resources (undisbursed loans and un- delivered orders) . . . . .	32,285	60,715	+24,430
10.00 Total Obligations . . . . .	507,525	660,583	+153,058

"EDAP-27"

STANDARD FORM 300  
 July 1964, Bureau of the Budget  
 G-11-39B  
 300-101

DEPARTMENT OF COMMERCE A-11-39B  
 ECONOMIC DEVELOPMENT ADMINISTRATION  
 ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Identification code 13-2050-6-1-452	<u># 80</u> <u>actual</u>	<u># 80</u> <u>estimate</u>	<u># 80</u> <u>estimate</u>
<u>Financing</u>	<u>Presently Available</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
<u>40.00 Budget authority (appropriation)</u>	507,525	660,583	+153,058
<u>Relation of obligations to outlays:</u>			-
<u>71.00 Obligations incurred, net . . .</u>	507,525	660,583	+153,058
<u>72.40 Obligated balance, start of year</u>	950,448	974,859	+24,411
<u>74.40 Obligated balance, end of year</u>	-974,859	-1,138,553	-163,694
<u>90.00 Outlays</u>	483,114	496,889	+13,775
<u>Distribution of outlays by account:</u>			
<u>Economic development assistance programs . . . . .</u>	472,514	486,289	+13,775
<u>Development facilities . . . . .</u>	10,000	10,000	...
<u>Industrial development loans and guarantees . . . . .</u>	500	500	...
<u>Planning, technical assistance, and research . . . . .</u>	100	100	...

SUMMARY STATEMENT

The Economic Development Administration (EDA) is presently funded under the provisions of a Continuing Resolution. The amount available under this Continuing Resolution will not allow EDA to adequately cover the total administrative and program costs that had been proposed for FY 1980. Therefore, EDA requests supplemental appropriations to support the total levels requested for FY 1980 as presented in January 1979 and amended in July 1979. In addition, increased staff and funding for the Local Public Works (LPW) program are required to assure the orderly monitoring, auditing, and close out of LPW projects.

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Congressional Submission  
February 1980

EDA-1

DEPARTMENT OF COMMERCE  
ECONOMIC DEVELOPMENT ADMINISTRATION

Salaries and expenses

Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>		<u>Employment</u>	<u>Perm. Pos.</u>	<u>Average total Employment</u>
Presently available.....	\$41,504,000	Presently available.....	1,000	1,035
Revised estimate .....	62,217,000	Revised estimate.....	1,364	1,376
Proposed supplemental ....	20,713,000	Proposed supplemental.....	364	341

STATEMENT OF PURPOSE AND NEED

EDA is presently funded under the provisions of a Continuing Resolution. By far the greatest portion of this "supplemental" request is needed to reflect the total level requested for FY 1980 as presented last January and amended last July. There are 319 positions and \$18,092,000 required for this reason.

The remainder of this request relates to the need for additional staff and funding to assure the orderly monitoring, auditing, and close-out of LPW projects in a manner which will assure the attainment of program objectives and protect the federal financial interest in the projects. We are requesting an additional 45 positions and \$2,621,000 for this purpose.

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**Appropriation: Salaries and expenses**

**Summary of Requirements**  
(dollar amounts in thousands)

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
Economic development assistance programs:						
Planning and technical assistance .....	136	\$4,116	180	\$7,810	+44	+93,694
Public works and adjustment .....	185	6,978	253	11,420	+68	+4,442
Development financing .....	88	2,720	169	7,659	+81	+4,939
Research and evaluation .....	19	846	22	906	+3	+60
Direct supporting services .....	277	9,163	481	21,761	+204	+12,598
Executive direction.....	151	6,713	195	8,140	+44	+1,427
Subtotal, Administration of grants and loans .....	856	30,536	1,300	57,696	+444	+27,160
Local public works.....	144	10,968	64	4,521	-80	-6,447
Increase.....					+364	+20,713
Total requirements.....	1,000	41,504	1,364	62,217		

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Justification for Proposed Supplemental

Subactivity: Planning and Technical Assistance

(dollar amount in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Planning.....	86	\$2,593	113	\$4,905	+27	+\$2,312
Technical Assistance.....	50	1,523	67	2,905	+17	+1,382
Total Requirements .....	136	4,116	180	7,810	+44	+3,694

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

Subactivity: Public Works and Adjustment

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Public Works and Adjustment..... 185 \$6,978 253 \$11,420 +68 +\$4,442

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

Subactivity: Development Financing

Development Financing ..... 88 \$2,720 169 \$7,659 +81 +\$4,939

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

## Subactivity: Research and Evaluation

(dollar amount in thousands)

	1980				1980	
	Presently Available		Revised Estimate		Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Research and Evaluation.....	19	\$846	22	\$906	+3	+\$60

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

## Subactivity: Direct Supporting Services

Field Direction .....	75	\$2,474	104	\$5,574	+29	+\$3,100
Economic Development Reps .....	47	1,558	88	3,576	+41	+\$2,018
Legal .....	44	1,466	90	3,685	+46	+\$2,219
Environment .....	22	733	39	1,819	+17	+\$1,086
Civil Rights .....	28	916	53	2,199	+25	+\$1,283
Special Projects .....	5	183	12	488	+7	+\$305
Operational Planning & Control .	22	733	37	1,709	+15	+\$976
Accounting .....	17	550	30	1,366	+13	+\$816
Industry Studies .....	17	550	28	1,345	+11	+\$795
Total Requirements	277	<u>\$9,163</u>	481	<u>\$21,761</u>	<u>+204</u>	<u>+\$12,598</u>

Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

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## Subactivity: Executive Direction

(dollar amount in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Assistant Secretary for Economic Development .....	12	\$567	15	\$602	+3	+\$35
Deputy Ass't Sec for Economic Development .....	11	470	14	702	+3	+232
Deputy Ass't Sec for Dev Grants .....	11	470	14	536	+3	+66
Deputy Ass't Sec. for Dev Policy .....	11	470	14	534	+3	+64
Administration .....	87	3,864	113	4,849	+26	+985
Public Affairs .....	15	671	19	674	+4	+3
Congressional Relations .....	4	201	6	243	+2	+42
Total Requirements .....	151	6,713	195	8,140	+44	+1,427

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Additional positions and funding must be added to the Continuing Resolution level in order to reflect accurately the requested levels for FY 1980.

## Activity: Local Public Works

Local Public Works .....	144	\$10,968	64	\$4,521	-80	-\$6,447
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Since the original budget for FY 1980 was submitted, it has become apparent that the amount requested will not be sufficient to assure the orderly continuation of close-out activities in the LPW program. A 1980 supplemental amount of \$2.6 million is requested to provide the staffing and administrative support required to assure orderly monitoring, audit and close-out of local public works projects. This is the amount required above the original 1980 request of \$1.9 million for a total FY 1980 level of 64 positions and \$4,521,000. The continuing resolution amount of \$10,968,000 reflects the 1979 level.

At the current funding level of \$1.9 million, the current backlog of unprocessed audit reports would build up to more than 3,400 by the end of FY 1981. By the end of 1984 more than 1,600 audit reports would remain unprocessed.

A delay in processing of audit reports would reduce the effectiveness of these audits, and reported instances of waste and abuse would go uninvestigated for years.

Ultimately the total cost of close-out activities will be \$1.2 million lower, and the program will terminate one year sooner than the original plan.

- o The current plan provides level funding of approximately \$1.9 million each year through a closeout in 1986.
- o The revised plan has \$4.4 million in 1980 and decreases to \$561,000 in FY 1985.

Title I of the Public Works Employment Act of 1976 as amended, authorized \$6 billion for grants to States and local governments for public works projects to stimulate activity in the construction and construction-related industries and thereby contribute to the reduction of unemployment. The program was implemented in 1977 and completed except for monitoring and close-out activities. This supplemental budget request will provide for staff support and defray increased administrative expenses, including expenses for audits by the Office of the Secretary, to continue the administration of the Local Public Works program in FY 1980 as authorized initially by Title I.

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During 1980, the EDA LPW staff will continue to have a heavy workload including the monitoring project completions, as well as processing project audits and closeouts. Project completion is dependent upon the monitoring of all special LPW requirements and the other Federal statutory requirements. The most time consuming of these elements are Davis-Bacon Wage rates, HSW compliance requirements, the minority business requirement, and the eligibility of project costs.

The Commerce Department's audit staff and EDA's staff have worked closely together to establish effective audit and close-out procedures for the LPW program. These procedures provide for the timely processing and resolution of audit recommendations and for the prompt collection of funds owed the Federal Government. To the maximum extent possible, without jeopardising the overall effectiveness of the close-out of this major program, our staffs have developed procedures that have considerably streamlined and speeded up the close-out process.

**Appropriation: Salaries and expenses**

**Summary of Requirements by Object Class  
(dollar amounts in thousands)**

<u>Object Class:</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Avg No.	Amount	Pos.	Avg No.	Amount	Pos.	Avg No.	Amount
11 Personnel compensation:									
11.1 Permanent positions .....	1,000	980	\$22,864	1,364	1,297	\$34,762	+364	+317	+\$11,898
11.3 Positions other than permanent	55	55	889	79	79	1,670	+24	+24	+781
11.5 Other personnel compensation .	...	...	183	...	...	318	...	...	+135
Total .....	1,055	1,035	23,936	1,443	1,376	36,750	+388	+341	+12,814
<u>Other Objects:</u>									
12.1 Personnel benefits .....			1,917			3,097			+1,180
13 Benefits for former personnel			64			64			...
21 Travel and transportation of persons .....			1,699			2,279			+580
22 Transportation of things .....			287			526			+239
Rent, communication and utilities:									
23.1 Standard level user charges...			1,345			2,931			+1,586
23.2 Other rent, communication and utilities .....			2,391			3,721			+1,330
24 Printing and reproduction....			554			815			+261
25 Other services.....			8,194			10,353			+2,159
26 Supplies and materials.....			268			391			+123
31 Equipment.....			849			1,290			+441
Total requirements.....			41,504			62,217			+20,713

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Justification by Object Class  
(Dollar amounts in thousands)

<u>Object Class:</u>	1980 <u>Presently Available</u>			1980 <u>Revised Estimate</u>			1980 <u>Proposed Supplemental</u>		
	<u>Pos.</u>	<u>Avg No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Avg No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Avg No.</u>	<u>Amount</u>
11.1 <u>Permanent positions</u> General schedule .....	1,000	980	\$22,864	1,364	1,297	\$34,762	+364	+317	+\$11,898
11.3 <u>Positions other than permanent</u> General schedule .....	55	55	889	79	79	1,670	24	24	+781
11.5 <u>Other personnel compensation</u> Other .....	...	...	183	...	...	318	...	...	+135
12.1 <u>Personnel benefits</u> Civil service retirement ...			1,096			1,783			+687
Federal Insurance									
Contributions Act (FICA) .			220			363			+143
Health Insurance .....			353			581			+228
Life Insurance .....			188			310			+122
Employees' compensation fund			60			60			...
Total, personnel benefits			1,917			3,097			+1,180
13.0 <u>Benefits for former personnel</u> Severance pay .....			64			64			...
Total, benefits for									
former personnel .....			64			64			...

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Object Class:	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Avg No.	Amount	Pos.	Avg No.	Amount	Pos.	Avg No.	Amount
<b>21.0 Travel and Transportation of persons</b>									
Per diem .....		8570				8750			+8180
Air fare .....		456				563			+127
Other common carrier .....		384				540			+156
Privately-owned automobiles		204				287			+83
GSA vehicles .....		85				119			+34
Total, travel and transportation of persons		1,699				2,279			+580
<b>22.0 Transportation of things</b>									
Household moves .....		215				394			+179
Other .....		72				132			+60
Total, transportation of things .....		287				526			+239
<b>Rent, communication, and utilities:</b>									
<b>23.1 Standard level user charges:</b>									
GSA space rental (SLUR)....		1,345				2,931			+1,586
<b>23.2 Rent, communication, and utilities</b>									
Federal telecommunication systems.....		514				800			+286
Other telephone, telegraph and teletype services.....		350				500			+150
Postal services by USPS.....		300				350			+50
Rental of automatic data processing equipment.....		350				550			+200
Rental of office copying equipment .....		368				400			+32
Other equipment rental.....		120				200			+80
Other.....		389				921			+532
Total, rent, communication and utilities.....		2,391				3,721			+1,330

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<u>Object Class:</u>	1980			1980			1980				
	<u>Presently Available</u>			<u>Revised Estimate</u>			<u>Proposed Supplemental</u>				
	<u>Pos.</u>	<u>Avg No.</u>	<u>Amount</u>		<u>Pos.</u>	<u>Avg No.</u>	<u>Amount</u>		<u>Pos.</u>	<u>Avg No.</u>	<u>Amount</u>
<b>24.0 Printing and reproduction</b>											
Publications.....			123				200				+77
Public use forms.....			92				150				+58
Other printing and reproduction .....			339				465				+126
Total, printing and reproduction .....			554				815				+261
<b>25.0 Other services</b>											
TRAINING:											
University .....			557				870				+313
Civil Service Commission .			57				70				+13
Other .....			111				135				+24
Maintenance of equipment ...			107				130				+23
GSA alterations and repairs			742				903				+161
Centralized Department Services .....			604				735				+131
Other Federal Agencies:											
Department of Labor .....			1,561				1,900				+339
Small Business											
Administration .....			452				550				+98
Other .....			4,503				5,860				+1,357
Total .....			8,194				10,353				+2,159
<b>26.0 Supplies and materials</b>											
ADP equipment.....			55				80				+25
Other supplies.....			213				311				+98
Total, supplies and materials .....			268				391				+123
<b>31.0 Equipment</b>											
Office machines and equipment			849				1,290				+441
Total, equipment.....			849				1,290				+441

DEPARTMENT OF COMMERCE  
ECONOMIC DEVELOPMENT ADMINISTRATION

Economic Development Assistance Programs  
Supplemental Budget Request  
Fiscal Year 1980

Funding

Presently available.....	\$507,525,000
Revised estimate.....	1,074,333,000
Proposed supplemental.....	+566,808,000

Statement of Purpose and Need

At the present time, EDA is operating under Continuing Resolution Authority (P.L. 96-123). Until EDA's authorization and appropriation legislation is enacted for FY 1980, there is currently available for the "Economic development assistance programs" account \$507,525,000 which represents the amount necessary to fund projects or activities at the same level as were conducted in FY 1979.

An increase in the form of a supplemental appropriation for \$566,808,000 is required to realign to the FY 1980 revised request total of \$1,074,333,000.

Appropriation: Economic development assistance programs

Summary of Requirements  
(Dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
<u>Comparison by activity:</u>						
1. Planning grants:						
(a) Districts .....	...	\$17,245	...	\$12,980	...	-\$4,265
(b) States and territories .....	...	6,500	...	6,500	...	...
(c) Indian .....	...	4,000	...	3,800	...	-200
(d) Urban .....	...	10,500	...	11,700	...	+1,200
(e) Adjustment .....	...	...	...	2,300	...	+2,300
Subtotal, Planning grants	...	38,245	...	37,280	...	-965
2. Technical assistance grants:						
(a) Economic development:						
1. Districts .....	...	4,240	...	1,000	...	-\$3,240
2. Urban .....	...	5,840	...	2,500	...	-\$3,340
3. Indian .....	...	1,600	...	500	...	-\$1,100
4. Other .....	...	3,500	...	6,500	...	+3,000
Subtotal, Economic development .....	...	15,180	...	10,500	...	-\$4,680
(b) Development financing .....	...	...	...	15,000	...	+15,000
(c) Trade adjustment assistance .....	...	19,400	...	18,000	...	-\$1,400
Subtotal, T. A. grants ...	...	34,580	...	43,500	...	+8,920
3. Development grants:						
(a) Districts .....	...	93,950	...	195,000	...	+101,050
(b) Rural counties .....	...	27,315	...	64,525	...	+37,210
(c) Urban .....	...	86,735	...	259,000	...	+172,265
(d) States and territories .....	...	20,000	...	20,000	...	...
(e) Indian .....	...	20,500	...	20,500	...	...
Subtotal, Develop. grants	...	248,500	...	559,025	...	+310,525

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	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
<b>Comparison by activity:</b>						
4. Economic adjustment grants.....	...	\$88,500	...	\$36,175	...	-\$52,325
5. Direct loans:						
(a) Development loans:						
1. Rural .....	...	12,973	...	45,000	...	+32,027
2. Urban .....	...	<u>30,271</u>	...	<u>105,000</u>	...	<u>+74,729</u>
Subtotal, Dev. loans ..	...	43,244	...	150,000	...	+106,756
(b) Trade adjustment .....	...	<u>18,533</u>	...	<u>41,430</u>	...	<u>+22,897</u>
Subtotal, Direct loans...	...	<u>61,777</u>	...	<u>191,430</u>	...	<u>+129,653</u>
6. Loan guarantee authority:						
(a) Development guarantees:						
1. Rural .....	...	(114,750)	...	(270,000)	...	(+155,250)
2. Urban .....	...	<u>(267,750)</u>	...	<u>(630,000)</u>	...	<u>(+362,250)</u>
Subtotal, Development guarantees .....	...	<u>(382,500)</u>	...	<u>(900,000)</u>	...	<u>(+517,500)</u>
(b) Trade adjustment .....	...	<u>(42,500)</u>	...	<u>(100,000)</u>	...	<u>(+57,500)</u>
Subtotal, Loan guarantee authority .....	...	<u>(425,000)</u>	...	<u>(1,000,000)</u>	...	<u>(+575,000)</u>
7. Loan guaranteed payments .....	...	27,923	...	27,923	...	...
8. Interest rate subsidies:						
(a) Development subsidies:						
1. Rural .....	...	...	...	47,250	...	+47,250
2. Urban .....	...	...	...	<u>110,250</u>	...	<u>+110,250</u>
Subtotal Dev. Subs. ....	...	...	...	<u>157,500</u>	...	<u>+157,500</u>
(b) Trade adjustment .....	...	...	...	<u>17,500</u>	...	<u>+17,500</u>
Subtotal, Interest rate subsidies .....	...	...	...	<u>175,000</u>	...	<u>+175,000</u>

<u>Comparison by activity:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
9. Economic research .....	...	\$5,500	...	\$2,500	...	-\$3,000
10. Program evaluation .....	...	<u>2,500</u>	...	<u>1,500</u>	...	<u>-1,000</u>
Increase .....						
Total requirements .....	...	507,525	...	1,074,333	...	+566,808

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Justification for Proposed Supplemental

Activity: Planning

(dollar amount in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
Districts .....	...	\$17,245	...	\$12,980	...	-\$4,265
States and territories .....	...	6,500	...	6,500	...	...
Indian .....	...	4,000	...	3,800	...	-200
Urban .....	...	10,500	...	11,700	...	+1,200
Adjustment .....	...	<u>112</u>	...	<u>2,300</u>	...	<u>+2,300</u>
Total requirements .....	...	38,245	...	37,280	...	-965

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

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Activity: Technical Assistance

Economic development:

Districts .....	...	\$4,240	...	\$1,800	...	-\$3,240
Urban .....	...	5,840	...	2,500	...	-3,340
Indian .....	...	1,600	...	500	...	-1,100
Other .....	...	3,500	...	6,500	...	+3,000
Subtotal, Economic development	...	<u>15,180</u>	...	<u>10,500</u>	...	<u>-4,680</u>
Development financing .....	...	...	...	15,000	...	+15,000
Trade adjustment assistance .....	...	<u>19,400</u>	...	<u>18,000</u>	...	<u>-1,400</u>
Total requirements .....	...	34,580	...	43,500	...	+8,920

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

Activity: Development Grants

(Dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
<b>Development grants:</b>						
Districts .....	...	\$93,950	...	\$193,000	...	+\$101,050
Rural counties .....	...	27,315	...	64,525	...	+37,210
Urban .....	...	86,735	...	259,000	...	+172,265
States and territories .....	...	20,000	...	20,000	...	...
Indian .....	...	20,500	...	20,500	...	...
Total requirements .....	...	248,500	...	559,025	...	+310,525

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

Activity: Economic adjustment grants

Total requirements .....	...	\$80,500	...	\$36,175	...	-\$82,325
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The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

Activity: Direct loans

(Dollar amounts in thousands)

Perman. Pos.	Amount	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
		Perman. Pos.	Amount	Perman. Pos.	Amount	Perman. Pos.	Amount
<b>Development loans:</b>							
Rural .....	...	12,973		...	45,000	...	+32,027
Urban .....	...	30,271		...	105,000	...	+74,729
Subtotal, Development loans ..	...	43,244		...	150,000	...	+106,756
Trade adjustment .....	...	10,533		...	41,430	...	+22,897
Total requirements .....	...	61,777		...	191,430	...	+129,653

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

Activity: Loan guarantee authority

Development guarantees:	Perman. Pos.	Amount	Perman. Pos.	Amount	Perman. Pos.	Amount	Perman. Pos.	Amount
Rural .....	...	(114,750)	...	(270,000)	...	(155,250)	...	(+155,250)
Urban .....	...	(267,750)	...	(630,000)	...	(362,250)	...	(+362,250)
Subtotal, Development guarantees	...	(382,500)	...	(900,000)	...	(457,500)	...	(+457,500)
Trade adjustment .....	...	(42,500)	...	(100,000)	...	(57,500)	...	(+57,500)
Total requirements .....	...	(425,000)	...	(1,000,000)	...	(475,000)	...	(+475,000)

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

**Activity: Loan guarantee payments**

(Dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
Loan guarantee payments .....	...	\$27,923	...	\$27,923	...	...

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

**Activity: Interest rate subsidies**

**Development subsidies:**

Rural .....	...	...	...	\$47,250	...	+\$47,250
Urban .....	...	...	...	110,250	...	+\$110,250
Subtotal, development subsidies	...	...	...	157,500	...	+157,500
Trade adjustment .....	...	...	...	17,500	...	+17,500
Total requirements .....	...	...	...	175,000	...	+175,000

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

Activity: Economic research

(Dollar amounts in thousands)

Perm. Pos.	Presently Available <u>Amount</u>	1980		Perm. Pos.	Proposed Supplemental <u>Amount</u>		
		Revised Estimate					
		Perm. Pos.	Amount				
Total requirements .....	...	\$5,500	...	\$2,500	... -\$3,000		

The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

Activity: Program evaluation

Program evaluation ..... 12  
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The "Revised Estimate" is the level requested in the FY 1980 Budget Amendment as presented to the Congress in July 1979. The "Proposed Supplemental" is the difference between the Continuing Resolution for FY 1980 (an extension of the FY 1979 appropriation level) and the request as now pending before the Congress.

Summary of Requirements by Object Class  
 (Dollar amounts in thousands)

Appropriation: Economic development assistance programs

<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	<u>Pos.</u>	<u>Av.</u>	<u>No.</u>	<u>Pos.</u>	<u>Av.</u>	<u>No.</u>	<u>Pos.</u>	<u>Av.</u>	<u>No.</u>
<b>Other objects:</b>									
25.0 Other services .....				82,500			82,500		...
33.0 Investments and loans .				88,700			218,393		\$129,653
41.0 Grants, subsidies and contributions .....				<u>416,325</u>			<u>853,480</u>		<u>437,155</u>
<b>Total requirements</b>				<b>507,525</b>			<b>1,074,333</b>		<b>566,808</b>

Justification by Object Class  
 (Dollar amounts in thousands)

25.0 Other Services									
Care and preservation of collateral (non-recoverable expenses) .....				1,000			1,000		...
Development research proposals and contracts				500			500		...
Program evaluation contracts .....				<u>1,000</u>			<u>1,000</u>		<u>...</u>
<b>Total, other services</b>				<b>2,500</b>			<b>2,500</b>		<b>...</b>

Object class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
<b>33.0 Investment and loans:</b>									
Commercial and industrial development loans ..			\$41,000			\$111,245			+870,245
Working capital loans ..			14,777			68,185			+53,408
Working capital loan guarantees .....			5,165			5,165			...
Fixed asset loan guarantees .....			22,758			22,758			...
Purchase of senior liens and recoverable expenses for care and preservation of collateral .....			5,000			11,000			+6,000
Total, investments and loans .....			88,700			218,353			129,653
<b>41.0 Grants, subsidies and contributions:</b>									
Planning:									
Administrative Support (Section 301)									28
Planning grants to districts & areas			17,245			12,980			-4,265
Indian .....			4,000			3,800			-200
Economic development (Section 302)									21
Planning grants States & territories			6,500			6,500			...
Urban .....			10,500			11,700			+1,200
Adjustment planning grants			...			2,300			+2,300
Technical assistance grants .....			34,580			43,500			+8,920
Direct public works grants			211,500			492,025			+280,525

<u>Object class</u>	1980 <u>Presently Available</u>			1980 <u>Revised Estimate</u>			1980 <u>Proposed Supplemental</u>		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
Supplementary grants to EDA direct grants		20,000			40,000			+20,000	
Supplementary grants to other Federal programs		7,000			15,000			+8,000	
Bonus grants .....		10,000			12,000			+2,000	
Economic adjustment grants .....		\$88,500			\$36,175			-\$52,325	
Interest rate subsidies		...			175,000			+175,000	
Research grants .....		5,000			2,000			-3,000	
Program evaluation grants		1,500			500			-1,000	
Total grants, subsidies and contributions .		416,325			853,480			437,155	

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**GENERAL STATEMENT**

**Mr. ALEXANDER.** We will be pleased to hear any additional remarks that Assistant Secretary Hall might like to make at this time.

**Mr. HALL.** Thank you, Mr. Chairman. I think in my brief opening remarks, I did make some comments about the fiscal year 1980 situation, and I will let those stand for now.

[Mr. Hall's prepared statement follows:]

STATEMENT OF ROBERT T. HALL  
ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT  
BEFORE THE  
HOUSE APPROPRIATIONS SUBCOMMITTEE ON  
STATE, JUSTICE, COMMERCE, THE JUDICIARY AND RELATED AGENCIES

APRIL 16, 1980

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR GIVING ME THE OPPORTUNITY TO APPEAR TODAY TO DISCUSS THE PRESIDENT'S BUDGET PROPOSALS FOR FY 1980 AND 1981.

AS YOU ARE WELL AWARE, PRESIDENT CARTER HAS MADE SOME VERY DIFFICULT BUDGET DECISIONS IN THE PAST FEW WEEKS WHICH ARE NECESSARY IN ORDER TO COMBAT THE HIGH RATES OF INFLATION WHICH WE ARE NOW EXPERIENCING AS A RESULT OF THOSE DECISIONS, THE BUDGET WE ARE PRESENTING TODAY IS CONSIDERABLY LOWER THAN THE PROPOSALS WHICH WERE TRANSMITTED LAST JANUARY.

FOR FY 1980, OUR TOTAL REQUEST FOR PROGRAM APPROPRIATION IS NOW \$660,583,000, A REDUCTION OF \$413,750,000 FROM THE JANUARY BUDGET OF \$1,074,333,000. THE REQUEST FOR LOAN GUARANTEE AUTHORITY HAS BEEN REDUCED FROM \$1,000,000,000 TO \$450,000,000, A REDUCTION OF \$550,000,000.

THE TOTAL PROGRAM LEVEL INCLUDING BOTH APPROPRIATIONS AND GUARANTEE AUTHORITY IS REDUCED FROM \$2,074,333,000 TO \$1,110,583,000, A TOTAL REDUCTION OF \$963,750,000.

THE REDUCTIONS TO THE APPROPRIATION REQUEST ARE:

- o BUSINESS DEVELOPMENT PROGRAMS - WE PROPOSE A REVISED FUNDING LEVEL OF \$116,430,000 FOR DIRECT LOANS; THIS LEVEL IS \$75,000,000 BELOW THE PENDING REQUEST, BUT IS \$54,653,000 ABOVE THE AMOUNT PROVIDED IN THE FY 1979 APPROPRIATION. WE HAVE ALSO REDUCED THE REQUEST FOR INTEREST RATE SUBSIDIES FROM \$175,000,000 TO \$50,000,000; THIS AMOUNT STILL REPRESENTS AN INCREASE OVER THE FY 1979 APPROPRIATION, SINCE THIS IS A NEW PROGRAM FOR FY 1980.
- o OTHER PROGRAMS - OUR REQUEST FOR TECHNICAL ASSISTANCE FOR SUPPORT OF THE DEVELOPMENT FINANCE PROGRAM (DFP) HAS BEEN REDUCED FROM \$15,000,000 TO \$7,500,000. THE DEVELOPMENT GRANTS PROGRAM HAS BEEN REDUCED BY \$206,250,000 TO A LEVEL OF \$352,775,000; THIS IS STILL \$59,575,000 HIGHER THAN THE FY 1979 APPROPRIATION.

IN THE SALARIES AND EXPENSES APPROPRIATION, WE ARE REQUESTING \$47,200,000. WHILE THIS AMOUNT IS CONSIDERABLY LOWER THAN THE \$63,438,000 IN THE PENDING REQUEST, IT WILL PROVIDE SUFFICIENT RESOURCES FOR US TO ACHIEVE A NORMAL LEVEL OF ACTIVITIES AND TO MOVE FORWARD WITH THE IMPLEMENTATION OF THE DFP. YOU WILL RECALL THAT WHEN I APPEARED BEFORE THIS COMMITTEE LAST SPRING TO PRESENT THE BUDGET REQUEST FOR FY 1980, I NOTED THAT OUR ADMINISTRATIVE FUNDING SITUATION FOR FY 1979 WAS EXTREMELY TIGHT. IN FACT, TOWARD THE END OF THE YEAR WE

WERE FORCED TO CURTAIL HIRING AND TO IMPOSE VERY STRINGENT RESTRICTIONS ON ALL ADMINISTRATIVE EXPENSES. IN POINTING OUT THOSE PROBLEMS, I HAPPILY INFORMED THE COMMITTEE THAT FOR FY 1980 THE OMB HAD SUPPORTED OUR REQUEST FOR A SUBSTANTIAL INCREASE IN ADMINISTRATIVE FUNDING AND THAT UNLIKE FY 1979, EPA WOULD BE ABLE TO CONDUCT A FULL RANGE OF ACTIVITIES IN FY 1980 AT THE REQUESTED STAFFING AND FUNDING LEVEL.

MR. CHAIRMAN, YOU CAN WELL IMAGINE THE IMPACT ON THE AGENCY OF HAVING TO OPERATE UNDER A CONTINUING RESOLUTION. AT A TIME WHEN WE SHOULD BE GEARING UP FOR NEW PROGRAMS, WE HAVE BEEN FORCED TO RESTRICT HIRING AND SEVERLY LIMIT SPENDING. I CANNOT OVERSTATE THE URGENCY OF HAVING AN APPROPRIATION FOR SALARIES AND EXPENSES AS SOON AS POSSIBLE. ALTHOUGH THE AUTHORIZATION FOR APPROPRIATIONS FOR THE PROGRAMS OF THE AGENCY EXPIRED LAST SEPTEMBER, THE PORTION OF THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965 WHICH AUTHORIZES FUNDING FOR ADMINISTRATIVE EXPENSES HAS NOT EXPIRED.

FOR FY 1981, THE REVISED REQUEST FOR THE PROGRAM APPROPRIATION IS \$769,250,000. THIS IS \$400,000,000 BELOW THE \$1,169,250,000 PROPOSED IN THE JANUARY BUDGET. THE REVISED REQUEST FOR GUARANTEE AUTHORITY IS \$900,000,000, A REDUCTION OF \$900,000,000 FROM THE AMOUNT IN THE CURRENT REQUEST.

THE TOTAL PROGRAM REQUEST INCLUDING APPROPRIATIONS AND GUARANTEE AUTHORITY IS REDUCED FROM \$2,969,250,000 TO \$1,669,250,000, A TOTAL REDUCTION OF \$1,300,000,000.

THE REDUCTIONS TO THE APPROPRIATION REQUEST ARE:

- o BUSINESS DEVELOPMENT PROGRAMS - WE PROPOSE A REDUCTION OF \$50,000,000 TO THE REQUEST FOR DIRECT LOANS. THE \$141,430,000 NOW PROPOSED IS \$25,000,000 ABOVE THE FY 1980 LEVEL. WE ALSO PROPOSE A REDUCTION OF \$175,000,000 TO THE REQUEST FOR INTEREST RATE SUBSIDIES. THE \$75,000,000 REQUEST WILL PROVIDE AN INCREASE OF \$25,000,000 ABOVE THE REVISED LEVEL FOR FY 1980. THERE IS A REDUCTION OF \$13,500,000 FOR PAYMENTS ON GUARANTEES; THIS AMOUNT IS COMMENSURATE WITH THE REDUCED LEVELS PROPOSED FOR GUARANTEE AUTHORITY.
- o OTHER PROGRAMS - WE PROPOSE A REDUCTION OF \$4,000,000 FROM THE PENDING REQUEST FOR TECHNICAL ASSISTANCE SUPPORT OF THE DFP; THE REVISED REQUEST OF \$11,000,000 PROVIDES FOR AN INCREASE OF \$3,500,000 ABOVE THE LEVEL PROPOSED FOR FY 1980. WE ALSO PROPOSE A REDUCTION OF \$157,500,000 IN THE REQUEST FOR DEVELOPMENT GRANTS. THE REQUESTED LEVEL OF \$401,525,000 PROVIDES AN INCREASE OF \$48,750,000 ABOVE THE REVISED REQUEST FOR FY 1980.

FOR SALARIES AND EXPENSES, WE ARE REQUESTING \$62,217,000. THIS IS A REDUCTION OF \$9,082,000 FROM THE AMOUNT PROPOSED IN THE JANUARY BUDGET, BUT THIS LEVEL WILL PROVIDE FULL SUPPORT FOR THE PROPOSED EPA PROGRAMS FOR FY 1981.

ALTHOUGH THE REDUCTIONS WE ARE PROPOSING ARE INDEED SUBSTANTIAL, IT IS NECESSARY AND APPROPRIATE THAT THE EPA BUDGET REQUEST BE CUT BACK IN LIGHT OF CURRENT ECONOMIC CONDITIONS AND THE NEED TO BALANCE THE FEDERAL BUDGET. THE REVISED PROPOSALS FOR FY 1980 STILL REPRESENT A SUBSTANTIAL INCREASE ABOVE THE FY 1979 APPROPRIATION; IN FY 1980 THE APPROPRIATION REQUEST IS \$660,583,000, WHICH IS \$153,058,000 HIGHER THAN THE FY 1979 LEVEL. IN FY 1981 WE ARE REQUESTING AN INCREASE OF \$108,667,000 ABOVE THE REVISED FY 1980 LEVEL. THE TOTAL PROPOSED INCREASE OVER THE TWO YEARS IS \$261,725,000. IN ADDITION, THE REQUEST FOR GUARANTEE AUTHORITY FOR FY 1981 IS DOUBLE THE REVISED REQUEST FOR FY 1980.

MR. CHAIRMAN, PRESIDENT CARTER REMAINS COMMITTED TO ECONOMIC DEVELOPMENT AS INDICATED BY THE PRECEDING FIGURES ON ABSOLUTE BUDGET INCREASES. HOWEVER, IT IS CLEARLY NOT POSSIBLE TO MOVE FORWARD AT THE RAPID RATE PROPOSED ORIGINALLY. FOR THE TIME BEING,

WE WILL CONCENTRATE OUR EFFORTS ON BUILDING THE INSTITUTIONAL CAPACITY FOR IMPLEMENTING THE NEW PROGRAMS; AND WILL DEVELOP OUR EDA STAFF AND OUR MANAGEMENT CAPABILITIES IN SUCH A MANNER THAT WE WILL BE ABLE TO MOVE AHEAD AND DELIVER THE ECONOMIC DEVELOPMENT PROGRAMS NEEDED FOR THE 1980's.

THANK YOU, MR. CHAIRMAN, THAT CONCLUDES MY SUMMARY OF THE REVISED BUDGET. I WILL BE HAPPY TO ADDRESS ANY QUESTIONS YOU AND THE MEMBERS OF THE COMMITTEE MAY HAVE.

###

**Mr. ALEXANDER.** I have some questions for the record. I think most of the questions which I had, in general, have been answered for the 1981 budget as well as the 1980 supplemental.

[The questions and responses thereto follow:]

**Question No. 1:**

This supplemental budget request for Economic Development Assistance programs is \$153,058,000. The appropriation language requested for this item contains a proviso that would appropriate such sums as many be necessary for payment of principal and interest on loans in default and guaranteed pursuant to the Public Works and Economic Development Act of 1965, as amended. Does the pending authorizing legislation for this program contain any provision that would authorize such an indefinite appropriation?

Why are you requesting this provision instead of requesting a specific sum to pay any defaults on loans that you have guaranteed?

**Answer:**

The Proposed authorizing legislation does contain such a provision.

We will request a specific amount in appropriations each year to cover defaults on loan guarantees. Such requests will be based on our experience on defaults, but obviously it is impossible to forecast defaults; therefore, in addition to the direct appropriation request, we propose that there be indefinite appropriations to cover any amounts which may be required in excess of the amounts included in the initial appropriation. This is necessary so that funds appropriated for development activities will not have to be diverted to cover defaults.

**Question No. 2:**

The Economic Development Administration is currently operating under a continuing resolution for fiscal year 1980. What is the operating funding level for the Economic Development Assistance program under that resolution?

**Answer:**

Under the Continuing Resolution, we have available the amounts stated in the FY 1979 appropriation, i.e. \$507,525,000 from the direct "Economic Development Assistance Programs" appropriation account plus \$75,000,000 from the Economic Development Revolving Fund.

**Question No. 3:**

**What reductions are reflected in this amended supplemental budget request from the original supplemental submitted in the January 1980 budget and why were these areas selected?**

**What is the basis for the current request having a new initiatives program for one-third or one-fourth of FY 1980?**

**If this program continues to operate under the continuing resolution for the remainder of fiscal year 1980, what would be the impact on the programs?**

**Where should those reductions be made and in what amounts?**

**Answer:**

The general approach was to reduce the new EDA programs which were initially proposed in the July 1979 amendment, to approximately one fourth the original level for FY 1980. The specific program reductions are as follows: (amounts in thousands)

<u>Program</u>	<u>January Budget</u>	<u>March Budget</u>	<u>Change</u>
DEP Technical Assistance	\$15,000	\$7,500	-\$7,500
Development Grants (includes DEP grants)	\$559,025	\$352,775	-\$206,250
Direct Loans	\$191,430	\$116,430	-\$75,000
Interest Subsidies	\$175,000	\$50,000	-\$125,000
<b>TOTAL CHANGE</b>			<b>-\$413,750</b>

The table shows only those programs which are affected by the March revisions; in addition, the amount requested for guarantee authority has been reduced from \$1 Billion to \$450 Million.

The changes are necessary because of the delay in enactment of the authorizing legislation and by the need to reduce the overall Federal budget in order to combat inflation.

If the Agency has to operate under a Continuing Resolution for the balance of the fiscal year none of the \$153,058,000 requested in the revised supplemental would be available; we would operate the Economic Development Assistance Programs Account at a level of \$507,525,000, the appropriation level for FY 1979. In other words all the program increases proposed in the FY 1980 Supplemental would disappear unless an appropriation is enacted.

It is important to note that even if such appropriations were enacted relatively late in the fiscal year, all funds could be used effectively. This is the case because there are always projects in "the pipeline" which can be moved to the approval stage in relatively short periods.

## Question No. 4:

The amended supplemental budget request for the Salaries and Expenses item is \$4,798,000. This is a decrease of \$15,917,000 from the original request. The President's budget actually contained two requests for this item. One in the amount of \$2,175,000 and the other in the amount of \$2,621,000. Could you explain to the Committee why two supplemental requests for the salaries and expenses appropriation were submitted?

## Answer:

The basic calculations are as follows:

Currently available (under the Continuing Resolution)	\$41,504,000
Supplemental to meet specific IPW requirements	2,621,000
Supplemental for regular EDA requirements	2,175,000
Supplemental for Pay Raise	<u>900,000</u>
Revised Request	\$47,200,000

The \$2,621,000 increase relates specifically to IPW requirements as calculated last spring and summer. This figure is based on the \$1.9 million for IPW in the original budget request for FY 1980. It is important to note that the FY 1980 budget proposal presents a merged administrative account, whereas the FY 1979 administrative funding for EDA was appropriated in two separate accounts. The amount "currently available", as expressed in the justifications for FY 1980, is the sum of the two amounts appropriated for FY 1979.

The IPW supplemental of \$2,621,000 was presented separately because it represents a true change in requirements relative to the original budget request.

The other components of the supplemental simply define the remaining difference between the Continuing Resolution and the revised budget requirements. Indeed this is not a true supplemental in the classic sense; we are not asking for more resources to do something new and different from what was proposed in the original budget. In fact, the revised request of \$47.2 million is \$15 million less than was requested in the FY 1980 budget amendment which was presented in July 1979.

**Question No. 5:**

Under the continuing resolution, how much is presently available for the monitoring and administrative support for the local public works program?

We are almost at the midpoint in the fiscal year. How much of the \$10,968,000 that is currently available for the local public works program under the continuing resolution has been obligated?

If you have a total of \$10.9 million currently available under the continuing resolution, why do you need an additional \$2.6 million to get a program level of \$13.5 million for fiscal year 1980?

Answer:

As of March 31, \$3,430,000 has been obligated for the close out of the local public works program.

In the President's original Budget for FY 1980 which was submitted in January 1979, we had requested \$1.9 Million for LPW activities. However, after assessing the remaining workload during the spring and summer of 1979, we requested an additional \$2.6 million for FY 1980. This amount is now a part of the current supplemental request. We currently project that the maximum amount needed for this fiscal year for this activity will be \$4.5 million.

The reason there is \$10,968,000 currently available under the Continuing Resolution is that this was last fiscal year's appropriation level; we had never intended to obligate that amount for FY 1980 for LPW activities as is reflected in our budget request. A notice of deferral of \$6,447,000 of the \$10,968,000 is expected to be submitted to the Congress shortly. This action is being taken pending a determination of the most appropriate way to use these funds.

**Question No. 6:**

*how many positions were eliminated from the original supplemental request as a result of the amendment and in what areas?*

**What was the basis for the proposed reductions?**

*How many additional positions are you requesting for the expanded economic development initiatives, and how would those resources be allocated to program areas?*

**Answer:**

In the original supplemental for FY 1980, we had requested an increase of 364 permanent positions above the 1000 currently available, to a total request of 1,364. In the revised supplemental, we are requesting an overall increase of 314 permanent positions to a total requested level of 1,314; this is 50 positions fewer than were proposed in the first supplemental.

The reduction of 50 positions all relates to the program reduction discussed in question number 3 above. By organizational area, the reduction is distributed as follows:

Planning and Technical Assistance	- 1
Public Works and Adjustment	- 6
Development Finance Program	- 11
Supporting Services	- 24
Executive Direction	- 8
<b>TOTAL</b>	<b>- 50</b>

The overall changes from the FY 1980 currently available to the revised request are shown below:

	<u>1980 Base</u>	<u>1980 Supp.</u>	<u>Rev. 1980</u>
Planning and TA	136	+43	179
Public Works and Adjustment	185	+62	247
DFP	88	+70	158
Research and Evaluation	19	+3	22
Support Services	277	+180	457
Executive Direction	151	+36	187
LPW	144	-80	64
	<u>1,000</u>	<u>+314</u>	<u>1,314</u>

The overall request relates not only to the new initiatives, but also to the staffing and funding deficiencies which existed in FY 1979, and which, under the Continuing Resolution are continuing to hinder the full and efficient operation of the Agency.

Mr. ALEXANDER. Do you have any additional questions, Mr. Hightower?

Mr. HIGHTOWER. Not at this time, Mr. Chairman.

Mr. ALEXANDER. Mr. Hall, we appreciate your testimony. The subcommittee stands in recess until two o'clock.

Mr. HALL. Thank you, Mr. Alexander.

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## REGIONAL DEVELOPMENT PROGRAM

### REGIONAL DEVELOPMENT PROGRAMS

[In January 1980, the President submitted a fiscal year 1980 supplemental budget estimate for the Regional Development Program of \$11,205,000. This supplemental estimate was contained in H. Doc. 96-247. The estimate was withdrawn by the President on April 15, 1980 as reflected in H. Doc. 96-294. The justification material in support of the original supplemental request follows:]

H. Doc. No. \_\_\_\_\_

DEPARTMENT OF COMMERCE  
REGIONAL DEVELOPMENT PROGRAM

REGIONAL DEVELOPMENT PROGRAMS  
SUPPLEMENTAL BUDGET REQUEST  
FISCAL YEAR 1980

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Congressional Submission  
January 1980

DEPARTMENT OF COMMERCE  
REGIONAL DEVELOPMENT PROGRAM

Regional Development Programs  
Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>		<u>Employment</u>	<u>Perm. Pos.</u>	<u>Average Total Employment</u>
Presently available.....	\$62,800,000	Presently available.....	88	93
Revised estimate.....	75,005,000	Revised estimate.....	107	116
Proposed supplemental.....	11,205,000	Proposed supplemental.....	19	23

STATEMENT OF PURPOSE AND NEED

The proposed supplemental will provide funding for up to four new commissions and for funding the Southwest Border Regional Commission on an equal basis with the existing commissions without reducing those commissions below 1979 funding levels, for funding uncontrollable price increases between 1979 and 1980, and for replacing funds provided by a deferral in FY 1979. In addition, it will enable the Office of Regional Development to provide coordination, development, and administrative services for an expanded program.

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Appropriation: Regional  
development  
programs

Summary of Requirements  
(dollar amounts in thousands)

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
<b>Development programs:</b>						
Regional Commissions.....	...	\$57,231	...	\$67,155	...	\$ 9,924
Office of Regional Development.....	18	50	21	50	3	139
Total, development programs.....	...	<u>57,281</u>	...	<u>67,205</u>	...	<u>9,924</u>
<b>Administrative expenses:</b>						
Regional Commissions.....	70	4,973	86	6,115	16	1,142
Office of Regional Development.....	18	546	21	685	3	139
Total, administrative expenses.....	88	<u>5,519</u>	<u>107</u>	<u>6,800</u>	<u>19</u>	<u>1,281</u>
Increase.....						
Total requirements.....	88	62,800	107	74,005	11,205	88

Justification for Proposed Supplemental

Activity: Development Programs  
Subactivity: Regional Commissions

(Dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Coastal Plains.....	...	\$ 7,996	...	\$ 8,975	...	\$ 979
Four Corners.....	...	7,702	...	8,584	...	882
New England.....	...	6,922	...	7,769	...	847
Old West.....	...	6,985	...	7,805	...	820
Ozarks.....	...	9,186	...	10,631	...	1,145
Pacific Northwest.....	...	6,542	...	7,312	...	770
Southwest Border.....	...	5,845	...	6,535	...	690
Upper Great Lakes.....	...	5,753	...	6,440	...	687
New Commissions.....	...	...	...	3,104	...	3,104
Total requirements.....	...	57,231	...	67,155	...	5,924

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The funding for the Regional Commissions is allocated among the Commissions by formula. New commissions have been excluded from formula allocation during their first two full fiscal years of operation. The Southwest Border Regional Commission became eligible for formula funding on October 1, 1979. The 1980 budget requested an increase in funding in order to fund Southwest Border on a formula basis without reducing the aggregate funding for the other Commissions below the 1979 level. Action on the 1980 budget request had not been completed as of January, 1980, and the program was operating under a Continuing Resolution (P.L. 96-123). Funding was being held to the 1979 Appropriation level of \$62,800,000. That level did not contain any funds for Southwest Border, which was funded in 1979 from a 1978 budget deferral. The funds from the Continuing Resolution were distributed by formula to include Southwest Border, thus reducing funding for all of the other Commissions. These requested increases will fund the Commissions at the equivalent 1979 level.

<u>Coastal Plains</u>	...	7,996	...	8,975	...	979
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The requested increase will fund Coastal Plains at the equivalent 1979 level.

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
<u>Four Corners</u>	...	\$ 7,702	...	\$ 8,584	...	\$ 882
The requested increase will fund Four Corners at the equivalent 1979 level.						
<u>New England</u>	...	6,922	...	7,769	...	847
The requested increase will fund New England at the equivalent 1979 level.						
<u>Old West</u>	...	6,985	...	7,805	...	820
The requested increase will fund Old West at the equivalent 1979 level.						
<u>Ozarks</u>	...	9,486	...	10,631	...	1,145
The requested increase will fund Ozarks at the equivalent 1979 level.						
<u>Pacific Northwest</u>	...	6,542	...	7,312	...	770
The requested increase will fund Pacific Northwest at the equivalent 1979 level.						
<u>Southwest Border</u>	...	5,845	...	6,535	...	690
The requested increase will fund Southwest Border on the same basis as the other Commissions at the equivalent 1979 level for those Commissions.						
<u>Upper Great Lakes</u>	...	5,753	...	6,440	...	687
The requested increase will fund Upper Great Lakes at the equivalent 1979 level.						
<u>New Commissions</u>	...	...	...	3,104	...	3,104
The requested increase will fund up to four new commissions. These commissions will develop programs promoting balanced regional growth and covering a wide range of activities involving development of human resources.						

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Industry, natural resources, recreation and tourism, transportation, and planning. The commissions will develop regional long-range comprehensive plans to guide programs of technical assistance, planning, demonstration projects, and supplementation of federal grant-in-aid programs.

Activity: Administration  
Subactivity: Federal Administration

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Coastal Plains.....	9	\$ 396	9	\$ 402	...	\$ 6
Four Corners.....	9	374	9	405	...	31
New England.....	9	384	9	404	...	20
Old West.....	9	459	9	478	...	19
Ozarks.....	9	366	9	376	...	10
Pacific Northwest.....	9	410	9	426	...	16
Southwest Border.....	7	318	7	348	...	30
Upper Great Lakes.....	9	360	9	374	...	14
New Commissions.....	...	...	16	470	16	470
Office of Regional Development.....	18	546	21	685	3	139
Total requirements.....	88	3,613	107	4,368	19	755
<u>Coastal Plains</u>	9	396	9	402	...	6

This increase is to fund built-in cost increases between 1979 and 1980, and includes the full-year cost of the October, 1978, pay raise, within-grade step increases, two extra compensable days in 1980, and an increase in Federal Telecommunication system charges. These increases are included in the 1980 budget request which is still pending. The object class detail for the increase follows:

Object Class	Amount
Personnel compensation.....	\$3,242
Personnel benefits.....	233
Travel and transportation of persons....	330
Standard level user charges.....	-1,812
Communications, utilities and other rent	4,094
Total.....	6,087

	1980		1980		1980	
	Presently Available		Revised Estimate		Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
<u>Four Corners</u>	9	\$374	9	\$405	...	\$ 31

The increase is to fund built-in cost increases between 1979 and 1980. The object class detail for the increase follows:

<u>Object Class</u>	<u>Amount</u>
Personnel compensation.....	\$25,034
Personnel benefits.....	1,802
Travel and transportation of persons.....	498
Communications, utilities, and other rent	3,200
Total.....	30,534

New England 9 384 9 404 ... 20 718

This increase is to fund built-in cost increases between 1979 and 1980. The object class detail for the increase follows:

<u>Object Class</u>	<u>Amount</u>
Personnel compensation.....	\$17,089
Personnel benefits.....	1,230
Travel and transportation of persons.....	222
Communications, utilities, and other rent	1,725
Total.....	20,265

Old West 9 459 9 478 ... 19

This increase is to fund built-in cost increases between 1979 and 1980. The object class detail for the increase follows:

<u>Object Class</u>	<u>Amount</u>
Personnel compensation.....	\$15,150
Personnel benefits.....	1,091
Travel and transportation of persons.....	788
Communications, utilities, and other rent	2,294
Total.....	19,323

<u>Ozarks</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
	9	\$366	9	\$376	...	\$10

This increase is to fund built-in cost increases between 1979 and 1980. The object class detail for the increase follows:

<u>Object Class</u>	<u>Amount</u>
Personnel compensation.....	\$ 7,302
Personnel benefits.....	526
Travel and transportation of persons.....	434
Communications, utilities, and other rent	2,012
Total.....	10,274

<u>Pacific Northwest</u>	<u>9</u>	<u>410</u>	<u>9</u>	<u>426</u>	<u>...</u>	<u>16</u>
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This increase is to fund built-in cost increases between 1979 and 1980. The object class detail for the increase follows:

<u>Object Class</u>	<u>Amount</u>
Personnel compensation.....	\$10,200
Personnel benefits.....	736
Travel and transportation of persons.....	669
Communications, utilities, and other rent	4,812
Total.....	16,717

	1980 <u>Presently Available</u>		1980 <u>Revised Estimate</u>		1980 <u>Proposed Supplemental</u>	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
<u>Southwest Border</u>	7	\$318	7	\$348	...	\$ 30

This increase is to fund built-in cost increases between 1979 and 1980 and to enable the Commission to administer and monitor an expanded program. The object class detail for the increase follows:

<u>Object Class</u>	<u>Amount</u>
Personnel compensation.....	\$12,209
Personnel benefits.....	879
Travel and transportation of persons.....	1,258
Communications, utilities, and other rent	4,104
Printing and reproduction.....	1,000
Other services.....	12,200
Supplies and materials.....	500
Equipment.....	-2,000
Total.....	<u>30,150</u>

Upper Great Lakes 9 360 9 374 ... 14

The increase is to fund built-in cost increases between 1979 and 1980. The object class detail for the increase follows:

<u>Object Class</u>	<u>Amount</u>
Personnel compensation.....	\$10,142
Personnel benefits.....	730
Travel and transportation of persons.....	378
Communications, utilities, and other rent	2,548
Total.....	<u>13,798</u>

New Commissions ... 16 470 16 470

The increase will provide for salaries and other administrative expenses for a Federal Cochairman and three staff members each for up to four new commissions. The estimated costs of three commissions operating for five

months in 1980 and one commission operating for three months amount to \$470,000.

The position and object class detail for the increase follows:

<u>Position Title</u>	<u>GG Grade</u>	<u>Number</u>	<u>Annual Salary</u>
Federal Cochairman.....	E.L. IV	4	\$211,000
Special Assistant.....	15	4	163,328
Program Officer.....	14	4	138,852
Staff Assistant.....	11	4	82,444
Total salaries.....		16	<u>555,624</u>
Less lapse @ 62.5%.....			-372,265
Permanent positions.....			<u>223,359</u>
Other personnel .....			<u>68,510</u>
Total compensation.....			<u>291,869</u>
Personnel benefits.....			22,323
Travel and transportation of persons...			24,000
Transportation of things.....			1,000
Standard level user charges.....			21,000
Communications, utilities, and other rent.....			22,000
Printing and reproduction.....			5,300
Other services.....			28,508
Supplies and materials.....			14,000
Equipment.....			40,000
Total.....			<u>470,000</u>

Office of Regional Development	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
	18	\$546	21	\$685	3	\$139

This increase will enable the Office of Regional Development to provide coordination, development, and administrative services for four new commissions and to fund built-in cost increases between 1979 and 1980. The position and object class detail for the increases follows:

<u>Position Title</u>	<u>GS Grade</u>	<u>Number</u>	<u>Annual Salary</u>
Program Analyst.....	11/1	1	\$ 20,611
Program Analyst.....	9/1	1	17,035
Clerk Typst.....	4/1	1	10,069
Total salaries.....		3	47,695
Less lapse at 50%.....			-23,847
Permanent positions.....			23,848
Other compensation.....			54,363
Total compensation.....			78,211
Personnel benefits.....			6,257
Travel and transportation of persons.....			4,293
Standard level user charges.....			2,532
Communications, utilities, and other rent.....			7,222
Printing and reproduction.....			500
Other services.....			35,985
Supplies.....			2,000
Equipment.....			2,000
Total.....			139,000

Activity: Administration  
 Subactivity: Administrative Grants

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Coastal Plains.....	...	\$ 300	...	\$ 300	...	...
Four Corners.....	...	211	...	236	...	\$ 25
New England.....	...	350	...	350	...	...
Old West.....	...	200	...	225	...	25
Ozarks.....	...	340	...	340	...	...
Pacific Northwest.....	...	125	...	140	...	15
Southwest Border.....	...	200	...	200	...	...
Upper Great Lakes.....	...	180	...	191	...	11
New Commissions.....	...	...	...	450	...	450
Total requirements.....	...	1,906	...	2,432	...	526

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Under the provisions of existing legislation, non-federal administrative expenses of the Commissions are funded in full by the Federal Government for their first two full fiscal years, and thereafter are shared on a 50-50 basis by the States and the Federal Government.

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
<u>Four Corners</u>	...	\$211	...	\$236	...	\$ 25
The requested increase will be for a grant to the Commission to provide one-half of the cost of increases in pay and other expenses.						
<u>Old West</u>	...	200	...	225	...	25
The requested increase will be for a grant to the Commission to provide one-half of the cost of increases in pay and other expenses.						
<u>Pacific Northwest</u>	...	125	...	140	...	15
The requested increase will be for a grant to the Commission to provide one-half of the cost of increases in pay and other expenses.						
<u>Upper Great Lakes</u>	...	180	...	191	...	11
The requested increase will be for a grant to the Commission to provide one-half of the cost of increases in pay and other expenses.						
<u>New Commissions</u>	...	...	...	450	...	450
The requested increase will be for grants to new commissions to provide for 100% of their non-federal administrative expenses, as provided by law. The increase is based on an estimate of three commissions operating for five months during FY 1980, and one commission operating for three months.						

Summary of Requirements by Object Class  
(dollar amounts in thousands)

Appropriation: Regional development programs

<u>Object class</u>	1980 Currently Available			1980 Revised Estimate			1980 Proposed Supplemental					
	Pos.	Av.	No.	Amount	Pos.	Av.	No.	Amount	Pos.	Av.	No.	Amount
<b>II Personnel compensation:</b>												
11.1 Permanent positions.....	88	82		\$ 2,270	107	90		\$ 2,643	19	8		\$ 373
11.3 Positions other than permanent	9	5		45	18	8		142	9	3		97
11.5 Other personnel compensation.....	...	...		1	...	...		1	...	...		...
Total.....	97	87		2,316	125	98		2,786	28	11		470
<b>Other objects:</b>												
12 Personnel benefits.....				203				239				36
21 Travel and transportation of persons.....				251				284				33
22 Transportation of things.....				2				3				1
23.1 Standard level user charges.....				158				180				22
23.2 Communications, utilities, and other rent.....				191				245				54
24 Printing and reproduction.....				34				41				7
25 Other services.....				446				522				76
26 Supplies and materials.....				37				53				16
31 Equipment.....				17				57				40
41 Grants, subsidies, and contributions.....				59,145				69,595				10,450
Total requirements.....				62,000				74,005				11,205

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**Justification by Object Class**  
(dollar amounts in thousands)

<u>Object class</u>	1980 <u>Currently Available</u>			1980 <u>Revised Estimate</u>			1980 <u>Proposed Supplemental</u>		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
<b>11.1 Permanent positions</b>									
General schedule.....	18	18	\$ 407	21	20	\$ 465	3	2	\$ 58
Executive level.....	8	8	422	12	10	501	4	2	79
Comparable to general schedule.....	62	56	1,441	74	60	1,677	12	4	236
Total, permanent positions..	88	82	2,270	107	90	2,643	19	8	373
<b>11.3 Positions other than permanent</b>									
General schedule.....	...	...	...	1	1	20	1	1	20
Daily and hourly rate employees.....	1	...	14	5	1	71	4	1	57
Comparable to general schedule.....	8	5	31	12	6	51	4	1	20
Total, positions other than permanent.....	9	5	45	18	8	142	9	3	97
<b>11.5 Other personnel compensation</b>									
Overtime.....			1			1			...
<b>12.1 Personnel benefits</b>									
Civil Service Retirement....			160			187			27
Federal Insurance Contributions Act (FICA)...			2			6			4
Health Insurance.....			32			35			3
Life Insurance.....			9			11			2
Total, personnel benefits..			203			239			36
<b>21.0 Travel and transportation of persons</b>									
Per diem.....			69			75			6
Air fare.....			152			175			23
Other common carrier.....			1			2			1
Privately-owned automobiles.			11			11			..
GSA vehicle.....			..			1			1
Other.....			18			20			2
Total, travel and trans- portation of persons....			251			284			33

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<u>Object class</u>	1980 Currently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
<u>22.0 Transportation of things.....</u>		\$ 2			\$ 3			\$ 1	
<u>23.1 Standard level user charges...</u>		158			180			22	
<u>23.2 Communications, utilities and other rent</u>									
Federal Telecommunications System.....		70			113			43	
Other telephone, telegraph, and teletype services....		42			46			4	
Postal services by USPS....		7			8			1	
Other space rental.....		28			28			...	
Rental of office copying equipment.....		44			50			6	
Total, communications, utilities, and other rent.		191			245			54	
<u>24.0 Printing and reproduction</u>									
Envelopes.....		...			1			1	
Other printing and reproduction		34			40			6	
Total, printing and reproduction.....		34			41			7	
<u>25.0 Other services</u>									
Training:									
Civil Service Commission..		4			5			1	
Maintenance of equipment...		2			2			...	
GSA reimbursable services...		1			1			...	
Centralized Departmental services.....		133			154			21	
Other major items:									
Studies and evaluations....		306			360			54	
Total, other services.....		446			522			76	
<u>26.0 Supplies and materials</u>									
Miscellaneous administrative supplies.....		37			53			16	

<u>Object class</u>	1980 <u>Currently Available</u>			1980 <u>Revised Estimate</u>			1980 <u>Proposed Supplemental</u>		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
<u>31.0 Equipment</u>									
Office machines and equipment.....		\$ 17		\$ 57		\$ 40			
<u>41.0 Grants, subsidies, and contributions</u>									
Grants.....		59,145		69,595		10,450			

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A-11-35

STANDARD FORM 306  
MAY 1954 EDITION  
GSA GEN. REG. NO. 27  
200-106

DEPARTMENT OF COMMERCE  
REGIONAL DEVELOPMENT PROGRAM  
CONSOLIDATED SCHEDULE OF PERMANENT POSITIONS PAID  
FROM FUNDS AVAILABLE TO THE REGIONAL DEVELOPMENT PROGRAM

## DETAIL OF PERMANENT POSITIONS

	<del>1960 Actual</del>	<del>1960 Estimate</del>	<del>1960 Forecast</del>
	Presently Available	Revised Estimate	Proposed Supplemental
ES-5.....	1	1	...
ES-4.....	2	2	...
Subtotal.....	3	3	...
GS/GM-15.....	7	7	...
GS-13.....	2	2	...
GS-12.....	1	1	...
GS-11.....	0	1	1
GS-9.....	2	3	1
GS-8.....	1	1	...
GS-7.....	3	3	...
GS-6.....	2	3	1
Subtotal.....	18	21	3
Grades established by act of August 26, 1965 (42 U.S.C. 3182), comparable to executive level and GS grades:			
Executive level IV.....	8	12	4
GG-15.....	10	14	4
GG-14.....	7	11	4
GG-13.....	8	8	...
GG-12.....	2	2	...
GG-11.....	4	8	4
GG-9.....	5	5	...
GG-8.....	6	6	...
GG-7.....	7	7	...

A-11-35 (cont'd)

STANDARD FORM 306  
FEB 1964, REINFORCED BY 12-15-64  
GSA GEN. REG. NO. 27-11, EDITION  
000-100

DEPARTMENT OF COMMERCE  
REGIONAL DEVELOPMENT PROGRAM  
CONSOLIDATED SCHEDULE OF PERMANENT POSITIONS PAID  
FROM FUNDS AVAILABLE TO THE REGIONAL DEVELOPMENT PROGRAM

## DETAIL OF PERMANENT POSITIONS

	1960 actual	1960 estimate	1960 estimate
	Presently Available	Revised Estimate	Proposed Supplemental
GG-6.....	3	3	...
GG-5.....	1	1	...
GG-4.....	4	4	...
GG-3.....	2	2	...
<b>Subtotal.....</b>	<b>67</b>	<b>83</b>	<b>16</b>
<b>Total permanent positions.....</b>	<b>88</b>	<b>107</b>	<b>19</b>
<b>Unfilled positions, end of year.....</b>	<b>-6</b>	<b>-6</b>	<b>...</b>
<b>Total permanent employment, end of year.</b>	<b>82</b>	<b>101</b>	<b>19</b>

MONDAY, MARCH 17, 1980.

INTERNATIONAL TRADE ADMINISTRATION

WITNESSES

DONALD A. FURTADO, DEPUTY UNDER SECRETARY FOR INTERNATIONAL TRADE

JEANNE WESTPHAL, ACTING ASSISTANT SECRETARY OF TOURISM  
PAUL T. O'DAY, DEPUTY ASSISTANT SECRETARY FOR TEXTILES  
AND APPAREL

ERIC L. HIRSCHORN, DEPUTY ASSISTANT SECRETARY FOR EXPORT  
ADMINISTRATION

J. MISHELL GEORGE, ACTING DEPUTY ASSISTANT SECRETARY FOR  
EAST-WEST TRADE

VERNON C. STANSBURY, DEPUTY DIRECTOR FOR EXPORT DEVELOPMENT

WANDA L. ALE, DEPUTY DIRECTOR FOR THE U.S. COMMERCIAL SERVICE

DAVID E. BILTCHEK, DEPUTY DIRECTOR FOR INTERNATIONAL ECONOMIC POLICY

MICHAEL DOYLE, DIRECTOR OF ADMINISTRATION

DAVID L. BINDER, DIRECTOR, OFFICE OF INVESTIGATIONS

RONALD L. WILSON, DIRECTOR, OFFICE OF BUDGET

ELSA A. PORTER, ASSISTANT SECRETARY FOR ADMINISTRATION

CLIFFORD J. PARKER, DIRECTOR, OFFICE OF BUDGET AND PROGRAM EVALUATION

Mr. ALEXANDER [presiding]. A fiscal year 1980 supplemental budget request in the amount of \$1,200,000 has been submitted for the International Trade Administration. We shall insert the justifications at this point in the record.

[The justification materials follow:]

DEPARTMENT OF COMMERCE  
INTERNATIONAL TRADE ADMINISTRATION

Operations and Administration  
Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>		<u>Employment</u>	<u>Perm. Pos.</u>	<u>Total Compensable Work-Years</u>
Presently available.....	\$77,670,000	Presently available.....	1,703	1,790
Revised estimate.....	78,870,000	Revised estimate.....	1,707	1,793
Proposed supplemental.....	1,200,000	Proposed supplemental.....	4	3

STATEMENT OF PURPOSE AND NEED

This supplemental request provides funds necessary to implement the recently approved trade agreement between the United States and the People's Republic of China by establishing and operating two commercial offices in Beijing and Canton. In addition, IIA is requesting funds for non-recurring expenses associated with transfers resulting from the President's Reorganization Plan No. 3 of 1979.

DEPARTMENT OF COMMERCE  
INTERNATIONAL TRADE ADMINISTRATION

Budget Appendix Page	Heading	1980 Presently Available	1980 Revised Estimate	1980 Proposed Supplemental
Part III of Appendix	<u>Operations and administration</u>	\$77,670,000	\$78,670,000	+\$1,200,000

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Appropriation: Operations and administration, International trade administration

Summary of Requirements  
(Dollar amounts in thousands)

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
<u>Comparison by activities:</u>						
Trade development:						
Export development.....	535	\$28,672	539	\$29,272	+4	+\$600
U.S. and foreign commercial service.....	371	11,628	371	11,628	—	—
Subtotal.....	906	40,300	910	40,900	—	—
International economic policy:						
Trade agreements and policy planning.....	210	8,366	210	8,366	—	—
Finance, investment and services.....	60	2,337	60	2,337	—	—
Subtotal.....	270	10,703	270	10,703	—	—
Trade administration:						
Export administration.....	243	8,268	243	8,268	—	—
Import administration.....	12	468	12	468	—	—
Subtotal.....	255	8,736	255	8,736	—	—
Administration.....	115	12,025	115	12,625	—	+\$600
Domestic business development.....	157	5,906	157	5,906	+4	+\$1,200
Increase.....						
Total requirements.....	1,703	77,670	1,707	78,870		

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Justification for Proposed Supplemental

Activity: Trade development  
Subactivity: Export development

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
Research, planning and evaluation.....	41	\$3,080	41	\$3,080	—	—
Country marketing assistance.....	112	3,630	112	3,630	—	—
Overseas export promotions.....	136	7,658	136	7,658	—	—
Domestic exporting assistance.....	111	4,823	111	4,823	—	—
Trade information and services.....	43	5,295	43	5,295	—	—
East-West trade analysis.....	24	873	24	873	—	—
East-West trade development.....	49	1,702	49	1,702	—	—
East-West trade promotions.....	19	1,611	23	2,211	+4	+8600
Total requirements.....	533	28,672	539	29,272	+4	+4600

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This supplemental is requested to begin a trade promotion program to assist U.S. businesses in their export efforts in the People's Republic of China (PRC) by establishing and operating commercial offices in Beijing and Canton.

The recent establishment of formal diplomatic relations between the United States and the PRC allows for the normalization and expansion of commercial and economic relations between the two nations. For many years, other industrialized trading countries have had formal diplomatic relations with the PRC and have assisted their firms in expanding trade with the PRC. The relative U.S. trading disadvantage created during these years and the complexities of conducting business in the PRC require an active U.S. Government presence to support the entry of an increased number of American firms into this market. Successful penetration requires prompt action so that demand for U.S. products and technology can appear in long-range PRC plans thereby giving the U.S. a larger share of trade under the current 10 year plan. In addition, this effort is directly supportive of the Administration's detente policy toward China.

This supplemental will provide the resources necessary to begin implementation of the agreement with the PRC for the facilitation and expansion of U.S.-PRC trade which was negotiated by the Secretary of Commerce in May 1979 and which was signed in Beijing in July. The resources initially requested for the FY 1980 East-West trade promotion program are insufficient to establish and begin operation of the two commercial offices without severely restricting trade promotion in other communist countries. The trade agreement supports the creation of commercial offices by both countries and the availability of appropriate physical facilities in Beijing and Canton for two such offices is currently being examined. They would provide services and facilities for U.S. business persons similar to those currently provided by ITA's other commercial offices.

The position and object class detail follows:

	<u>G9-Grade</u>	<u>Number</u>	<u>Annual Salary</u>
Deputy commercial office director.....	14	2	\$64,884
International trade specialist.....	11	2	38,526
Total salaries.....		4	103,410
Less leave (258).....		-1	-25,853
Total compensation.....		3	77,557
Personnel benefits.....			83,199
Travel and transportation of persons..			18,000
Transportation of things.....			30,000
Rents, communications, and utilities..			75,000
Printing and reproduction.....			21,244
Other services.....			245,000
Supplies and materials.....			25,000
Equipment.....			25,000
Total.....			600,000

Activity: Administration

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. No.	Amount	Per. No.	Amount	Per. No.	Amount
	Centralized services.....	—	\$8,274	—	\$8,874	—
Administrative services.....	24	550	24	550	—	—
Budget and fiscal services.....	23	667	23	667	—	—
Management analysis.....	20	646	20	646	—	—
Personnel.....	28	915	28	915	—	—
Public affairs.....	17	858	17	858	—	—
Congressional relations.....	3	115	3	115	—	—
Total requirements.....	115	12,025	115	12,625	—	+\$600

ITA is requesting additional resources, in FY 1980 only, for expenses to be incurred as a result of the transfer of certain trade functions to the Department of Commerce from the Departments of State and Treasury, as mandated in the President's Reorganization Plan No. 3 of 1979. In order to effect these transfers, ITA will be required to perform a variety of transitional tasks not previously budgeted for by any of the Departments concerned. These tasks include such items as major renovation of permanent space; augmentation of payroll, personnel and other ADP systems; modification of telephone and electrical facilities; and implementation of a series of design projects associated with many of the systems and space modifications to be effected. The \$600,000 identified in the other services object class (No. 25) of this supplemental request represents transitional cost requirements.

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Summary of Requirements by Object Class  
(Dollar amounts in thousands)

Appropriation: Operations and administration

Object class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental			Exp. 12/31
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	
11 Personnel compensation:										
11.1 Permanent positions.....	1,703	1,703	\$44,192	1,707	1,706	\$44,270	4	3	\$78	1,556
11.3 Positions other than permanent.....	87	87	1,374	87	87	1,374	—	—	—	95
11.5 Other personnel compensation.....			300			300				
11.8 Special personal services payments.....			390			390				
Total.....	1,790	1,790	46,256	1,794	1,793	46,334	—	—	78	1,651
Other objects:										
12 Personnel benefits.....			4,611			4,694			83	63
21 Travel and transportation of persons.....			2,191			2,209			18	35
22 Transportation of things			150			180			30	
23.1 Standard level user charges.....			3,300			3,300			—	
23.2 Communications, utilities, and other rent..			3,352			3,427			75	
24 Printing and reproduction.....			3,064			3,085			21	
25 Other services.....			13,842			14,687			845	
26 Supplies and materials..			568			603			25	
31 Equipment.....			326			351			25	
Total requirements			77,670			78,870			1,200	

Justification by Object Class  
 (Dollar amounts in thousands)

Appropriation: Operations and administration

Object class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental			Emp. 12/31
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	
<b>11.1 Permanent positions</b>										
Executive level.....	1	1	\$48	1	1	\$48	—	—	—	26
General schedule.....	1,685	1,685	43,702	1,689	1,688	43,780	4	3	\$78	1,507
Public Law (64 Stat. 816).....	1	1	48	1	1	48	—	—	—	1
Foreign Service locals..	16	16	394	16	16	394	—	—	—	22
Total permanent positions.....	1,703	1,703	44,192	1,707	1,706	44,270	4	3	78	1,556
<b>11.3 Positions other than permanent</b>										
General schedule.....	82	82	1,362	82	82	1,362	—	—	—	91
When actually employed..	5	5	12	5	5	12	—	—	—	4
Total, positions other than permanent.....	87	87	1,374	87	87	1,374	—	—	—	95
<b>11.5 Other personnel compensation</b>										
Overtime and holiday pay			300			300				—
<b>11.6 Special personnel services payment</b>										
Department of State										
Foreign Officers.....			390			390				—

Object class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental			Exp. 12/31
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	
12.1 <u>Personnel benefits</u>										
Civil Service										
Retirement.....			3,218			3,224			6	
Federal Insurance Con-										
tributions Act (FICA).....			96			96				
Health insurance.....			796			800			2	
Life insurance.....			203			204			1	
Employee awards.....			28			28				
Overseas allowances.....			268			342			74	
Total, personnel benefits.....			4,611			4,694			83	
21.0 <u>Travel and transportation of persons</u>										
Per diem.....			1,114			1,124			10	
Air fare.....			817			825			8	88
Other common carrier....			56			56				
GSA motor vehicles.....			59			59				
Mileage for privately owned vehicles.....			145			145				
Total, travel and transportation of persons.....			2,191			2,209			18	
22.0 <u>Transportation of things</u>										
Transportation of things										
- domestic and foreign										
Freight and express to and from project.....			17			32			15	
Total, transporta- tion of things....			133			148			15	
23.1 <u>Standard level user charges.....</u>			150			180			30	
			3,300			3,300				

Object class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental			Exp. 12/31
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	
23.2 Communications, utilities, and other rent										
Federal Telecommunications System.....			398			398			—	
Other telephone, telegraph and teletype service.....			555			568			13	
Military Postal Service.			45			45			—	
Postal services by USPS.			983			987			4	
Rent payments to other than GSA.....			1,296			1,335			39	
Office copying equipment rental.....			126			130			4	
Postal services by other countries.....			22			23			1	
Rental of automatic data processing equipment.....			66			66			—	
Other equipment rental..			100			104			4	
Utilities.....			95			105			10	
Total, communications, utilities and other rent.....			3,686			3,761			75	
24.0 Printing and reproduction										
Publications.....			890			895			5	
Public use forms.....			76			76			—	
Commerce Business Daily.			570			570			—	
GPO printing.....			887			892			5	
Press releases.....			44			47			3	
Envelopes (printing contract).....			6			6			—	
Other printing.....			257			265			8	
Total, printing and reproduction.....			2,730			2,751			21	

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Object class	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental			Exp. 12/31
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	
25.0 <u>Other services</u>										
Training:										
University.....			55			55				—
Civil Service Commission.....			28			28				—
Other.....			152			154				2
Maintenance of equipment			166			346				180
GSA alterations and repairs.....			180			605				425
Centralized Depart- mental Services.....			4,845			4,845				—
Other Federal Agencies:										
Bureau of Census.....			580			580				—
Bureau of Customs.....			249			249				—
Department of State...			706			736				30
Special limitations:										
Representation.....			14			14				—
Other services.....			6,867			7,075				208
Total, other services.			13,842			14,687				845
26.0 <u>Supplies and materials</u>										
ADP supplies.....			74			74				—
Office supplies and materials.....			333			348				15
Envelopes (purchase)....			33			34				1
Other supplies and materials.....			138			147				9
Total, supplies and materials.....			578			603				25
31.0 <u>Equipment</u>										
Office furniture and equipment.....			246			271				25
ADP equipment.....			80			80				—
Total, equipment.....			326			351				25

OPC

**GENERAL STATEMENT**

**Mr. ALEXANDER.** We shall now hear your statement on your supplemental request.

**Mr. FURTADO.** Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to appear before you in support of the International Trade Administration's 1980 Operations and Administration supplemental budget request of \$1,200,000 and 4 positions. This supplemental request involves two areas in the International Trade Administration.

**TRADE DEVELOPMENT**

For the Trade Development activity, I am requesting \$600,000 and 4 positions for 1980. Trade Development is responsible for carrying out programs to promote world trade and to strengthen the international trade and payments position of the U.S. The Export Development subactivity promotes the overall growth and development of U.S. export trade in both free and centrally planned economy markets and encourages American firms with untapped export potential to enter foreign markets.

This request provides funds to implement the agreement with the People's Republic of China for the facilitation and expansion of U.S.-P.R.C. trade which was negotiated by the Secretary of Commerce in May 1979 and which was signed in Beijing in July. The resources will provide for the establishment and operation of two commercial offices in China, one in Beijing and one in Canton. The complexities of conducting business in the PRC require an active U.S. Government presence to support the entry of an increasing number of American firms into this market. Successful penetration requires prompt action so that demand for U.S. products and technology can appear in long-range PRC plans, thereby giving the U.S. a larger share of trade under the current 10-year plan.

**ADMINISTRATION**

For the Administration activity I am requesting \$600,000. This will provide resources in 1980, on a one-time basis, for expenses to be incurred as a result of the transfer of certain trade functions to the Department of Commerce from the Departments of State and Treasury, as mandated in the President's Reorganization Plan No. 3 of 1979. Transitional costs will be incurred for such items as major renovation of space, augmentation of ADP systems, and modification of telephone and electrical facilities.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions you or the Committee may have.

Thank you.

**Mr. ALEXANDER.** Thank you very much.

**DEVELOPING TRADE WITH CHINA**

The first item under this request is for an increase of 4 positions and \$600,000 to begin trade promotion activities with the People's Republic of China. I suppose that is the additional office in Canton to which you referred. It is needed. There is no question about it. If

you are going to trade in that region of China, you have to open an office in Canton. As I recall, this proposal was first submitted last year, after the Congress acted on the fiscal year 1980 appropriation request. The Congress did not have the opportunity to consider this additional request.

Since Congress has not yet approved these resources, how have you been assisting U.S. businessmen up to this point that wish to do business with the PRC?

**Mr. FURTADO.** Mr. Chairman, with your permission, I would like to ask Mr. Mishell George, the Acting Deputy Assistant Secretary for East-West Trade, to respond to that.

**Mr. GEORGE.** We have been assisting the businessmen who desire to trade with China in a variety of ways.

For example, immediately after the formal diplomatic recognition of China, we had an average of about 250 to 300 letters, telephone calls, and visits from U.S. businessmen a day. This went on for a period of roughly two and one-half months. That was a very intensive period.

We have been providing businessmen with up-to-date pamphlets and materials on how to trade with China. We have met with many groups of businessmen, at conferences, at specific seminars on China trade and at seminars on East-West trade generally, explaining to them various aspects of trading with China.

**Mr. FURTADO.** You also might spell out the reaction we have had so far to the November Trade Fair, as an indication of interest.

**Mr. GEORGE.** We have been at work recruiting for a November, 1980 National Exhibition in Beijing. By late December of last year, we were oversubscribed. We have roughly 208 participants from about 164 different firms that will be covering a variety of industry sectors at the exhibition. We have had excellent response and cooperation from industry, and we anticipate that it will be a highly successful exhibition.

**Mr. ALEXANDER.** Mr. George, I know that forecasts and predictions are easy to come by, and that there have been many forecasts and predictions concerning U.S. trade with the PRC. What is your feeling about those predictions, and have we been overoptimistic in our expectations?

**Mr. GEORGE.** Overall, there has been some undue optimism. I think it has been largely with regard to anticipation of extremely large short-term deals, whereas the significant deals in China trade are going to be fairly long-term. Nevertheless, we have had a substantial increase in our trade with China.

We anticipate roughly \$2 billion this year in terms of exports, and we anticipate something on the order of over \$4 billion—it could be significantly higher, depending on what happens—by 1985. I think we are moving at a good pace, but we must involve more of our firms, and for those who do not have their own resources, we must find better ways to assist them.

**Mr. ALEXANDER.** Is one of those better ways to assist them the establishment of private international marketing firms in China?

**Mr. GEORGE.** I think that might very well be an excellent way to assist them. We, of course, do have a private group, the National Council on U.S.-China Trade, that is reasonably helpful in that regard. It

has a large membership, and it does provide assistance on its own to the Chinese, but the kind of effort you describe by the private sector, as well as other comparable efforts, would be most helpful. The Chinese are weak in this regard, but they are rapidly exerting themselves to learn more about marketing in the U.S. and they are fast learners.

Mr. FURTADO. In response to an earlier observation about seeing a more active attitude from the Department of Commerce, we will be testifying on the Senate side before Senator Stevenson on the trading companies' legislation in the very near future, and I think you will be following that testimony with close interest, and I think it may be partially responsive to this particular issue.

Mr. ALEXANDER. Very good.

Mr. Hightower, do you have any questions?

Mr. HIGHTOWER. I have no questions, Mr. Chairman. Thank you.

Mr. ALEXANDER. I will submit the balance of the questions for the record.

[The questions and answers submitted thereto follow:]

## EXPORT DEVELOPMENT

The justifications on page 4 state that the relative U.S. trading disadvantage created during recent years and the complexity of conducting business in the PRC require an active U.S. Government program to support the entry of an increased number of American firms into this market. It is my understanding that trade between the U.S. and the PRC has been increasing and growing. What was the total amount of trade between the U.S. and the PRC for calendar year 1979 and what was it for calendar year 1978, and 1977? How much trade is expected to be included between our two countries during 1980 and what is your projection on such trade for 1981?

## U.S.-PRC TRADE

	(in millions of dollars)			
	<u>U.S. Exports</u>	<u>U.S. Imports</u>	<u>Turnover</u>	<u>Balance</u>
1977	171.3	202.6	373.9	-31.3
1978	818.2	323.9	1,142.2	+494.3
1979	1,716.5	592.3	2,308.8	+1,124.2
1980 projected	2,000-2,200	750-900	3,050-3,450	+1,350-1,750
1981 projected	2,300-2,600	850-1,100	3,150-3,700	+1,200-1,750

What kinds of assistance are you going to provide to U.S. businesses that wish to do business in China?

Our assistance to U.S. businesses will include a broad range of services both in the U.S. and abroad designed to help market American products and services in China. Our programs include:

- Providing in-depth economic studies and analyses of China's economy, foreign trade practices and regulations, and prospects for U.S.-PRC trade. Such information is made available through our publications and domestic seminars program; by providing speakers at seminars sponsored by private organizations; through briefings for trade missions sponsored by states, localities, or private organizations; and through personal contacts with individual companies which call or visit the Commerce Department.
- Providing advice tailored to the needs of individual businesses on how to establish a trade relationship with China; arranging contacts for them with appropriate foreign trade organizations and enterprise officials; providing specialized guidance on contracts, and upon request, assistance with specific transactions; and offering advice on how to obtain U.S. Government export licenses and financing programs.

- Sponsoring a variety of trade promotion events which introduce U.S. products and firms to the Chinese market. DOC trade promotion events scheduled in China include:
  - U.S. National Exhibition in Beijing in November 1980
    - 2 Technical sales seminars
    - 1 video catalog exhibit

For 1981 and 1982, we are seeking approval of the appropriate Chinese organization (CCPIT) to present:

- 1 Exhibition
- 3 technical sales seminars
- 2 video catalog exhibits
- 1 catalog show (at the Canton Fair)
- Facilitating the visit to the U.S. of Chinese economic and industrial delegations seeking to establish contacts with U.S. business.
- Establishing and operating commercial offices in China. We want to establish three commercial offices in China, located in Beijing, Guangzhou (Canton) and Shanghai. These offices will be joint Commerce-State efforts. Resources for Beijing and Guangzhou (Canton) are requested in the supplemental request for FY 1980 and for the third office in Shanghai in the FY 1981 request. The principal problem in timing of these actions is the availability of adequate facilities. Such offices would provide American business visitors to China with assistance in arranging appointments and hiring interpreters and typists; offer use of typewriters, copying, and teletype facilities; space for conferences and small seminars, and other services which are difficult to obtain in China.

As I understand it, we have restricted and reduced our trade with the Soviet Union because of its invasion of Afghanistan. If that is the case, don't you have a need for a smaller number of people and resources for such trade and couldn't those resources be shifted to China?

It is not yet clear to what extent any reduction in U.S.-Soviet trade resulting from recently-imposed restrictions will have on our staff's workload nor on the number of people needed to support these trade activities.

In many parts of ITA, for example, we are spending more manpower on U.S.-Soviet trade matters than before the Afghanistan invasion, because there now is a greater demand from business for counseling and explanation of recent sanctions. It is also important to remember that much of our Soviet trade functions are unaffected because this trade has not been cut off—it simply is being restricted.

If the need for USSR resources drops, some of the staff and other resources may be transferred either to buttress the China effort or to otherwise support East-West trade activities.

How many positions and funds are allocated to trade promotion and business assistance to American firms which wish to do business in the Soviet Union?

At this time, ITA allocates approximately eleven and a half (11.5) man-years and \$600,000 per annum to trade promotion and business assistance for American firms interested in doing or actually doing business with the Soviet Union.

USSR Division	4 man-years	\$110,000
Trade Promotion Division and Market Research	4.5 man-years	390,000
Trade Development Assistance Division	3 man-years	<u>100,000</u>
		<u>\$600,000</u>

#### ADMINISTRATION

On page 6 of the justifications, it is indicated that the second portion of this request in the amount of \$800,000 is for items related to the President's Reorganization Plan Number 3. In our consideration of the regular budget request for fiscal year 1981 earlier this afternoon, you indicated that substantial sums were being transferred from the Department of State and the Department of the Treasury in connection with this reorganization. Were any funds included in those transfers for these items? Why not?

The items to be funded through this supplemental appropriation are (1) unique, one-time costs associated with physically moving large numbers of people and materials (furniture, files, etc.) from one location to another and (2) unique costs associated with modifying existing support systems to handle the new and/or additional requirements associated with such a reorganization. The funds transferred to Commerce are exclusively for continuing operation of the transferred programs. No funds are being transferred to cover these one-time costs.

Won't those departments have a need for reduced payroll support, personnel support, and computer support, since most of the employees from the Department of State and the Department of the Treasury were transferred to the Department of Commerce on January 1, 1980? Hasn't much of this work already been done and financed within your present resources?

The amounts transferred reflect the full impact of the reorganization on the losing organizations. The bulk of these one time costs have not yet been incurred and we would hope that the supplemental would be approved before any significant obligations would have to be made.

Mr. ALEXANDER. Thank you very much, Mr. Secretary, for your contribution this afternoon.

Mr. FURTADO. Thank you, Mr. Alexander.

THURSDAY, MARCH 13, 1980.

NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION

WITNESSES

RICHARD A. FRANK, ADMINISTRATOR

JAMES P. WALSH, DEPUTY ADMINISTRATOR

GEORGE S. BENTON, ASSOCIATE ADMINISTRATOR

DR. FERRIS WEBSTER, ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT

MICHAEL GLAZER, ASSISTANT ADMINISTRATOR FOR COASTAL ZONE MANAGEMENT

TERRY L. LEITZELL, ASSISTANT ADMINISTRATOR FOR FISHERIES

DR. THOMAS B. OWEN, ASSISTANT ADMINISTRATOR FOR OCEANIC AND ATMOSPHERIC SERVICES

DAVID S. JOHNSON, DIRECTOR, NATIONAL ENVIRONMENTAL SATELLITE SERVICE

FRANCIS E. O'MEARA, DIRECTOR, OFFICE OF PROGRAM EVALUATION AND BUDGET

HERMAN S. BECK, BUDGET OFFICER

JAMES SMITH, CHIEF, BUDGET FORMULATION BRANCH

ELSA A. PORTER, ASSISTANT SECRETARY FOR ADMINISTRATION

NANCY A. RICHARDS, DEPUTY DIRECTOR FOR BUDGET, OFFICE OF BUDGET AND PROGRAM EVALUATION

OPERATIONS, RESEARCH, AND FACILITIES

Mr. HIGHTOWER [presiding]. We shall now consider the supplemental request for Operations, Research, and Facilities for fiscal year 1980. A fiscal year 1980 supplemental budget request in the amount of \$1 million has been submitted.

We will insert the justifications at this point in the record.  
[The justification material follows:]

Summary Statement

This request for supplemental funds for fiscal year 1980 is for two appropriations and includes:  
\$1,000,000 to provide the technical, scientific, and management support necessary to begin implementation of the National Oceanic and Atmospheric Administration's responsibility for a future Land Remote Sensing Satellite System (LANDSAT).  
\$6,000,000 for the Coastal Zone Management appropriation which will provide initial funding in Program Administration Grants for six states/territories which are expected to complete developmental requirements associated with their coastal management plans.

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Operations, Research and Facilities  
Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>		<u>Employment</u>	<u>Perm. Pos.</u>	<u>Average Total Employment</u>
Presently available.....	\$707,350,000	Presently available.....	12,322	13,315
Revised estimate.....	708,350,000	Revised estimate.....	12,336	13,323
Proposed supplemental.....	1,000,000	Proposed supplemental.....	14	8

STATEMENT OF PURPOSE AND NEED

The LANDSAT system provides satellite pictures and data images of the ground. These topographic surveys and data are used for such purposes as mapping, coastal water imagery, hydrographic surveys, and resource monitoring. In response to the Presidential Directive on LANDSAT, NOAA is initiating studies and plans leading toward the ultimate transfer of this program to NOAA responsibility. These studies and plans are consonant with NOAA's existing authority under 33 U.S.C. 883(a) and (d) to conduct hydrographic and topographic surveys, and to conduct development work for the improvement of surveying and cartographic methods, instruments, and equipment.

Of this requested increase, 14 positions and \$500,000 will provide for management direction, technical planning, and clerical support to examine available alternatives and options. The remaining \$500,000 is required for contractual support to establish specifications and requirements for a future system leading to the award of alternative concept studies with industry in future years as required by OMB Circular A-109 regarding major system acquisition.

Summary of Requirements  
(dollar amounts in thousands)

Appropriation: Operations, research, and facilities

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
Mapping, charting, and surveying services:						
Aeronautical chart services.....	155	\$6,811	155	\$6,811	...	...
Nautical chart services.....	342	13,158	342	13,158	...	...
		(13,721)		(13,721)		
Ocean and coastal mapping, investigations, and services.....	242	13,313	242	13,313	...	...
Geodetic surveys and services.....	300	13,327	300	13,327	...	...
		(13,444)		(13,444)		
Subtotal.....	1,039	46,609	1,039	46,609	...	...
		(47,289)		(47,289)		
Ship support services:						
Ship operations.....	853	30,039	853	30,039	...	...
		(30,508)		(30,508)		
Ship base operations.....	187	16,423	187	16,423	...	...
Subtotal.....	1,040	46,462	1,040	46,462	...	...
		(46,931)		(46,931)		
Ocean fisheries and living marine resources:						
Marine resources monitoring, assessment and prediction.....	552	26,532	552	26,532	...	...
		(26,727)		(26,727)		
Conserving marine resources.....	520	25,586	520	25,586	...	...
		(26,408)		(26,408)		

Note. - Dollar amounts in parenthesis represent obligations.

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
Restoring and increasing fishery resources.....	151	\$18,775 (18,974)	151	\$18,775 (18,974)	...	...
Managing and using fishery resources.....	806	39,622 (40,909)	806	39,622 (40,909)	...	...
Fisheries financial support services.....	16	367	16	367	...	...
Subtotal.....	2,045	110,882 (113,385)	2,045	110,882 (113,385)	...	...
Marine ecosystems analysis and ocean dumping:						
Marine ecosystems investigations.....	128	16,517	128	16,517	...	...
Marine technology:						
Oceanographic instrumentation, development and calibration.....	98	3,885	98	3,885	...	...
Ocean engineering.....	69	11,765 (13,740)	69	11,765 (13,740)	...	...
Subtotal.....	167	15,650 (17,625)	167	15,650 (17,625)	...	...
Sea grants:						
Sea grant.....	28	38,703	28	38,703	...	...
Basic environmental services:						
Basic observations.....	1,607	64,837 (68,571)	1,607	64,837 (68,571)	...	...
Basic communications.....	149	10,903 (11,694)	149	10,903 (11,694)	...	...
Basic weather analysis and predictions.....	359	26,914 (27,014)	359	26,914 (27,014)	...	...
Maintenance and repair.....	580	30,877 (33,236)	580	30,877 (33,236)	...	...
Subtotal.....	2,695	133,531 (140,513)	2,695	133,531 (140,513)	...	...

Note. - Dollar amounts in parenthesis represent obligations.

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
Environmental satellite services:						
Operations.....	580	\$37,607 (36,254)	594	\$38,607 (39,254)	+14	+\$1,000
Basic environmental services support.....	...	14,949 (14,984)	...	14,949 (14,984)	...	...
Environmental warning services support.....	...	30,022 (30,913)	...	30,022 (30,913)	...	...
Development and application of satellite technology.....	122	8,134	122	8,134	...	...
Subtotal.....	702	90,712 (92,285)	716	91,712 (93,285)	+14	+\$1,000
Public forecast and warning services:						
Public weather services.....	986	49,200 (54,397)	986	49,200 (54,397)	...	...
Marine prediction services.....	133	8,355 (8,490)	133	8,355 (8,490)	...	...
Hurricane and tornado warning services.....	182	13,410 (13,884)	182	13,410 (13,884)	...	...
River and flood forecast and warning services..	314	14,677 (14,970)	314	14,677 (14,970)	...	...
Subtotal.....	1,615	85,642 (91,741)	1,615	85,642 (91,741)	...	...
Specialized environmental services:						
Air pollution and fire weather services.....	108	3,450	108	3,450	...	...
Agricultural weather services.....	93	4,511	93	4,511	...	...
Aviation weather services.....	778	25,220	778	25,220	...	...
Upper atmosphere and space services.....	132	7,355	132	7,355	...	...
Subtotal.....	1,111	40,536	1,111	40,536	...	...

Note. - Dollar amounts in parenthesis represent obligations.

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Environmental data and information services:						
Environmental data and information services.....	541	\$24,096 (26,139)	541	\$24,096 (26,139)	...	...
Global monitoring of climatic change:						
Air quality observations and analysis.....	37	4,136	37	4,136	...	...
Weather modification:						
Modification of severe and convective storms....	116	8,341	116	8,341	...	...
International projects:						
Global atmospheric research program.....	43	5,448	43	5,448	...	...
Great Lakes research.....	63	3,249	63	3,249	...	...
Subtotal.....	106	8,697	106	8,697	...	...
Retired pay, commissioned officers:						
Retired pay, commissioned officers.....	...	2,965	...	2,965	...	...
Executive direction and administration:						
Executive direction and administration.....	952	33,871 (36,555)	952	33,871 (36,555)	...	...
Total requirements.....	12,322	707,350 (732,460)	12,336	708,350 (733,460)	+14	+81,000

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Note. - Dollar amounts in parenthesis represent obligations.

Justification for Proposed Supplemental

Activity: Environmental Satellite Services

Subactivity: Operations

	(dollar amounts in thousands)					
	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Command and data acquisition.....	180	\$10,587	180	\$10,587	...	...
Data processing and analysis.....	228	9,343	228	9,343	...	...
		(9,427)		(9,427)		
Field station operations.....	96	9,936	96	9,936	...	...
		(10,465)		(10,465)		
Technical management and engineering..	76	7,741	90	8,741	+14	+1,000
		(7,775)		(8,775)		
Total requirements.....	580	37,607	594	38,607	+14	+1,000
		(38,254)		(39,254)		
Technical management and engineering..	76	7,741	90	8,741	+14	+1,000
		(7,775)		(8,775)		

NOAA requests 14 positions and \$1,000,000 to provide the technical, scientific, and management support necessary to begin the implementation of NOAA's responsibility for a future operational land remote sensing satellite system. Of this increase 14 positions and \$500,000 will provide for the necessary management direction, technical planning, and clerical support to examine available alternatives and options. The remaining \$500,000 is required for contractual support to establish specifications and requirements for a future system, leading to the award of alternative concepts studies with industry in future years as required by OMB Circular A-109 regarding major system acquisition.

The United States has the technological leadership in land remote sensing from space which has developed through NASA's LANDSAT research program. Information obtained from this civilian program has proven extremely valuable in demonstrating the social and economic benefits not only to the United States, but also to the entire world through the ability to translate space remote sensing observations into agri-

cultural crop assessments, population growth monitoring, geological analyses related to the extraction of petroleum and minerals, pollution appraisals, and many other related applications. During FY 1979, the President directed a series of studies relating to various aspects of national space policy, including remote sensing systems, private sector involvement (in remote sensing systems), and international coordination and cooperation in space. One of the results of these policy studies has been the designation of NOAA to develop a plan for implementation of the National civil remote sensing system which will continue to provide the sensor data required by United States' interests including Federal, State, and local government needs as well as those of the private sector. Continuity of land remote sensing data is a subject that has been examined extensively in the recent space policy studies directed by the President, and in hearings on proposed earth resources legislation in both the House and the Senate in recent years. Strong support for continuing this program has been expressed by the user agencies, commercial users, and other nations which have been involved in the LANDSAT program. As a result, the President is proposing continuing the program through the 1980's.

The 14 people, assisted by a team of experts from other agencies will perform those studies and analyses required to specify the user requirements for a future system, and to explore options and alternatives for future government-industry partnerships in satellite remote sensing of the land. Requirements of Federal agencies, state and local governments, and commercial users will be determined, validated, and prioritized. Alternative technologies (including those in this nation's R&D plans and those planned or existing programs in other nations) which can be used to meet these requirements will be examined. Trade-off analyses will be conducted to define a system based on new technology that meets the highest priority national requirements at the lowest cost to the government. Statements of national policy on security issues, unrestricted access to data from U.S. civil space programs, maintaining U.S. technological leadership, and cooperation with other national systems must be included in the definition study. The \$500,000 will provide general contract support of these efforts with special emphasis on the analyses of user requirements and the examination of alternative concepts, steps that must be taken before the full procurement process for this major system acquisition can be initiated.

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The position and object class detail for the increase follows:

	<u>GRADE</u>	<u>NUMBER</u>	<u>ANNUAL SALARY</u>	<u>LOCATION</u>
External Affairs Director*	GS-15	1	\$ 40,832	Suitland, MD
Policy Formulation Specialist	GS-15	1	40,832	Suitland, MD
Supervisory Physical Scientist	GS-15	3	122,496	Suitland, MD
International Coordinator	GS-14	1	34,713	Suitland, MD
Private Sector Coordinator	GS-14	1	34,713	Suitland, MD
Aerospace Engineer	GS-14	1	34,713	Suitland, MD
Electronics Engineer	GS-14	1	34,713	Suitland, MD
System Analyst	GS-14	1	34,713	Suitland, MD
Contract Specialist	GS-14	1	34,713	Suitland, MD
Secretary	GS-7	1	13,925	Suitland, MD
Secretary (Typing)	GS-6	1	12,531	Suitland, MD
Clerk (Typing)	GS-5	1	11,243	Suitland, MD
Total salaries		14	450,137	
Less lapsa		-6.4	-206,537	
Total compensations		7.6	243,600	
Personnel Benefits			170,100	
Travel & Transportation of Persons			9,800	
Transportation of things			24,000	
Rent, Communications, and Utilities			14,000	
Printing and Reproduction			2,100	
Other Services			523,100	
Supplies and Materials			2,100	
Equipment			11,200	
TOTAL			1,000,000	

\*NOAA is requesting OPM to establish this position at the ES-5 level.

NOAA-9

**Summary of Requirements by Object Class**  
 (dollar amounts in thousands)

**Appropriation: Operations, research, and facilities**

<u>Object class</u>	1980 Presently available			1980 Revised estimate			1980 Proposed supplemental		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
11 Personnel compensation:									
11.1 Permanent positions....	12,322	11,873	\$268,154	12,336	11,881	\$268,398	+14	+8	+\$244
11.3 Positions other than permanent.....	1,442	1,442	20,720	1,442	1,442	20,720	...	...	...
11.5 Other Personal compensation.....			16,770			16,770			
Total.....	13,764	13,315	305,644	13,778	13,323	305,888	+14	+8	+\$244
Other objects:									
12 Personnel benefits....			31,621			31,791			+170
13 Benefits for former personnel			3,302			3,302			...
21 Travel and transportation of persons....			12,085			12,095			+10
22 Transportation of things.....			4,484			4,508			+24
23.1 Standard level user charges.....			14,224			14,238			+14
23.2 Other rent, communications, and utilities.....			33,054			33,054			...
24 Printing and reproduction.....			1,876			1,878			+2
25 Other services.....			150,453			150,976			+523
26 Supplies & Materials..			38,832			38,834			+2
31 Equipment.....			45,293			45,304			+11
32 Lands & structures....			3,997			3,997			...
41 Grants, subsidies, and contributions.....			62,440			62,440			...
42 Insurance claims and indemnities.....			45			45			...
Total requirements..			707,350			708,350			+1,000

**Justification by Object Class**  
(dollar amounts in thousands)

<u>Object class</u>	1980 Presently available			1980 Revised estimate			1980 Proposed supplemental		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
11.1 <u>Permanent positions</u>									
Executive level.....	3	3	\$150	3	3	\$150	...	...	...
Senior Executive level.....	145	145	6,991	145	145	6,991	+14	+8	+244
General schedule.....	10,732	10,410	238,889	10,746	10,418	239,133			
Commissioned officers.....	399	395	7,128	399	395	7,128	...	...	...
Wage board/wage marine.....	1,038	915	14,787	1,038	915	14,787	...	...	...
P.L. 80-313.....	5	5	209	5	5	209	...	...	...
Total, permanent positions.....	12,322	11,873	268,154	12,336	11,881	268,398	+14	+8	+244
An increase of 14 positions is justified under program changes elsewhere in this submission.									
11.3 <u>Positions other than permanent</u>									
General schedule.....	1,174	1,174	14,786	1,174	1,174	14,786	...	...	...
Wage board/wage marine.....	259	269	3,933	259	259	3,933	...	...	...
Consultants and experts.....	9	9	2,001	9	9	2,001	...	...	...
Total, positions other than permanent.....	1,442	1,442	20,720	1,442	1,442	20,720	...	...	...
11.5 <u>Other personnel compensation</u>									
Overtime.....			9,499			9,499	...	...	...
Other.....			7,271			7,271	...	...	...
Total, other per- sonnel compensation.....			16,770			16,770	...	...	...

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<u>Object Class</u>	1980 Presently available			1980 Revised estimate			1980 Proposed supplemental		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
12.1 <u>Personnel benefits:</u>									
Civil Service retirement.....			\$17,914			\$17,931			+\$17
Federal Insurance Contributions Act (FICA).....			1,093			1,093			...
Health Insurance.....			6,253			6,259			+6
Life Insurance.....			1,267			1,268			+1
Uniform allowances...			13			13			...
Overseas allowances..			2,205			2,205			...
Other.....			<u>2,876</u>			<u>3,028</u>			+16
Total, personnel benefits.....			31,621			31,791			+170
13.0 <u>Benefits for former personnel</u> .....			3,302			3,302			...
21.0 <u>Travel and Transpor- tation of persons</u>									
Aircraft rental.....			111			111			...
GSA vehicles.....			395			395			...
Administrative travel.....			755			758			+3
Program travel.....			<u>10,824</u>			<u>10,831</u>			+7
Total, travel and transportation of persons.....			12,085			12,095			+10

656

<u>Object class</u>	1980 Presently available			1980 Revised estimate			1980 Proposed supplemental		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
22.0 <u>Transportation of things</u>									
Transportation of household goods....		\$689			\$713			+\$24	
Other.....		<u>3,795</u>			<u>3,795</u>			...	
Total, transportation of things.....		4,484			4,508			+24	
23.1 <u>Standard level user charges</u> .....		14,224			14,238			+14	
23.2 <u>Other rent, communications, and utilities</u>									
Federal Telecommunications System....		655			655			...	
Other telephone, telegraph and teletype services..		19,070			19,070			...	
Postal services by USPS.....		96			96			...	
Rent payments to other than GSA.....		2,311			2,311			...	
Rental of automatic data processing equipment.....		2,298			2,298			...	
Rental of office copying equipment...		638			638			...	
Other.....		<u>7,986</u>			<u>7,986</u>			...	
Total, other rent, communications and utilities.....		33,054			33,054			...	

<u>Object class</u>	1980 Presently available			1980 Revised estimate			1980 Proposed supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
24.0 <u>Printing and reproduction</u> .....			\$1,876		...	\$1,878			+1
25.0 <u>Other services</u>									
Contracts for research.....			9,050		...	9,050			...
University training..			351		...	351			...
Other training.....			670		...	670			...
Maintenance of equipment.....			2,793		...	2,793			...
GSA alterations and repairs.....			447		...	447			...
Other Federal agencies.....			83,669		...	83,681			+12
Other.....			<u>53,473</u>		...	<u>54,984</u>			+511
Total, other services.....			150,453		...	150,976			+523
26.0 <u>Supplies and materials</u>									1981
Chart paper.....			400		...	400			...
Meteorological upper air supplies.....			6,023		...	6,023			...
Gases (helium, hydrogen).....			792		...	792			...
ADP supplies.....			979		...	979			...
General office supplies.....			1,841		...	1,841			...
Other.....			<u>28,797</u>		...	<u>28,799</u>			+2
Total, supplies and materials....			38,832		...	38,834			+2

<u>Object class</u>	1980 Presently available			1980 Revised estimate			1980 Proposed supplemental		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
<u>31.0 Equipment</u>									
ADP equipment.....		\$16,565			\$16,565				
Office machines and equipment.....		809			809				
Operating program equipment (capitalized).....		22,381			22,381				
Non-capitalized.....		5,538			5,549				+11
Total, equipment...		45,293			45,304				
<u>32.0 Lands and structures..</u>		3,997			3,997				
<u>41.0 Grants, subsidies and contributions.....</u>		62,440			62,440				
<u>42.0 Insurance claims and Indemnities.....</u>		45			45				

Mr. HIGHTOWER. Do you have a general statement in regard to the supplemental?

Mr. FRANK. Yes, sir. I believe that statement has been presented to you on the subject. It has to do with the LANDSAT system I mentioned earlier in the testimony in the fiscal year 1981 appropriation request.

[See Part 5 of the hearings of the State, Justice and Commerce Subcommittee in the fiscal year 1981 budget for Mr. Frank's general statement.]

#### PRESIDENT'S DIRECTIVE ON LANDSAT

Mr. HIGHTOWER. On page 2 of the justifications, you mention the President's directive on LANDSAT. Can you tell the Committee what the directive said with respect to NOAA's responsibilities for that project?

Mr. FRANK. Yes, sir. The President made some fundamental decisions in that project; first, that NOAA would be responsible for all civilian operational satellites. We of course already operated the meteorological satellites. NASA has been responsible for experimental satellites. One system which is to become operational, LANDSAT, thus would go to NOAA.

Another system, the National Oceanic Satellite System, would come to NOAA if, in fact, that system becomes operational. For the time being, of course, we will have a demonstration system run by three agencies. It was therefore a basic decision to pull all civil operational satellites together. I think one of the reasons for that—and an objective we should follow, certainly—is the efficiencies that might result. That is, ultimately if there is a LANDSAT or an earth remote sensing system, an ocean remote sensing system and a meteorological system, we will try to combine them in a way to use vehicles for more than one purpose, thereby reducing costs.

The President also decided that LANDSAT would come to NOAA. He decided that Defense and civilian satellites would not be combined for a variety of reasons. He also made a decision with respect to the tri-agency operation of the demonstration system in NOSS.

Mr. HIGHTOWER. You speak of transferring the program ultimately to NOAA. When do you expect that to occur?

Mr. FRANK. It will be gradual between now and 1987 or 1988, when the first of the new generation vehicles will be launched. I think we will take over part of the system within a couple of years and then gradually take over other parts of the system so that it will be a smooth operation.

Mr. HIGHTOWER. The justification indicates that NOAA's responsibilities at this time involve initiating studies and plans toward the ultimate transfer of this program to NOAA responsibility. How long do you anticipate this planning process to take?

Mr. FRANK. Well, we have one plan which is due June 1 this year. That is the transition plan. I would guess that the planning process will continue for many years thereafter in one form or another. It will change in character, however. We need planning for the technology; that is what the next generation system should be. We need planning on increasing users and being assured that the system satisfies user requirements.

There is a substantial international component of this system; that is, other countries have satellites. We want them to be complementary. Other countries' satellites will be competing with ours. We would like to meet that competition and succeed. Countries will be interested in using our products. We want to be sure they are the right products for them.

The President has also decided that this system or parts of this system ultimately should be operated, if possible, by the private sector. Designing a system and encouraging the private sector to bid for operation of it will be a difficult task. It is difficult because the information that will be generated by the system will be extremely valuable. If it is transferred to the private sector, we will have to be assured that the information will then be used for the public benefit and not for the benefit of the operator.

Mr. HIGHTOWER. You are asking us to appropriate money for this planning?

Mr. FRANK. Yes, sir.

Mr. HIGHTOWER. And then, if in the cutting process it is not there, what happens?

Mr. FRANK. Unless we can find the funds elsewhere, it will delay the development of the LANDSAT or earth remote sensing system.

#### LANDSAT AUTHORIZATION

Mr. HIGHTOWER. As I understand the situation, NOAA at the present time doesn't have the statutory authority to operate a LANDSAT system. Is that correct?

Mr. FRANK. Well, there is some question about that. I think one could probably find enough general legislation to conclude that we do have authorization. I would not be concerned and perhaps you would not be concerned if we were talking about small sums.

I think even though we might find that authorizing legislation in general legislation that we have, I would suggest it would be prudent for the Congress to focus on the issue specifically, since we are talking about a very expensive system, and it would be preferable even from our point of view to have specific authorizing legislation. That is, I think we are making a very basic national decision here, one that involves substantial funds. Therefore, I would recommend that before substantial funds are spent, authorizing legislation is introduced and passed.

Mr. HIGHTOWER. Is there an authorization proposal under consideration at the present time?

Mr. FRANK. Yes, sir. We have been discussing that within the administration, and several of the authorizing committees have been discussing it.

Mr. HIGHTOWER. It has not actually been submitted?

Mr. FRANK. That is correct. No bill has been introduced.

Mr. HIGHTOWER. Why wouldn't it be better to wait for such an authorization before initiating substantial plans?

Mr. FRANK. I am not sure that it would be. That is, if we are talking about figures of this amount, we have in the total 1980 supplement and 1981 budget only \$1.2 million. It seems to me that that is not the kind of amount that one would be concerned about authorizing legislation.

On the other hand, there is a possibility that we would have a budget amendment or a supplemental later of substantial amounts. Even if we did not do that, I think by the time we got to the fiscal year 1982 budget, we would start talking about substantial amounts. In light of that I believe it would be wise to start progressing, considering authorizing legislation, and then if it is approved, thought to be a wise program, to pass it.

Mr. HIGHTOWER. But, if we proceed with the studies, we might be studying something that Congress might decide not to authorize.

Mr. FRANK. Yes. Of course that often happens. I think the exposure here is not great because of the small amounts of money involved. I think these studies will indicate to Congress precisely what the program will be.

Mr. HIGHTOWER. Is this planning program a one-time requirement?

Mr. FRANK. We are going to need planning funds over a several-year period.

#### POSITIONS

Mr. HIGHTOWER. Is that the reason you asked for 14 permanent positions?

Mr. FRANK. Yes, sir. Well, part of those positions will be related to planning and part of those positions ultimately will be used in assuming some responsibilities for the operation of the system.

Mr. HIGHTOWER. Wouldn't it be more economical to contract for the entire requirement?

Mr. FRANK. A lot of this will involve very basic governmental operation. I do not think we can contract for it. I might say that in the satellite area we do a substantial amount of contracting. We are probably contracted to more than other parts of NOAA, percentagewise, and we have contracted out probably as much as we can.

#### LANDSAT BUDGET AMENDMENT

Mr. HIGHTOWER. I understand that a budget amendment to fund the operational aspects of this program is being considered within the Department of Commerce and could be submitted later this spring, along with an authorizing proposal. In view of the President's review of the current budgetary situation and his attempts to cut the budget and reduce expenditures, do you think that a budget amendment will still be submitted to the Congress?

Mr. FRANK. That is hard to speculate on. We have two competing interests. One is the President's desire to proceed with the earth remote sensing program, and the other is the desire to balance the budget. I don't know how that will come out. It will depend, to a great extent, on what other cuts are available.

Mr. HIGHTOWER. What would be the amount of that budget amendment?

Mr. FRANK. We are considering a budget amendment in the \$30 million to \$50 million range.

Mr. HIGHTOWER. If the amendment is not submitted, is there any need to appropriate these supplemental funds for the study?

Mr. FRANK. Absolutely, for the \$1,000,000 in 1980 and also for the \$200,000 that is included in the 1981 budget. We still want to proceed with the studies. Indeed, I have always been concerned that the studies

would somehow fall behind; that is, not be able to proceed quickly enough. If we are going to have a LANDSAT system, and if we are going to have one in this decade, we ought to have these funds to start these studies.

#### LAPSE RATE

Mr. HIGHTOWER. What is the lapse rate associated with these positions?

Mr. FRANK. We are projecting a lapse of 6.4 out of 14, which is just below 50 percent.

Mr. HIGHTOWER. Then, you are assuming that you will get funds around April 1?

Mr. FRANK. That is correct, during the normal process.

#### POLICY AND INTERNATIONAL ISSUES

Mr. HIGHTOWER. I notice on page 9 of the justifications there is a request for a position called External Affairs Director. What does that have to do with planning the technical aspects of this project?

Mr. FRANK. Some of these are not technical in the sense that you are talking about. There is external affairs, policy formulation, and international coordination. Let me indicate what these activities are about. We have substantial policy and international issues involved here. For example, in the international arena, we have an opportunity here for the United States to make sales of ground stations. We want foreign countries to procure our product, and it will be lucrative in the sense that we will be able to reimburse the cost of the system. We hope that the system will be self-supporting eventually. We have other kinds of equipment besides the ground equipment.

Mr. HIGHTOWER. Do you have income from such sales at the present time?

Mr. FRANK. Yes, sir, the Federal Government does. Since it is an experimental system, it is being run by NASA. NASA gets \$200,000 from each of the half dozen ground stations presently in operation.

#### PERSONNEL BENEFITS

Mr. HIGHTOWER. I notice on page 12 that \$146,000 of the request is in the Other category under personnel benefits. What would those funds be used for—overtime or what else?

Mr. FRANK. You are talking about the 12?

Mr. HIGHTOWER. On page 12.

Mr. FRANK. Which figure?

Mr. HIGHTOWER. \$146,000 in the Other category.

Mr. FRANK. These are the normal benefits which are provided to employees.

Mr. HIGHTOWER. Are these positions Civil Service? Are the funds for retirement and health benefits?

Mr. FRANK. Yes, sir.

Mr. HIGHTOWER. But this is a special category just listed as "Other." The ones I named have amounts.

Mr. FRANK. That could be relocation amounts and the like.

Mr. HIGHTOWER. If you would like to expand on that for the record, we will appreciate it.

**Mr. FRANK.** I will be happy to.

[The following information was submitted :]

In pricing out the cost of a new program, NOAA allots \$10,500 for each full-time permanent position in the initial year of the appropriation for permanent change of station to cover such expenses as real estate costs, miscellaneous moving expenses, and temporary quarters allowance. In the recurring year these funds are used to cover full-year salaries and benefits.

#### **COASTAL ZONE MANAGEMENT**

**Mr. HIGHTOWER.** The second supplemental request for NOAA is for Coastal Zone Management. The fiscal year 1980 supplemental budget request submitted to Congress for this item is \$6 million. We will insert pages NOAA 16 through NOAA 26 in the record at this point.

[The justification materials follow :]

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coastal Zone Management  
Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>	<u>Employment</u>	<u>Perm. Pos.</u>	<u>Average Total Employment</u>
Presently available..... \$64,675,000	Presently available.....	115	115
Revised estimate..... 70,675,000	Revised estimate.....	115	115
Proposed supplemental..... 6,000,000	Proposed supplemental.....	...	...

STATEMENT OF PURPOSE AND NEED

The Coastal Zone Management Act (CZMA) of 1972 (P.L. 92-583), was enacted to encourage and assist states in dealing with the increasing and competing demands upon the Nation's coastal areas. The growth of older cities, birth of new urban areas, development of offshore resources, recreation movement and conservation efforts involved deep socio-economic, technological and scientific changes. The Nation's coastal areas have, and will, continue to experience dramatic changes of this nature resulting in increased demands on all resources. Coastal Zone Management was designed to provide regulation of the development of these land-sea interface areas.

Program administration grants -- Section 306 of the CZMA provides for annual grants to coastal state and territorial governments for the administration of coastal zone management programs approved by the Secretary of Commerce. The approved state/territorial management program must be a comprehensive statement, comprised of words, maps, and illustrations that set out the state's, or territory's, objectives for how coastal lands and waters should be used. The organization and authority that the state/territory will employ to achieve these objectives must also be established. Various levels of government within a state/territory, including local government, must be accorded a substantial role in the implementation of the management program.

The first five years of Program Administration grants will be provided on a 80 percent Federal, 20 percent state, matching basis. The Federal share will phase down annually, beginning with the sixth year from 66 percent, to 50 percent, and finally to 33 percent. At the 33 percent level, assistance will be used entirely for defined areas of national need. State consideration of national needs begins in the second year of full Section 306 funding. Each state will be required to expend 20 percent of its grant on some or all of the following four areas of national concern: (1) protection of significant natural systems; (2) management of coastal development; (3) public access to the coast; and (4) coordination and simplification of government procedures. Through FY 1979, 19 states/territories have achieved program approval status.

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Summary of Requirements  
(dollar amounts in thousands)

Appropriation: Coastal zone management

<u>Comparison by activities:</u>	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Coastal zone management:						
Program development grants.....	...	...	...	...	...	...
		(9984)		(9984)		
Program administration grants.....	...	27,212	...	33,212	...	\$6,000
		(27,284)		(33,284)		
Energy impact formula grants.....	...	27,750	...	27,750	...	...
		(33,020)		(33,020)		
Estuarine sanctuaries.....	...	3,000	...	3,000	...	...
Marine sanctuaries.....	4	1,750	4	1,750	...	...
		(1,764)		(1,764)		
Program management.....	111	4,963	111	4,963	...	...
		(5,053)		(5,053)		
Total requirements.....	115	64,675	115	70,675	...	6,000
		(71,105)		(77,105)		

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Note. - Dollar amounts in parenthesis represent obligations.

Justification for Proposed Supplemental

Activity: Coastal Zone Management  
Subactivity: Coastal Zone Management

	(dollar amounts in thousands)					
	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
<b>Coastal zone management</b>						
Program development grants.....	...	...	...	...	...	...
		(994)		(994)		
Program administration grants.....	...	27,212	...	33,212	...	\$6,000
		(27,284)		(33,284)		
Energy impact formula grants.....	...	27,750	...	27,750	...	...
		(33,020)		(33,020)		
Estuarine sanctuaries.....	...	3,000	...	3,000	...	...
Marine sanctuaries.....	4	1,750	4	1,750	...	...
		(1,764)		(1,764)		
Program management.....	111	4,963	111	4,963	...	...
		(5,053)		(5,053)		
Total requirements.....	115	64,675	115	70,675	...	\$6,000
		(71,105)		(77,105)		
Program Administration Grants.....	...	27,212	...	33,212	...	6,000

NOAA requests an increase of \$6,000,000 (object class 41.0) in FY 1980 for Section 306, to support six additional approved state/territorial coastal management programs. When combined with 20 previously approved programs, the 26 state/territorial coastal management system will encompass 86 percent of the national coastline and 78 percent of the coastal populations. Statistics relevant to this supplemental appropriation request follow:

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(dollar amounts in thousands)

<u>State/Territory</u>	<u>Federal Grant Share</u>	<u>Approval Date</u>
Alaska*	\$900	July-1979
American Samoa	400	Mid-1980
Connecticut	1,250	Late 1980
Mississippi	700	Mid-1980
New Hampshire	750	Late 1980
New Jersey**	700	Mid-1980
Northern Mariana Islands	300	Late-1980
Pennsylvania	1,000	Late-1980
TOTAL	6,000	

\* Partial year grant. Alaska program approved in FY 1979

\*\* Segmented grant. First New Jersey program segment approved in FY 1978.  
Entire state coastline now included in state management program.

Summary of Requirements by Object Class  
(dollar amounts in thousands)

Appropriation: Coastal zone management

<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Revised Estimate		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
<b>11 Personnel compensation:</b>									
11.1 Permanent positions.	115	93	\$2,605	115	93	\$2,605	...	...	...
11.3 Positions other than permanent.....	22	22	241	22	22	241	...	...	...
11.5 Other personnel compensation.....			26			26			...
Total.....	137	115	<u>2,872</u>	137	115	<u>2,872</u>	...	...	...
<b>Other objects:</b>									
12 Personnel benefits..			266			266			...
21 Travel and transportation of persons.			226			226			...
22 Transportation of things.....			17			17			...
23.1 Standard level user charges.....			309			309			...
23.2 Other rent, communications, and utilities.....			95			95			...
24 Printing and reproduction.....			125			125			...
25 Other services.....			2,313			2,313			...
26 Supplies and materials.....			45			45			...
31 Equipment.....			45			45			...
41 Grants, subsidies, and contributions.			<u>58,362</u>			<u>64,362</u>			<u>+\$6,000</u>
<b>Total requirements</b>			<b>64,675</b>			<b>70,675</b>			<b>+\$6,000</b>

Justification by Object Class  
 (dollar amounts in thousands)

<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Revised Estimate		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
11.1 <u>Permanent positions</u>									
Executive level...	5	5	\$251	5	5	\$251	...	...	...
General schedule..	110	88	2,354	110	88	2,354	...	...	...
Total, permanent positions	115	93	2,605	115	93	2,605	...	...	...
11.3 <u>Positions other than permanent</u>									
General schedule..	22	22	241	22	22	241	...	...	...
11.5 <u>Other personnel compensation</u>									
Overtime.....			26			26			...
12.1 <u>Personnel benefits:</u>									
Civil Service retirement.....			194			194			...
Federal Insurance Contributions Act (FICA).....			5			5			...
Health Insurance..			46			46			...
Life Insurance....			12			12			...
Other: Employee awards, uniform allowances,moving allowances etc..			9			9			...
Total, personnel benefits.....			266			266			...

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<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Revised Estimate		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
21.0 <u>Travel and transportation of persons</u>									
Per diem.....			\$94			\$94			...
Air fare.....			113			113			...
Other common carrier.....			5			5			...
Privately-owned vehicles.....			9			9			...
Rental of charter vehicles.....			5			5			...
Total, travel and transportation of persons.....			226			226			...
22.0 <u>Transportation of things</u>									
Transportation of household goods.			10			10			...
Other.....			7			7			...
Total, transportation of things.....			17			17			...
23.1 <u>Standard level user charges</u>									
GSA rental space (SLUC).....			309			309			...
23.2 <u>Other rent, communications, and utilities.....</u>			95			95			...

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<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Revised Estimate		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
24.0 <u>Printing and reproduction.....</u>			\$125			\$125			...
25.0 <u>Other services</u>									
Training									
University.....			2			2			...
Civil Service									
Commission....			1			1			...
Other.....			...			...			...
Contracts for									
research.....			348			348			...
Other Federal									
agencies.....			365			365			...
Non-Federal									
agencies.....			20			20			...
All other.....			<u>1,577</u>			<u>1,577</u>			...
Total, other									
services.....			2,313			2,313			...
26.0 <u>Supplies and materials</u>									
Operating program									
supplies.....			29			29			...
General office									
supplies.....			<u>16</u>			<u>16</u>			...
Total, supplies									
and materials.			45			45			...
31.0 <u>Equipment</u>									
Office machines									
and equipment...			45			45			...
41.0 <u>Grants, subsidies and contributions.</u>			58,362			64,362			+\$6,000

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STANDARD FORM 306

July 1964, Rev. 6c, of the Budget

Circular 54, GPO, 1964.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSOLIDATED SCHEDULE OF PERMANENT POSITIONS PAID FROM FUNDS AVAILABLE TO THE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

## DETAIL OF PERMANENT POSITIONS

NOMA-1

	1960 actual	1960 estimate	1960 estimate
	Presently Available	Revised Estimate	Proposed Supplemental
Executive level III-----	1	1	...
Executive level IV-----	2	2	...
Subtotal-----	3	3	...
ES-6-----	6	6	...
ES-5-----	7	7	...
ES-4-----	133	133	...
ES-2-----	1	1	...
ES-1-----	3	3	...
Subtotal-----	150	150	...
GS-17-----	2	2	...
GS-16-----	5	5	...
GS/GM-15-----	377	382	5
GS/GM-14-----	725	731	6
GS/GM-13-----	1,421	1,421	...
GS-12-----	1,592	1,592	...
GS-11-----	1,853	1,853	...
GS-10-----	1,236	1,236	...
GS-9-----	1,530	1,530	...
GS-8-----	420	420	...
GS-7-----	983	984	1
GS-6-----	553	554	1
GS-5-----	875	876	1
GS-4-----	322	322	...
GS-3-----	131	131	...

STANDARD FORM 306  
 (MAY 1960, Bureau of the Budget)  
 FORM NO. A-11, EDITION  
 306-100

DEPARTMENT OF COMMERCE  
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSOLIDATED SCHEDULE OF PERMANENT POSITIONS PAID FROM FUNDS AVAILABLE TO THE  
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
 DETAIL OF PERMANENT POSITIONS

NOAA-29

	1960 Actual	1960 Estimate	1960 estimate
	Presently Available	Revised Estimate	Proposed Supplemental
GS-2-----	16	16	...
GS-1-----	6	6	...
<b>Subtotal-----</b>	<b>12,045</b>	<b>12,059</b>	<b>14</b>
<b>Commissioned Officers:</b>			
0-8 \$34,000 to \$47,341-----	2	2	...
0-7 \$28,248 to \$41,165-----	4	4	...
0-6 \$20,942 to \$36,170-----	53	53	...
0-5 \$16,743 to \$29,906-----	55	55	...
0-4 \$14,124 to \$24,678-----	73	73	...
0-3 \$13,122 to \$21,340-----	102	102	...
0-2 \$11,440 to \$15,832-----	59	59	...
0-1 \$ 9,925 to \$12,493-----	51	51	...
<b>Subtotal-----</b>	<b>399</b>	<b>399</b>	<b>...</b>
Grades established by act of August 1, 1947 Public Law 80-313 (61 Stat. 715) as amended by Public Law 87-793 of October 11, 1962 (5 U.S.C. 3104); Scientific and Profes- sional \$50,113-----	4	4	...
Grade established by the Governor of the Canal Zone:			
CZ-10, \$18,760 to \$24,385-----	1	1	...
<b>Subtotal-----</b>	<b>5</b>	<b>5</b>	<b>...</b>
<b>Ungraded-----</b>	<b>1,038</b>	<b>1,038</b>	<b>...</b>
<b>Total permanent positions-----</b>	<b>13,640</b>	<b>13,654</b>	<b>14</b>
<b>Unfilled positions, end of year-----</b>	<b>-800</b>	<b>-800</b>	<b>...</b>
<b>Total permanent employment, end of    year-----</b>	<b>12,840</b>	<b>12,854</b>	<b>14</b>

**Mr. HIGHTOWER.** On page 19 of these justifications, you indicate that this request will provide support for six additional approved state/territorial coastal management programs. Do all of these states or territories currently qualify for such assistance?

**Mr. FRANK.** They have plans which are on the route to being approvable plans. They will be approved during the year. That is, they are in the program and are eligible for program funds. They will be eligible for 306 funds once approved. We expect them to be approved during the year.

**Mr. HIGHTOWER.** On page 20 of the justifications, you indicate that only one of the states that is in this proposed program has been approved. That was Alaska, which was approved in July of 1979. When do you expect the other states to receive program approval? You say mid-1980.

**Mr. FRANK.** Would you like dates that are more specific than those, sir?

**Mr. HIGHTOWER.** I think it would be good to have them for the record.

**Mr. FRANK.** I will be happy to provide those. I do not have them with me but I can give you our estimations of dates for these states.

[The information follows:]

The estimated scheduled approval dates for the six states/territories contained in the supplemental request are:

American Samoa.....	September 1980.
Connecticut.....	August 1980.
Mississippi.....	September 1980.
New Hampshire.....	September 1980.
Northern Mariana Islands.....	September 1980.
Pennsylvania.....	August 1980.

**Mr. HIGHTOWER.** We appreciate very much your patience and a very long day of testimony.

**Mr. FRANK.** Thank you, Mr. Hightower. It is a pleasure to be here, sir.

#### FISHERMEN'S GUARANTY FUND

[The President submitted a fiscal year 1980 supplemental request of \$930,000 for this item. This estimate was contained in H. Doc. 96-294 of April 15, 1980. Justification materials in support of this request follow:]

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Fishermen's Guaranty Fund  
Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>		<u>Employment</u>	<u>Perm. Pos.</u>	<u>Average Total Employment</u>
Presently available.....	\$521,000	Presently available.....	1	1
Revised estimate.....	1,451,000	Revised estimate.....	1	1
Proposed supplemental.....	930,000	Proposed supplemental.....	...	...

STATEMENT OF PURPOSE AND NEED

Subject to the provisions contained in the Fishermen's Protective Act, Section 7, the Secretary of Commerce is required to reimburse owners of fishing vessels seized and detained by a foreign country for all actual costs (not including fines and other direct charges which are reimbursed by the State Department) incurred by the owner, and up to 50 percent of lost income during the seizure and detention period. Reimbursements are to be made from the Fisherman's Guaranty Fund. Twenty-six claims totaling over \$900,000 are on file as a result of seizures by Brazil, Mexico, and Costa Rica, and additional claims are anticipated as a result of eight vessel seizures by Peru and sixteen by Canada.

Amendments to the Fishermen's Protective Act contained in Public Law 95-376 of September 18, 1978, stipulate that payments from this fund may be made only to such extent and in such amounts as are provided in advance in appropriation acts. As of January 31, 1980, there was \$1,382,738 on deposit, and an additional \$67,803 is anticipated to be collected during 1980. Of this amount \$521,000 has been appropriated and is available for expenditure.

This supplemental appropriation act is requested to provide the authority necessary to pay existing and anticipated claims.

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Fishermen's Guaranty Fund

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, there are appropriated not to exceed \$930,000 from the receipts collected pursuant to that Act, to remain available until expended.

Justification of Proposed Language.

Amendments to the Fishermen's Protective Act contained in Public Law 95-376 stipulate that payments from this fund may be made only to such extent and in such amounts as are provided in advance in appropriation acts. The proposed language will permit payments to be made from receipts collected pursuant to this act.

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**Summary of Requirements**  
(Dollar amounts in thousands)

Appropriation: Fishermen's Guaranty Fund

	Fees Per Person	Amount
Appropriations currently available, 1960		...
Previous years' appropriations available		630
Collections available for appropriation of 1960		1,161
Balance at start of year		1,161
Anticipated collections	100	100
Total funds available		1,461
Total 1960 requirements		1,461
Previous years' appropriations available		-221
Appropriation required (from collections)		939

	1960 Fees Per Person	Proposed Supplemental Fees Per Person	Amount
Comparison by activities			
Fishermen's Guaranty Fund			
Administrative expenses	220	220	...
Payment of claims	393	(260)	939
Total requirements	613	(560)	939

Note. - Dollar amounts in parenthesis represent collections.

Justification for Proposed Supplemental

Activity: Ocean fisheries and living marine resources  
Subactivity: Fisheries financial support services

	(dollar amounts in thousands)					
	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
<b>Fishermen's guaranty fund</b>						
Administrative expenses.....	1	\$28	1	\$28	...	...
Payment of claims.....	...	493	...	1,423	...	\$930
		(463)				(960)
Total requirements.....	1	521	1	1,451	...	930
		(491)				(960)

Note. - Dollar amounts in parenthesis represent obligations.

NOAA requests authority to expend \$930,000 (object class 42.0) for reimbursements and administrative costs for twenty-six claims totaling over \$900,000 now on file as a result of seizures by Brazil, Mexico, and Costa Rica, plus anticipated claims as a result of eight vessel seizures by Peru and sixteen by Canada.

Subject to the provisions contained in the Fisherman's Protective Act, Section 7, the Secretary of Commerce is required to reimburse owners of fishing vessels seized and detained by a foreign country for all actual costs (not including fines and other direct charges which are reimbursed by the State Department) incurred by the owner, and up to 50 percent of lost income during the seizure and detention period. The Fisherman's Guaranty Fund, was established for this purpose and as of January 31, 1980, there was \$1,382,738 on deposit in the fund, and an additional \$67,803 is anticipated to be collected during 1980. Of this amount \$521,000 has been appropriated and is available for expenditure. An additional appropriation of \$930,000 of available receipts is necessary to provide authority to pay the twenty-six existing claims and anticipated claims. Although the exact amount of the anticipated claims is not known, appropriation of the available receipts will enable NOAA to make prompt payments to the vessel owners.

Summary of Requirements by Object Class  
(dollar amounts in thousands)

Appropriation: Fishermen's guaranty fund

<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
<b>11 Personnel compensation:</b>									
11.1 Permanent positions.	1	1	\$21	1	1	\$21	...	...	...
<b>Other objects:</b>									
12 Personnel benefits..			2			2			...
21 Travel and transportation of persons.			1			1			...
22 Transportation of things.....			1			1			...
23.2 Communications, utilities, and other rent.....			2			2			...
25 Other services.....			1			1			...
42 Insurance claims and indemnities.....			<u>493</u>			<u>1,423</u>			<u>8930</u>
Total requirements			<u>521</u>			<u>1,451</u>			<u>930</u>

**Justification by Object Class**  
 (dollar amounts in thousands)

<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
11.1 <u>Permanent positions</u> General schedule..	1	1	\$21	1	1	\$21	...	...	...
12.1 <u>Personnel benefits:</u> Civil Service retirement.....			2			2			...
21.0 <u>Travel and transportation of persons</u> Program travel....			1			1			...
22.0 <u>Transportation of things</u> Other.....			1			1			...
23.2 <u>Communications, utilities, and other rent.....</u> Federal Telecommunications System Other..... Total, communications, utilities, other rent....			1			1			...
25.0 <u>Other services</u> Other.....			2			2			...
42.0 <u>Insurance claims and indemnities.....</u>	493			1,423			8930		500

STANDARD FORM 300  
By the Secretary of the Treasury  
General 2-11, 1964  
GSA GEN. REG. NO. 27

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
FISHERMEN'S GUARANTY FUND

NOAA

## Program and Financing (in thousands of dollars)

Identification code	\$'00 <del>XXXX</del>	\$'00 <del>XXXX</del>	\$'00 <del>XXXX</del>
	Presently Available	Revised Estimate	Proposed Supplemental
<u>Program by activities:</u>			
Ocean fisheries and living marine resources (costs--obligations)....	491	1,451	960
10.00 Total program costs, funded--obligations.....	491	1,451	960
<u>Financing:</u>			
14.00 Offsetting collections from: Non-Federal sources.....	-200	-300	-100
21.98 Unobligated balance available, start of year: Fund balance.	-1,131	1,151	...
24.98 Unobligated balance available, end of year: Fund balance...	860	...	-860
Budget authority.....	...	...	...
<u>Relation of obligations to outlays:</u>			
71.00 Obligations incurred, net.....	291	1,131	860
73.98 Obligated balance, start of year: Fund balance.....	76	76	...
74.98 Obligated balance, end of year: Fund balance.....	-67	-67	...
90.00 Outlays.....	300	1,160	860

**COASTAL ENERGY IMPACT FUND**

[The President submitted a proposed fiscal year 1980 rescission of \$50,000 for this item. This proposal, Rescission No. R80-11, was contained in H. Doc. 96-299 of April 16, 1980. Justification materials in support of the request follow:]

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

COASTAL ENERGY IMPACT FUND  
SUPPLEMENTAL BUDGET REQUEST  
FISCAL YEAR 1980

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Congressional Submission  
April 1980

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Coastal Energy Impact Fund  
Supplemental Budget Request  
Fiscal Year 1980

<u>Funding</u>		<u>Employment</u>	<u>Perm. Pos.</u>	<u>Average Total Employment</u>
Presently available.....	\$132,590,000	Presently available.....	13	13
Revised estimate.....	82,590,000	Revised estimate.....	13	13
Proposed supplemental.....	-50,000,000	Proposed supplemental.....	...	...

STATEMENT OF PURPOSE AND NEED

A Coastal Energy Impact Program was authorized by Section 308 of the Coastal Zone Management Act Amendments of 1976, P.L. 94-370, to provide Federal financial assistance to coastal states, and their local governments, in planning and responding to the impacts of Outer Continental Shelf (OCS) and other energy development activities.

Loans, guarantees, and repayment assistance -- This program is authorized under Section 308(d)(1), (2), and (3) of the amended Act. It provides front-end financing assistance to states and communities affected by coastal dependent energy activities such as offshore oil and gas drilling, liquefied natural gas terminals, and deepwater ports. Such projects draw new population into project areas, thus creating a need for new or expanded public facilities and services. The program is targeted to those communities which: do not have access to capital markets because of either their small size or the risk inherent in the energy development itself, have a tax base which is not sufficient to raise capital privately, or for which the construction is for local and state environmental or recreational projects which are not expected to be high revenue producers. The CEIP credit assistance program is operating on prior year funds.

A budget supplemental of -\$50,000,000 is requested to reflect NOAA's proposed FY 1980 rescission in the Coastal Energy Impact Fund Loan and Loan Guarantee Program.

The rescission is proposed as part of the Administration's effort to reduce the inflationary impact of Federal spending on the general economy and to provide for a balanced budget in FY 1981.

(S)

**OBJECT CLASSIFICATION**  
(in thousands of dollars)

	1979 <u>Actual</u>	1980 <u>est.</u>	1981 <u>est.</u>
<b>Personnel compensation:</b>			
11.1 Permanent positions.....	2,352		
11.3 Positions other than permanent..	65		
11.5 Other personnel compensation....	4		
11.8 Special personal services payments.....	33		
Total personnel compensation....	2,454		
12.1 Personnel benefits: Civilian....	238		
21.0 Travel and transportation of persons.....	59		
23.1 Standard level user charges....	338		
23.2 Communications, utilities, and other rent.....	230		
24.0 Printing and reproduction.....	47		
25.0 Other services.....	260		
26.0 Supplies and materials.....	50		
31.0 Equipment.....	45		
<b>99.0 Total obligations.....</b>	<b>3,721</b>		

**PERSONNEL SUMMARY**  
(in thousands of dollars)

	1979 <u>Actual</u>	1980 <u>est.</u>	1981 <u>est.</u>
Total compensable workyears.....	98		
Average GS grade.....	10.10		
Average GS salary.....	\$26,195		

## APPROPRIATION LANGUAGE

**Mr. SMITH.** Why does the appropriation language in the justifications show a figure of \$69,021,000?

**Mr. WILLIAMS.** The President's budget was structured to reflect that we don't have an appropriation for fiscal 1980. They have shown the fiscal 1979 appropriation request as \$65,300 plus a fiscal 1980 supplemental request of \$3,721,000 for a total fiscal 1980 request of \$69,021,000, the same amount as originally requested for fiscal 1980. We are also requesting a pay supplemental for fiscal 1980 also that is \$2,456,000, which gets us to our current request in fiscal 1980 of \$71,477,000.

So I think the answer is because we have not gotten an appropriation for fiscal 1980, that is how they have chosen to show it.

## LIST OF UNCONTROLLABLE INCREASES

**Mr. SMITH.** What are the main items to be financed with these additional funds?

**Mr. WILLIAMS.** Again, the majority of these items are uncontrollable increases. As was mentioned before, approximately \$1,600,000 is for—

**Mr. SMITH.** Do you have a list?

**Mr. WILLIAMS.** Yes.

**Mr. SMITH.** We will put that list in the record.

[The information follows:]

## UNCONTROLLABLE INCREASES

The President's budget displays two fiscal 1980 supplemental requests since we do not have a fiscal 1980 appropriation (1) a pay raise supplemental of \$2,456,000 to provide for the October, 1979 pay raise; and (2) a supplemental for \$3,721,000 which represents the difference between the fiscal 1979 appropriation of \$65,300,000 and the original fiscal 1980 request of \$69,021,000. This second supplemental is the form OMB used to illustrate our fiscal 198 budget since we are presently operating under a Continuing Resolution. The \$3,721,000 additional funding needed over the fiscal 1979 appropriation is detailed below:

	Positions	Work-years	Amount
Fiscal 1979 appropriation (continuing resolution for fiscal 1980).....	1,784	1,730	\$65,300
<b>Uncontrollable Increases:</b>			
Annulation of fiscal 1979 pay cost supplemental.....	1,760	.....	1,760
Within-grade step increases.....	.....	.....	352
Health insurance benefits.....	.....	.....	53
2 additional compensable days.....	.....	.....	350
Worker's compensation.....	.....	.....	11
GSA space rent.....	.....	.....	338
Federal Telecommunications System and other telecommunications rate increases.....	.....	.....	100
Postage rate increases.....	.....	.....	20
ADP and office equipment rentals.....	.....	.....	110
Federal Register and Code of Federal Regulations printing.....	.....	.....	47
Equipment repairs.....	.....	.....	25
Stenographic reporting services.....	.....	.....	46
Consumer Information Center distribution rate increase.....	.....	.....	57
Office supplies.....	.....	.....	20
Library materials.....	.....	.....	30
Total, uncontrollable increases.....	.....	.....	3,319
<b>Program Increases:</b>			
Maintaining competition.....	12	12	566
Consumer protection.....	-5	-5	-55
Economic activities.....	-7	-7	-106
Total, program increases.....	.....	.....	402
Increase over fiscal 1979 appropriation.....	.....	.....	3,721
Original fiscal 1980 request pending.....	1,784	1,730	\$69,021
Fiscal 1980 pay supplemental.....	.....	-11	2,456
Current fiscal 1980 request.....	1,784	1,730	71,477

*Adjustments to Base (\$8,819,000)*—Increased funding for these items is requested to offset administratively uncontrollable price increases and is necessary to maintain current operating levels. The fiscal 1979 pay cost annualization represents the unfunded portion of the October, 1978 pay raise. In fiscal 1979, the Commission was able to absorb most of the pay increase due to unusual delay in litigation, permitting the reprogramming of contract funds to salaries and benefits. However, in fiscal 1980, litigation has returned to schedule and as a result, the ability to absorb fiscal 1979 and fiscal 1980 pay costs, as well as other price increases, is severely limited.

*Program Increases (\$402,000)*—This increase is requested primarily to permit the Maintaining Competition Mission to meet increased workload demands in the Mergers and Joint Ventures program. This is to be accomplished by providing greater economic analysis support and requires increased salary funds to hire economists and increased travel and program contract funds to support litigation and investigations. In addition, there is a need for greater program contract funding (\$101,000) in the Consumer Protection Mission in order to properly evaluate the impact of Commission rules and regulations.

**Mr. SMITH.** Mr. Early?

**Mr. EARLY.** No questions.

**Mr. SMITH.** Thank you very much, Mr. Pertschuk.

**Mr. PERTSCHUK.** Thank you, Mr. Smith.

**Mr. SMITH.** At this point in the record, we shall insert a copy of the report to the Committee from the Surveys and Investigations Staff concerning an investigation of certain aspects of the operations of the Federal Trade Commission:

(The report follows:)

NOT FOR RELEASE UNTIL AUTHORIZED BY THE COMMITTEE

February 22, 1980

MEMORANDUM FOR THE CHAIRMAN

RE: Regulatory Activities of  
the Federal Trade Commission--An  
Agency in Continuing Evolution

By directive dated August 2, 1979, the Committee requested that the Surveys and Investigations Staff conduct an investigation of certain aspects of the Federal Trade Commission's operations.

The study included an analysis of policies, plans, procedures, criteria, and the Economic Evaluation Program relating to the selection and management of the Federal Trade Commission's workload. Particular attention was given to highlighting deficiencies which the Investigative Staff believes contribute substantially to the Commission's present problems.

Also included was a review of the rulemaking proceedings under the Magnuson-Moss Warranty--FTC Improvement Act, including the funding of public participants.

Respectfully submitted,

*Anthony J. Gabriel*  
Anthony J. Gabriel, Director  
Surveys and Investigations Staff  
House Appropriations Committee

*C. R. Anderson*  
C. R. Anderson  
Chief of the Surveys and  
Investigations Staff  
House Appropriations Committee

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SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

The Federal Trade Commission (FTC) has been in existence for over 65 years. The most important statutes the Commission enforces are the Federal Trade Commission Act, which prohibits unfair methods of competition and unfair or deceptive acts and practices, and the Clayton Act, which prohibits price discrimination, certain mergers between competitors, and competing firms having the same persons on their Boards of Directors. In all, some 28 statutes are administered by the FTC.

A number of bills pending in the Congress would affect, to varying degrees, the manner in which FTC carries out its multi-faceted functions. Some would severely curb the present authorities of the Commission. Chapter VII of this report identified the more significant bills and their status as of January 15, 1980.

The Congress has expressed its grave concerns in Congressional hearings and the message is clear. Congress is seriously seeking to make the Commission more responsive to current Congressional intent.

In the late 1960's and early 1970's, there were a number of highly critical studies dealing with the FTC. These studies highlighted management and organizational weaknesses. The main thrust of the messages contained in numerous reports was that the Commission was doing little—if anything—that was meaningful. The pendulum has now gone full swing. This "do nothing" Commission has now become a "do too much" Commission.

The FTC, which has at times been maligned and at other times properly criticized, continues to be a favorite whipping boy for one interest group or another. Presently, it is the business community which has been aroused and is voicing concerted views which are sometimes vehement and strident.

The main criticism is that the Commission has exceeded its authority beyond Congressional intent. Various members of Congress and committees, with increasing regularity and concern, are scrutinizing the "excessive" use of FTC authorities.

Over the years, the Congress has given the Commission increased powers to regulate antitrust and consumer protection matters. As an example, the Magnuson-Moss Warranty—FTC Improvement Act gave the FTC broadened enforcement powers and additional authority to seek injunctions in consumer protection and antitrust cases.

The powers of the Commission are broad, sometimes vague, but always complex. Therefore, it is not surprising that disagreements should arise among different self-interest groups. The many criticisms aimed at the Commission have been well publicized by the news media. To the extent that inquiries and criticisms result in soul-searching, they may be beneficial and contribute

to improved operations. However, if they turn the Commission into a defensive body rather than one actively pursuing established policy and plans, consumer protection may be weakened.

The Congress legislated the FTC's present authorities, and it has the power to add or change these authorities as it feels is necessary to better meet the changing needs of the economy. What once may have served the national interest and reflected the will of Congress may no longer be true. The Investigative Staff believes there is much at stake in the present debate. An effective and efficient Commission can contribute materially to both consumer protection and ultimately to the business community. The mountains of propaganda heaped upon Congress and the public by various interest groups bury the issues deeply.

Resources available to the FTC have increased during the past 5 years--funds have increased by approximately 60 percent and work years by some 11 percent. Total funds appropriated during FY 1979 amounted to \$65.3 million. As of September 30, 1979, there were 1,665 people working at the FTC. Of these, 648 were attorneys, 87--economists, and 351--other professionals. Funding for FY 1980 has been by continuing resolutions, the second of which terminates March 15, 1980.

The House Joint Resolution 440 contains the restriction:  
 \*\* \* \* Provided, that none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended \* \* \*.

#### Work Flow and Alternatives

In enforcing the statutes applicable to the FTC, the principal tools are:

- Adjudication, where the Commission issues a complaint and sits as a court in determining whether a violation has occurred, and
- Rulemaking, where, after a hearing, the Commission issues a rule stating that particular practices are contrary to law.

Law enforcement activities may range from information gathering to the prosecution of cases, quasi-judicial adjudicative proceedings, or the institution of civil penalty actions in U.S. district court charging respondents with violations of laws enforced by the Commission.

When law violations are individual rather than industrywide, the FTC issues complaints and orders to halt false advertising or fraudulent selling or to prevent a business from using unfair or deceptive tactics against competitors. Violations can result in civil penalties and consumer redress. By contrast, rulemaking

represents an effort to shape substantive law by a unitary proceeding, rather than on a case-by-case adjudication.

The scope and direction of work can be affected by many variables. Program resources, protocols, policy briefing sessions, case selection criteria, and supervisory reviews at various organizational levels can affect the selection and progress of an investigation at each stage of the process. From the initial investigation to final action, there are reviews and analyses. Work performed by the FTC may be self-initiated or the result of external factors--requests from Congress, the public, or the business community.

The FTC receives complaints and inquiries from the public and business concerning alleged unlawful trade restraints and violations of consumer protection laws. Trade Regulation Rule proceedings may be self-initiated or pursuant to written petition by any interested person stating adequate reasons. An investigation of an individual, business entity, or industry may result from public complaints or FTC staff reports or studies.

In the fact-gathering phase of an investigation, the FTC may obtain information on a voluntary basis or it may seek Commission authorization for compulsory process to permit the use of subpoenas, special reports, and access orders. Initial phase investigations are started when it becomes necessary to go beyond the public complaint to gather additional information and when the matter appears to involve a violation of a Commission-enforced law with sufficient public interest to warrant a commitment of the required resources. Upon completion of the initial phase--usually a maximum of 100 hours--a decision is made to close or continue the case.

When a more comprehensive investigation is warranted, a full investigation may be approved by the Bureau Directors. Full investigations may be closed by Bureau Directors or the Commission or they may terminate on recommendations for corrective action. This may be in the form of a consent agreement, issuance of an administrative complaint, institution of an injunction proceeding, proposal for a trade regulation rule (TRR) or guide, enforcement of a TRR, or the institution of a civil penalty action. An investigation may also result in a request that nonrespondents receive notice of prior Commission decisions concerning a practice as predicate for possible civil penalty action or respondents may be notified that the Commission may seek consumer redress following the issuance of a final order. When an investigation is closed, it may be recommended that some other forms of action be taken.

Federal Trade Commission policy and procedures provide for informational and educational activities. News releases are used to inform the public of enforcement actions taken by the Commission, such as the issuance of complaints, decisions and orders, acceptance of consent agreements, and other actions.

By comparison, the Consumer and Business Community Education Program prepares and disseminates materials covering the Commission's enforcement activities beyond the issuance of news releases. The educational effort may deal with a specific enforcement program, warranties, or may be related more generally to the activities of the FTC. Educational activities include the preparation and distribution of materials, educational speeches, seminars, and similar programs for academic groups, the public, the business community, and State and local governments.

The Commission has been showing a growing awareness of the potential of consumer education. Recently, the five Commissioners were recorded as being in favor of certain actions intended to give greater emphasis to the Consumer Education Program.

An internal report on the subject of consumer education contained a number of recommendations which the Investigative Staff believes are sound and reasonable. The report recommended:

- The establishment of program priorities and objectives.
- Increased attention be given to consumer/industry education.
- A distinct budget for consumer education activities be provided.
- A revised management information system to insure the capturing of accurate time for consumer education.

At present, there is no way of determining with any accuracy the total expenditures for the education program. However, deficiencies noted in this area are symptomatic of accounting and reporting weaknesses existing throughout the FTC.

Therefore, the Investigative Staff would suggest that the Committee require the Chairman of the Commission, in revising the management information system, to include a more comprehensive approach to improve accuracy in all FTC areas and to correct previously identified deficiencies.

The Investigative Staff believes consumer/industry education can be a cost-effective method of reaching the consumer. A well-informed buyer can be the best defense against "unfair and deceptive" advertising or questionable sales methods.

#### Selection of Areas/Subjects for Regulations

The three major operating missions of the Commission are Maintaining Competition, Consumer Protection, and Economic Activities. Within missions, there are numerous programs which comprise all of the activities within an industry such as health care, land sales, or related enforcement efforts.

Statutes, Commission Procedures and Rules of Practice, program resources, protocols, and case selection criteria influence enforcement activities. Review by the Commission, operating bureaus, Evaluation and Merger Committees, program advisors, and responsible supervisors provide guidance over the selection and control of case work products.

While operational procedures are important and seem adequate, none of these reviews provide an independent or objective evaluation. Thus, reviews are performed by the same people who made the initial decisions to select and continue a given course of action.

The Investigative Staff believes there is a need for an independent group reporting directly to the Commission. So long as an internal audit function--an integral part of an overall control system--is missing, there will be no assurances that:

- Commission policy is being properly or adequately implemented, or that
- all information necessary to informed decisionmaking is reaching the Commission level.

The program budget is the Commission's principal mechanism for allocating resources, planning, and establishing priorities. The allocation of resources is the first control that affects the type and extent of work performed by the operating bureaus.

Policy protocols and case selection criteria are used as investigative tools and evaluation standards. Protocols discuss the issues pertinent to a specific kind of case or investigation. Case selection criteria are tools to evaluate and compare the benefits of alternative actions. Protocols and case selection criteria are intended to be used in planning, investigating and preparing cases, and in reviewing programs. Criteria seek to improve the quality and consistency of the PTC enforcement efforts and to aid the staff in selecting cases and projects.

Protocols and case selection criteria are prepared and reviewed by the enforcement bureaus, Office of Policy Planning, and the Bureau of Economics, before seeking Commission approval.

Monitoring of work progress is performed through periodic workload reviews by staff supervisors. Enforcement priorities, program plans, and work assignments may be changed as a result of review meetings.

Evaluation Committees in the two operating bureaus review requests for initiating and continuing work involving substantial investments of resources. The committees are composed of directors and deputies of bureaus and offices and other top bureau managers. There is also a Merger Screening Committee that reviews substantive matters dealing with mergers, joint ventures, or acquisitions.

The application of specific criteria in the work selection process may vary because of differences in bureau missions. However, the overall objective is similar--the attainment of the most effective and efficient operation.

Evaluations of consumer protection proposals focus on the degree of injury caused by a questioned business practice and the likelihood that the proposed remedy will correct the problem. The effectiveness and cost of the remedy as compared with the cost of alternate remedies are also considered. An attempt is also made to answer whether competitive forces in the marketplace could remedy the situation without FTC intervention. Research in the consumer protection area seeks to zero in on:

- the economic effects and function of advertising in consumer goods and in the professional service markets, and
- the economic impact of information disclosures relating to performance and quality of goods and services.

The Bureau of Competition's basic criterion used to initiate activities is whether the public interest will be served by enhancing competitive behavior. Answers sought deal with size of the market, nature of the product or market, the level of market concentration, the market power, the size of the involved firm(s), the prevalence of the restraint of trade alleged, the significance of the impact on competition, and the possibility of a satisfactory remedy.

Other agency considerations are also involved, such as resources available to pursue the proposed action, whether funds can be better spent elsewhere, and whether the law is sufficiently precise to offer promise of success in a test case.

Adequate guidelines appear to exist for selecting areas/subjects for regulation. However, they are not in the most convenient or usable form. Criteria used at the FTC are flexible and scattered. Information to be gathered and issues to be addressed in selecting cases are contained in numerous and miscellaneous documents. These include Commission memorandums, policy session briefing books, economic and cost/benefit analyses, and impact evaluations. In addition, there are various levels of supervisory reviews which in some cases terminate at the Commission level.

However, in spite of the fact that guidelines would seem adequate for sound planning and selection of areas/subjects for regulation, documentation is not effective because it is too dispersed. This results in attorneys doing a great deal of unnecessary research to locate all pertinent documents or taking a calculated risk in making a decision on less than adequate information. A principal motive for thorough research would be to increase the likelihood that work selected would result in

maximum benefits to consumers. To settle for less than all pertinent methods and guides developed by FTC would represent a breakdown of the selection process and risk increased difficulties and criticisms.

The Investigative Staff believes the lack of a consolidated system for selecting areas/subjects for regulation together with an inadequate internal audit function may be contributing factors to many of the problems confronting the Commission.

As a first step, the Investigative Staff recommends that the Committee require the Chairman of the Commission to review, update, consolidate, and communicate all work selection criteria to all levels of the FTC. Further, there is a paramount requirement for objective reviews and evaluations by an independent staff--one which has not been involved in program designation or in the work selection process. However, this is only one phase of the FTC operations where internal audit could be of significant value to the Commission. Accordingly, the Investigative Staff recommends that the Committee request the Chairman of the Commission establish an internal audit function.

#### System for Managing the FTC Workload

Methods used to manage and control the FTC workload, in general, are similar to and a continuation of criteria used in the work selection process. When a decision has been made to initiate an investigation or project, it becomes a workload statistic to be accounted for in the computerized reporting system. FTC effort is continuing to seek better controls over the workload.

In planning and recommending the continuation of work, the FTC staff develops myriad information--general as well as specific. Among others, considerations seek to show that:

- The issues to be addressed cannot be remedied by market forces alone.
- The benefits of the proposed action exceed projected costs of the investigation.
- The remedy chosen is the least costly.

More specific information is also gathered on the significance of the product in question, the size of the firms involved, the importance of the industry in the economy, the affect of alleged unlawful practices on consumers and competitors, and the potential for successful conclusion of the investigation.

The measurement of Commission success does not rest entirely on the number of cases in process, started, or completed during any given period. Statistics alone cannot always reflect the significance or complexity of investigations/cases. As a matter of fact, FTC officials reiterated that they had a commitment to

select more complex matters involving larger respondents or industries and to seek better remedies for consumers. It was conceded that these approaches could engender greater resistance from respondents and industry which would require increased staff time to complete an investigation/case. The Investigative Staff believes that in focusing on larger and more complex targets, the significant question is: How many of these complex matters will be successfully concluded and which will serve as a deterrent to others? A case in point is rulemaking which has not been overly successful in spite of significant efforts.

The Investigative Staff observed that there has been a general decline in numbers over the past few years. With the caveat that statistics alone may not have much meaning, they do show that a significant number of cases were closed out in FY's 1975 and 1976. Although this trend could indicate that more meaningful reviews are being performed to justify work processed, some serious problems continue to hamper the effective and efficient management of the FTC workload.

An analysis of active investigations/cases at the close of FY 1979 showed that of a total reported 491, approximately one-third of the workload was over 2 years old and that one-fourth of the Bureau of Consumer Protection's active investigations/cases were over 3 years old.

Responsibility for starting and managing work lies with directors of the 10 regional offices and assistant directors in the bureaus. Once an investigation is started, the responsible assistant or regional director reports at least quarterly on the progress of the work. The FTC uses a number of techniques to manage and control its workload.

The budget is the principal mechanism used by the Commission for allocating resources. It is used to plan, establish priorities, and to communicate with the staff.

While the planning phases and budget reviews appear satisfactory, execution phase of the budget is more difficult to assess. The FTC accounts by mission and program but does not provide a breakdown by types of activities performed. The present system does not furnish on a systematic and periodic basis a breakdown of what was accomplished for money spent. The reporting only shows how much was budgeted and how much was expended by programs. Although this is an essential accounting to avoid overobligations, it fails to give management the cost breakdowns necessary to informed decisionmaking.

The Investigative Staff recommends that the Committee suggest the Chairman of the Commission provide for an accounting to show a breakdown of the number and cost of each investigation, rule-making, adjudication, consent order, injunction, merger, etc., related back to program areas. This would also add a valuable management tool that could serve the Appropriations Committee.

The FTC uses a number of supervisory and management reviews, including Evaluation Committees, to manage and control its workload. The Evaluation Committees meet regularly to consider matters and investigations and to approve, modify, or disapprove substantive work in process. The bureaus try to follow the direction and progress of all full-phase investigations which involve sizable investment of resources.

Policy briefings are given to the Commission about eight times each year. The sessions address issues in such economic sectors as health, automobiles, housing, and energy and are intended to provide the basis for Commission decisions.

In addition, the FTC uses Impact Evaluations, Cost/Benefit Analyses, Economic Analyses, and less comprehensive-type studies to assist in selecting and managing work. In deciding what study projects to undertake, among others, the following factors are considered:

- Amount of information already available.
- Extent of controversy associated with the proposed rule.
- Economic impact of the proposed rule.
- Feasibility of conducting the study.
- Projected cost of the study.
- General applicability of study results.

#### Management Information System (MIS)

Although the Federal Trade Commission is a relatively small agency, its size does not negate the need for accurate, useful, and timely data. In some respects, good information is more important to smaller organizations because they usually have more limited resources which do not permit the luxury of ad hoc solutions.

The Commission, in seeking optimal use of resources, had developed and struggled to install a management information system. The system was to provide the Commission extensive data on which to formulate management decisions. However, during the past 5 years--in spite of an estimated \$12.5 million investment--the FTC has had little success in installing an effective MIS.

Resources continue to be expended in an effort to improve the quality of information available to the Commission. The FTC is developing a revised MIS, relating case tracking, weekly activity reporting, planning, and control systems.

The Investigative Staff found major problems in the reporting system which destroyed any management value the system should have. These included:

- Inaccurate and incomplete input data.
- Lack of timeliness in data reported; lags of 90 to 120 days were not uncommon.
- Inadequacy of system documentation which hindered a clear understanding of system capabilities and made tracing and correcting program errors difficult.
- Lack of a comprehensive, long-range data processing plan.
- Inability of system to allow ready retrieval of data contained in the data base. This necessitates frequent ad hoc generation of data to respond to management requests.

The FTC is trying to overcome its reporting deficiencies on two fronts. It is attempting to make corrections in the existing system data base while developing a revised computer system. The Investigative Staff agrees that to fail to assure an accurate data base for the revised system would result in total waste.

It is planned that the revised system--STAR TRACER--will be operational by mid-1980. FTC is hoping that the revised system will correct the two most vexing problems of the current system--timeliness and accuracy. In designing the revised system, FTC considered organizational impact, confidentiality and security of data, hardware, software, and supporting-service capabilities.

The Investigative Staff believes that data improvement is a paramount prerequisite to informed decisionmaking. If present design plans are successfully implemented, the FTC will be taking a major step in the right direction. However, to assure effective implementation, the Investigative Staff recommends that the Committee require the Chairman of the Commission to oversee that more benefits are obtained for the \$12.5 million invested in MIS and to inform the Committee of an action plan to assure timely and accurate information.

#### Magnuson-Moss Rulemaking

Promulgating Trade Regulation Rules (TRR) is one of the remedial options available to FTC when investigations establish the existence of unfair or deceptive practices in violation of the Federal Trade Commission Act. Until 1962, FTC relied mainly on case-by-case adjudication as a means to shape and define the substantive law.

Congress amended the Federal Trade Commission Act (15 U.S.C. 41, et seq.) by enactment on January 4, 1975, of the Magnuson-Moss Warranty--FTC Improvement Act (P.L. 93-637, 88 Stat. 2183 et seq.). This act significantly broadened FTC's jurisdiction to include industries which "affect" commerce. It confirmed FTC authority to promulgate rules to define with specificity unfair or deceptive acts or practices and to establish industrywide

requirements to prevent the proscribed conduct. The authority to promulgate Trade Regulation Rules is augmented by provisions in the act authorizing civil penalty actions against violators of a TRR and redress for consumers injured by such violations. The act allows for appellate review of final rules in the U.S. Court of Appeals.

Title II of the Magnuson-Moss Act specifies the procedure to be followed in formulating a TRR involving FTC violations of unfair or deceptive acts or practices. Procedures for formulating a TRR under other substantive laws enforced by the FTC were not affected by this legislation. The act requires following the rulemaking procedures contained in the Administrative Procedures Act--which apply generally to executive agencies--and certain special additional steps. The Administrative Procedures Act requires public notice, consideration of written comments, and publication of a final rule together with a statement of basis and purpose. The additional steps mandated in the Magnuson-Moss Act provide for greater public participation. These additions are informal oral hearings, consideration of rebuttal submissions, and cross-examination by interested persons to resolve disputed issues of material fact.

Publication of the initial notice of a proposed rule in the Federal Register is the first formal notice to the public. However, FTC also gives advance notice of its activities by publishing a "Semiannual Agenda." The last agenda appeared in the August 1, 1979, Federal Register. It contained notices on 18 ongoing rulemaking proceedings. FTC also submits items for the Regulatory Calendar--a Government-wide publication of the Regulatory Council used to identify and coordinate regulatory activities by various agencies. The Regulatory Calendar, November 28, 1979, in addition to entries about ongoing rule-making activities, cited an investigation of Blue Shield and certain other medical prepayment plans which might lead to a proposed TRR.

An official of the FTC advised the Investigative Staff that in addition to the above, there are three current investigations involving vision care, dental laboratories, and dentists that could result in rulemaking activities under the Magnuson-Moss Act. Decisions in this regard are not likely until the third or fourth quarter of FY 1980.

In response to the enactment of the Magnuson-Moss Act in 1975, the FTC initiated rulemaking proceedings in such diverse areas as funerals, used cars, hearing aids, creditors' remedies, mobile home warranties, food advertising, and drug advertising. Within the first 16 months after the passage of Magnuson-Moss, 16 proceedings were initiated. Only five have been started since.

Three Trade Regulation Rules have been finalized wherein the Magnuson-Moss procedures were used--Eyeglasses, Thermal Insulation, and Vocational Schools. There are 15 rules under development;

most are in the final stages. All three of the final rules have been appealed to the U.S. Circuit Court of Appeals. The Vocational Schools Rule was remanded by the court on the basis of procedural error and substantive defects. The Eyeglasses Rule, except for the part requiring that eyeglass prescriptions be furnished to the patient, was suspended and remanded to consider whether a 1977 Supreme Court decision lifting a ban on professional advertising now makes the rule unnecessary. These are the first cases wherein the Magnuson-Moss procedures have come under judicial review.

The FTC was the first agency called upon to use the Magnuson-Moss type "hybrid" rulemaking procedures. FTC may have grossly underestimated the problems that would ensue. The volume of rules proposed in such a short period--1975 and 1976--severely taxed FTC resources. A number of the rules initiated 4 and 5 years ago are now in the final stages of development. Among them are proposed rules based on investigations started several years before 1975 and designed for other purposes--case-by-case litigation, for example.

In the face of criticism and unforeseen obstacles, FTC changed some of its procedures. An example is the recent use of a two-stage hearing procedure--a legislative-type hearing to identify disputed issues of material fact followed by an adjudicative-type hearing where cross-examination is allowed to resolve disputed issues. Another example was the transfer of presiding officers (FTC staff members who preside over rulemaking proceedings) from the Bureau of Consumer Protection to the Office of the General Counsel to isolate them from the staff that proposes the rules.

During the past 18 months, the FTC has emphasized and fortified its commitment to assess the economic soundness of proposed rules. An economist is now assigned to each proposed rule and to each case which may result in rulemaking. In 1976, an Impact Evaluation Group was formed in the Bureau of Consumer Protection. This staff of market research and economic specialists is involved in designing and administering various economic analyses, impact evaluations, and cost/benefit studies.

The Magnuson-Moss Act mandated that the FTC and the Administrative Conference of the United States study and evaluate the new rulemaking procedures. Both agencies submitted reports in July 1979. Each made reference to technical and procedural problems and commented about changes that have alleviated some of the early difficulties. Neither agency recommended any legislative change.

In the opinion of the Investigative Staff, the FTC overreacted to the legislative powers granted by the Magnuson-Moss Act. As a law enforcement agency attuned to case-by-case litigation, it may not have perceived the vital need for public acceptance and support of its rulemaking activities. This lack of basic support may be due in part to the fact that "many rules were based on novel theories of unfairness or deception rather than traditional

principles." This type approach, giving the appearance of adventurism, engendered some of the major criticism of FTC rulemaking. The rulemaking process is too expensive and time-consuming to be used arbitrarily to test the extent of the law or to expand legal precedents. In the opinion of the Investigative Staff, to be effective, TRR must meet a well perceived need, must be capable of enforcement, and must have reasonable acceptance by industry so that enforcement is not overburdened or discredited.

From inception through FY 1979, the FTC has expended a total of \$9,176,200 on Magnuson-Moss type rulemakings and related programs. The FTC budget presentation and accounting procedures are deficient in that they do not provide a line item accounting for rulemaking functions. Rulemaking activities are not now distinguishable from other functional activities within the same program. Such a line item accounting would be of value to management and to the Congress in its budget review. To provide a more meaningful budget presentation, the Investigative Staff recommends that the Committee may wish to consider directing that the FTC provide such a line item for rulemaking functions.

#### Public Participation Funding

The Magnuson-Moss Warranty--FTC Improvement Act authorizes compensation to interested persons for certain costs of participation in the rulemaking process. To be eligible, the person must represent an interest \*\*\* which would not otherwise be adequately represented \*\*\* and representation of which is necessary for a fair determination of the rulemaking proceeding \*\*\*. The person must also be \*\*\* unable effectively to participate in such a proceeding because such person cannot afford to pay costs \*\*\*.

The act limits expenditures under the public participation program to \$1 million annually. Congress has authorized \$500,000 for FY's 1976, 1977, and 1978. An additional \$125,000 was authorized for the 1976 Transition Quarter. In FY 1979, Congress authorized \$750,000 and for FY 1980, FTC requested an equal amount. This represents about 1.1 percent of the total FTC budget of \$69,021,000.

FTC records indicate that from the inception of this program through FY 1979, FTC obligated \$1,989,944 in 247 funding agreements to 65 separate persons or groups to defray the cost of participating in 18 rulemakings. Many of the grantees took part in several stages of a particular rulemaking and 11 participated in more than one of the 18 separate rulemakings.

The act limits expenditures to 25 percent of the aggregate in any one year for those who would be regulated by the rule. FTC records show that from the beginning of the program through FY 1979, a total of \$135,302 went to only 12 persons or groups in this category. This represents 6.8 percent of the total obligations made in the public participation funding program. Obligations to

those "who would be regulated" represented 1.9 percent in PY 1977, 16.8 percent in PY 1978, and 11.8 percent in PY 1979.

There have been 15 internal audits of the public participation fundings. The audits were limited to determining whether reimbursements were reasonable and met the agreed terms. Within this limited scope, these audits appear to have been performed in a satisfactory manner. However, no specific criteria has been established to determine whether an applicant "cannot afford to pay costs." FTC officials acknowledge the need for well-defined eligibility requirements and advised such criteria are being developed.

When viewed in context with the expanded rulemaking procedures mandated by the act, the authority to compensate public participants signals an intent to broaden the public's role by making it possible for the consumer and the small businessman to participate in the FTC rulemaking process.

Compensation can be granted for participation in all phases of the rulemaking process, including written presentations, appearing as a witness, presenting studies or testimony, participating at hearings with the right to cross-examine, and preparation of rebuttals or post hearing comments.

FTC distributes pamphlets to the public which describe the rulemaking process and the public participation funding program, including guidance for submission of funding applications. FTC also publishes information in the Federal Register concerning the program with the initial notice of a proposed rule.

Responsibility for the public participation funding program was in the Bureau of Consumer Protection until the fall of 1978 when it was transferred to the Office of the General Counsel. The Office of Federal, State, and Consumer Relations in the Executive Director's office is responsible for seeking out groups interested in FTC rulemaking activities and generally informing the public about rulemaking and the public participation program.

Applications for funds are referred initially to the presiding officer who makes a judgment as to whether the proposed presentation is duplicative. The application is then considered by a screening committee having representation from the Bureau of Consumer Protection, the Office of General Counsel, and a statistical expert. It is then referred with recommendations to the General Counsel for final determination.

A preponderance of program funds have gone to public interest, consumer-oriented groups. The FTC estimates that nearly 25 percent of the expended funds went to those representing small business interests. However, the participation by small businessmen should not be confused with participation by \* \* \* those who would be regulated \* \* \* by the rule. For example, FTC points out that in a recent proceeding, funds went to 10 persons or groups

representing small business. Records indicate that only six participants in this same proceeding were identified as those who would be regulated by the rule.

Critics have alleged that many of the funded participants are proponents of the FTC position, that activist groups--political and consumer--are favored in granting funds, and that FTC is using public funds to solicit and promote the FTC advocacy. Critics also point out that the public pays twice for this advocacy--first, for the FTC staff which conduct investigations and develop proposed rules, and second, for public-funded participants who support the FTC position.

The act specifically provides for funding participants who advocate the proposed regulations. The act mandates that the regulated industry and its representatives not receive more than 25 percent of the aggregate amount paid under this program in any one year. From a practical standpoint, this would seem to imply that 75 percent will be used to fund those generally in agreement with the proposed rule.

No improprieties have been found in the grant process. However, inherent in this program is the opportunity for bias as grants are made partially on subjective judgments. The record indicates that a preponderance of funds have gone to public advocacy groups which have supported consumer causes. In this regard, FTC at times seems to lack adequate sensitivity to the fact that sometimes appearances of bias can be as damaging as actual bias itself.  
Accordingly, the Investigative Staff recommends that the Committee suggest to the Chairman of the Commission that they make extraordinary efforts to avoid the appearance of favoritism or at least minimize such appearances.

Efforts must also be made to avoid funding the development of professional advocates with little or no constituency. Repeat performers should be held to a minimum. The "outreach" program should identify a wider base of applicants from which a more discreet selection can be made. Selection should primarily be based on what they can contribute and their constituency. The Investigative Staff recommends that the Committee require the Chairman of the Commission to make every effort that participants be selected within prescribed limitations from groups--consumers and businessmen--who are specifically, as well as generally, affected by the rule. An aggressive program with these goals would enhance not only the quality and relevance of the participation but could also reduce the number of participants who are funded repeatedly.

The language of the act and the conference report which accompanied it suggest that a purpose of the funding program is to encourage a broad expression of public views in the regulatory process. FTC Commissioners and officials claim the program has been beneficial and successful.

It is difficult at this time to assess the value and effectiveness of the program because only three rules have been finalized. To the extent that public participants contribute to the rulemaking record, judicial review will eventually provide some indication of program effectiveness. All three final rules have been appealed to the U.S. Circuit Court of Appeals. The Vocational Schools rule and all but one part of the Eyeglasses rule have been reversed and remanded. The Thermal Insulation rule is currently under judicial review.

I. INTRODUCTIONA. Directive

By directive dated August 2, 1979, the Committee requested the Investigative Staff to investigate and make an assessment of the operations of the Federal Trade Commission (FTC). As further clarified by the Committee staff of the Subcommittee on the Department of State, Justice and Commerce, the Judiciary and Related Agencies, at a meeting on September 27, 1979, for this first phase, the investigation was to be limited mainly to the following points:

- An assessment of the Commission's system for selecting potential areas or subjects for regulation.
- An assessment of the Commission's system for managing its workload and determining the costs and benefits of its regulatory programs. This was to include a review of the impact evaluation program and the Commission's economic analysis and other efforts to determine the efficacy of its programs.
- An assessment of the Magnuson-Moss trade regulation rule program.
- A review of the use of funds appropriated for public participation in Magnuson-Moss rulemaking proceedings, including methods used for allocating funds.

B. Scope of Investigation

The Investigative Staff reviewed authorizing legislation, overall policies, procedures, and practices followed by the Federal Trade Commission in seeking to carry out its multiphased responsibilities. As set forth in the Committee directive and further clarified and agreed to by the staff of the Subcommittee on September 27, 1979, emphasis was placed on reviewing the consumer protection activities of the Commission.

Records, internal and external studies, memorandums, policy session reports, Congressional hearings, and other documentary material were examined during the investigation. The management information system, including the Weekly Activity Report, Case/Project Tracking System, Financial Management System, and the Personnel Management Information System were reviewed to determine the adequacy of the FTC efforts to manage and control its workload to assure the productive use of agency resources. The Investigative Staff's concern was not limited to how the reporting system was working but equally to whether pertinent information necessary for informed decisionmaking was--for whatever reason--being denied to the Commission.

The investigation entailed work at FTC headquarters in Washington, D.C., and selected regional offices. The Chairman of the Commission, the Commissioners and their representatives, the General Counsel, the Assistant General Counsel, the Secretary and Deputy Secretary, the Chief Judge of the Administrative Law Judges, Directors, Deputy and Assistant Directors of bureaus and offices, and other key officials in FTC were interviewed. In the regions, the Investigative Staff met with Directors and Assistant Directors of regional offices in Dallas, Texas; Seattle, Washington; San Francisco and Los Angeles, California; and Denver, Colorado.

#### C. Statutory Authority

The Federal Trade Commission was created under the Federal Trade Commission Act of 1914. The most important statutes the Commission enforces are the FTC Act, which prohibits unfair methods of competition and unfair or deceptive acts and practices, and the Clayton Act, which prohibits such things as price discrimination, tie-in sales, exclusive dealing, certain mergers between competitors, and competing firms having the same persons on their Boards of Directors.

#### The Federal Trade Commission Act

Under this act, as amended, the Commission is charged with:

(1) The prevention of unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce.

(2) The conduct of investigations relating to: (a) alleged violations of the laws the Commission is empowered to enforce, (b) the manner in which decrees in antitrust suits brought by the United States have been carried out, and (c) the organization, business conduct, practices and management of corporations engaged in commerce (with certain statutory exemptions), and their relation to other enterprises.

(3) The making of reports and recommendations to Congress with respect to legislation.

(4) Prescribing: (a) interpretive rules and general statements of policy with respect to unfair or deceptive acts or practices, (b) trade regulation rules defining, with specificity, acts or practices which are unfair methods of competition or unfair or deceptive acts or practices, including requirements for the purpose of preventing such acts or practices. Under the Trans-Alaska Pipeline amendments to the FTC Act, the Commission may also institute suits in a Federal district court for preliminary or permanent injunctions to enjoin violations of the laws it enforces.

#### Clayton Act

Under sections 3, 7, and 8 of the act, the Commission is charged with the duty of preventing and eliminating unlawful exclusive

dealing and tying contracts, corporate mergers and acquisitions, and interlocking directorates. Under section 2 of the Clayton Act, as amended by the Robinson-Patman Act, the Commission is charged with the prevention of certain specified practices--unlawful price and related discriminations. The Hart-Scott-Rodino Antitrust Improvements Act of 1976, in part, amends the Clayton Act to require the filing of premerger notifications with the Federal Trade Commission and the Antitrust Division of the Department of Justice and to establish a waiting period before certain acquisitions or tender offers may be consummated.

The Magnuson-Moss Warranty--Federal Trade Commission Improvement Act

Title I of the act authorizes the Federal Trade Commission to develop regulations for written warranties. The act authorizes the Commission to establish disclosure and designation standards for written warranties, defines the Federal content standards for full warranties, prohibits certain disclaimers of implied warranties, and establishes consumer remedies for breach of warranty or service contract obligations.

Title II of the act amended the Federal Trade Commission Act to enlarge the Commission's jurisdiction to cover activities "affecting commerce" as well as "in commerce," to provide for certain procedures when the Commission prescribes substantive rules for unfair or deceptive acts or practices, to increase the Commission's authority to represent itself in civil court actions and before the Supreme Court under certain conditions, to authorize the Commission to commence a civil suit to recover civil penalties for known violations of the FTC Act and for violations of certain Trade Regulation Rules, and to authorize the FTC under certain conditions to file suit for consumer redress of injuries.

The Commission enforces a number of other important statutes such as the Truth in Lending Act, which insures that people receive adequate information in securing credit, the Fair Credit Reporting Act, which makes certain that credit reports about consumers are accurate and current, and the so-called Labeling Acts, which insure that wool, fur, and textile products are not misrepresented as to their content and priorities.

The powers of the Commission are sometimes vague and always varied and complex. How these authorities are interpreted and carried out can have tremendous impact on the economy in general and on private industry and the consumer in particular. Furthermore, the Commission is evolutionary in nature because laws change, Congressional intent varies, new chairmen are appointed, and because there are shifts in economic and consumer protection philosophy and pressures.

The statutes that the Commission enforces, together with the activities authorized by these statutes, follow:

COMMISSION AUTHORITY UNDER THE  
VARIOUS STATUTES ADMINISTERED  
BY THE FTC

**1. Federal Trade Commission Act  
38 Stat. 717 (15 U.S.C. 41-58)**

Administrative litigation  
Rulemaking  
Advisory opinions  
Reports to Congress  
Investigations  
Civil Penalty Actions  
Redress Suits  
Injunctions  
Economic surveys and reports

**2. Clayton Act  
38 Stat. 730 (15 U.S.C. 12-27)**

Administrative litigation  
Investigations  
Injunctions

Civil Penalty Actions  
(Concurrent jurisdiction with Department of Justice)

**3. Amendment to Packers and Stockyards Act  
42 Stat. 159 (7 U.S.C. 181-229)**

(Retail only)  
Investigations  
Administrative litigation  
Enforcement under §5 of the FTC Act

**4. Export Trade Act  
40 Stat. 516 (15 U.S.C. 61-65)**

Mandatory annual reports  
Investigations  
Administer registrations of Webb-Pomerene Associations  
and provide information concerning responsibilities  
and obligations of such associations

**5. Wool Products Labeling Act  
54 Stat. 1128 (15 U.S.C. 68-68j)**

Establish product classifications  
Maintain RN Numbers compliance  
Rulemaking  
Injunctions  
Administrative litigation  
Condemnation  
Criminal Penalty Action  
Coordinate with Bureau of Customs

**6. Lanham Trade-Mark Act  
60 Stat. 427 (15 U.S.C. 1051-1127)**

Investigations  
 Litigation before Trademark Trial & Appeal Board

**7. Fur Products Labeling Act  
65 Stat. 175 (15 U.S.C. 69-69j)**

Administrative litigation  
 Rulemaking  
 Injunctions  
 Condemnation  
 Criminal Penalty Action  
 Coordinate with Bureau of Customs

**8. Textile Fiber Products Identification Act  
72 Stat. 1717 (15 U.S.C. 70-70k)**

(Same as No. 7, but no authority for Condemnation)

**9. Federal Cigarette Labeling & Advertising Act  
79 Stat. 282 (15 U.S.C. 1331-39)**

Annual Report to Congress  
 (Investigations -I by implication)

**10. Fair Packaging & Labeling Act  
80 Stat. 1296 (15 U.S.C. 1451-61)**

Rulemaking  
 Administrative litigation  
 Report to Congress  
 Coordinate with Secretary of Treasury  
 (Enforced under S5 of the FTC Act)

**11. Truth in Lending Act  
82 Stat. 146 (15 U.S.C. 1601 et seq.)**

Annual Report to Congress (through the Federal Reserve Board)  
 Comment on Federal Reserve Board rulemaking proposals  
 Investigations  
 Civil Penalty Actions  
 Consumer Redress  
 Injunctions  
 Administrative Litigation  
 Federal-State liaison  
 Consumer and industry education  
 Staff Opinion Letters

12. Fair Credit Reporting Act  
84 Stat. 1128 (15 U.S.C. 1681 et seq.)
- Interpretations  
Administrative litigation  
Investigations  
Working with White House and Congress on amendments to the Act  
Consumer and Industry Education  
Enforcement under §5 of the FTC Act
13. Emergency Petroleum Allocation Act  
87 Stat. 627 (15 U.S.C. 755)
- Annual Report to Congress
14. Hobby Protection Act  
87 Stat. 687 (16 U.S.C. 2101 et seq.)
- Administrative litigation  
Write regulations  
Assist Department of Customs  
(Enforcement under FTC Act)
15. Equal Credit Opportunity Act  
88 Stat. 1521; 90 Stat. 251 (15 U.S.C. 1691)
- Comment on Federal Reserve Board rulemaking proposals  
Advising federal agencies who lend money on how to comply  
Interpretations  
Advisory opinions  
Civil Penalty actions  
Consumer and industry education  
Enforcement through District Court action
16. Fair Credit Billing Act  
88 Stat. 1511; P.L. 93-495 (15 U.S.C. 1601 et seq.)
- Same as #11
17. Deepwater Port Act of 1974  
88 Stat. 2126 (33 U.S.C. 1501)
- Assess and report to Secretary of the Interior on competitive impact of each application  
Coordinate with Department of Justice (concurrent jurisdiction)
18. Magnuson-Moss Warranty - FTC Improvement Act  
88 Stat. 2183 (15 U.S.C. 2301 et seq.)
- Rulemaking (special)  
Monitoring compliance with promulgated rules  
Investigations  
Advisory Opinions

Injunctions  
Administrative litigation  
Interpretations  
(Consumer redress and Civil Penalties on litigated cases only)

19. Energy Policy & Conservation Act  
89 Stat. 871 (42 U.S.C. 6201)

Rulemaking  
Submitting comments on DOE regulations  
(Enforcement under §5 of the PTC Act for false advertising concerning appliances and automobile gas saving devices.)

20. Defense Production Act of 1950/1975  
64 Stat. 110 (50 U.S.C. 8206 et seq.) 89 Stat. 810

Consultation with the Attorney General on the probable competitive effects of voluntary joint agreements for emergency preparedness

21. Consumer Leasing Act of 1976  
90 Stat. 257 (15 U.S.C. 1667)

Same as #11.

22. Hart-Scott-Rodino Antitrust Improvements Act of 1976  
90 Stat. 1383 (15 U.S.C. 18a)

Same as #2.

23. Fair Debt Collection Practices Act of 1977  
91 Stat. 874 (15 U.S.C. 1692)

Annual Report to Congress  
Interpretations and Guides  
Civil Penalty Actions  
Injunctions  
Advisory Opinions  
Consumer and Industry education  
Consumer redress  
Enforcement through District Court action

24. Petroleum Marketing Practices Act  
92 Stat. 322 (15 U.S.C. 2801)

Rulemaking  
Investigations  
Coordination with other federal agencies  
Enforcement under the PTC Act

25. Outer Continental Shelf Lands Acts Amendments of 1978  
92 Stat. 629 (43 U.S.C. 1801 et seq.)
- Evaluation and consultation with Department of Justice Antitrust Division regarding lease sales
  - Advise Department of the Interior
  - Report to Secretary of the Interior
26. Electronic Fund Transfer Act  
92 Stat. 3728, P.L. 95-630 (15 U.S.C. 1693)
- Comment on Proposed Federal Reserve Board rulemaking
  - Investigations
  - (Enforcement under FTC Act)
  - Industry and consumer education
27. National Energy Conservation Policy Act  
92 Stat. 3206, P.L. 95-619 (12 U.S.C. 1451, 15 U.S.C. 2006,  
et seq., 23 U.S.C. 217, 42 U.S.C. 300k)
- Liaison with DOE and EPA
  - Study for a report on utility marketing practices, conservation programs and mechanisms for resolving consumer complaints
  - Consultation with DOE regarding competitive impact of rules, orders and waivers under SS 212, 216
28. Powerplant & Industrial Fuel Use Act of 1978  
92 Stat. 3289, P.L. 95-620 (15 U.S.C. 796, et seq.,  
42 U.S.C. 6211)
- Consultation and advice to DOE on competitive effects of coal conversion orders under the Act.

#### Pending Legislation

There are a number of bills pending in the Congress at present that are of interest to the FTC. The legislation--in varying degrees of importance--would affect the manner in which FTC conducts its business in antitrust, consumer credit, truth in lending, warranties, and regulatory reform, and would subject the Commission to Congressional veto. The major bills pending in Congress as of January 15, 1980, are discussed in Chapter VII of this report.

#### D. Background

In the late 1960's and early 1970's, there were a number of highly critical studies dealing with the Federal Trade Commission. Study reports contained a common criticism that the Commission was not doing an effective job. Many of these criticisms highlighted management and organizational weaknesses. The Nader report and the American Bar Association report focused on a number of serious management deficiencies which handicapped the Commission's operations.

The House Appropriations Committee, the General Accounting Office, and the Office of Management and Budget also reviewed the management and operations of the FTC and issued equally critical reports during this period. The main thrust of the messages contained in these reports was that for one reason or another, the Commission was doing little—if anything at all—that was meaningful. Although accusations continue to be hurled at the FTC at an accelerating rate, they are done so for a diametrically opposite reason. The pendulum now has gone full swing. This "do nothing" Commission has now become a "do too much" Commission. Thus, the FTC, which during much of its 65 years of existence has been at times maligned and at other times properly criticized, continues to be a favorite whipping boy for one interest group or another. At the present, the strongest opposition seems to be coming from the business community whose views are concerted and sometimes vehement and strident.

The main argument against the Commission centers on the accusation that the Commission has exceeded its authority beyond Congressional intent and is, in fact, legislating by issuing rules and orders which have the force of law. With increasing regularity and concern, various members of Congress and committees have scrutinized and debated the "excessive" use of FTC authorities. The various and differing views of members of Congress have been highly publicized by the news media.

The Congress has given the Commission broad and extensive powers—which have increased over the years—to regulate antitrust and consumer protection matters. The Investigative Staff report identifies the many statutes which provide the Commission these broad mandates. As an example, the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act enacted in January 1975 gave the FTC significantly broadened enforcement powers. At the same time, it provided the public a greater opportunity to participate in FTC activities. Further, Congress gave the Commission additional authority to seek injunctions in consumer protection and antitrust cases.

#### 1. Disagreement Among Groups

In view of these broad, sometimes vague, but always complex authorities, it would indeed be surprising if reasonable and honest disagreement should not arise among the different groups. Unfortunately, in seeking to carry out its responsibilities, the FTC often generates severe controversy. Criticisms sometimes appear to clearly reflect subjective views of the various self-interest groups.

Hardly a day goes by that the FTC is not publicized in the news media or attacked by one industry group or another for some action taken or proposed by the Commission. Partly because of these severe external factors, life at the Commission has become more uncertain and chaotic. To the extent that inquiries and criticisms result in soul-searching and a better understanding by

the Commission of its proper role, they are beneficial and may contribute to operational improvements. To the extent that unreasonable or unjustified criticism, together with increased visibility and public participation, turns the Commission into a defensive body rather than one acting in accordance with established policy and plans, consumer protection will be weakened.

## 2. Congressional Concern

The Congress has expressed its grave concern in pending legislation and in a number of recent Congressional hearings. It is apparent that these efforts seriously seek to make the Commission more responsive to Congressional intent. Successful achievement of these goals could go a long way toward weakening some of the criticisms and objections of special interest lobbies. In the opinion of the Investigative Staff, the difficulty would seem to be one of finding a legislative remedy both equitable and acceptable to the majority of Congress, while at the same time continuing or improving consumer protection.

The authorities now resting with the FTC were granted by Congressional legislation. The Congress has the power to add or modify these authorities as it sees fit in accordance with the changing needs of the national economy at this particular time in our country's history. It can also, at any time, withdraw authorities previously granted because they no longer serve public needs or reflect the intent of Congress. The Investigative Staff is of the opinion that, by the increased attention now being focused on the FTC, Congress is reassessing these authorities in relation to present conditions.

## 3. FTC Chairman's Recognition of Problems

Some of the criticisms which have been made appear to be excessive and self-serving, representing parochial views with little regard to the overall public interest. On the other hand, the Chairman of the Commission has publicly admitted that some of the criticisms have been on the mark and well deserved. At the recent Senate Hearings before the Committee on Commerce, Science, and Transportation, Consumer Subcommittee, the Chairman of the Commission admitted that some of the accusations against the FTC are valid. He further stated that some of the proposed rules might not have been adequately thought out in the rulemaking process. In an interview reported in the November 6, 1977, New York Times, the Chairman was quoted as saying:

"Our economic analysis was not adequate and the remedies were not thought out."

The Investigative Staff believes there is much at stake in the present Congressional debate. An effective and efficient

FTC can contribute significantly not only to consumer protection, but also to the ultimate benefit of the business community. A major problem would seem to be largely one of sifting through the mountains of propaganda heaped upon the Congress and the public by various interest groups. In the opinion of the Investigative Staff, there is no way the Commission can entirely avoid all criticisms. For no matter how valid or reasonable Commission action may be, there will be those who will protest. This does not imply, however, that FTC is without fault.

#### E. Organization

The Commission is an independent regulatory agency created by the Federal Trade Commission Act of 1914 (38 stat. 717; 15 U.S.C. 41 et seq.), as amended. The Federal Trade Commission is composed of five Commissioners appointed by the President with the advice and consent of the Senate for staggered 7-year terms. Not more than three Commissioners shall be members of the same political party.

The members of the Commission have the final authority in administering and enforcing the laws assigned to the FTC. The Commissioners perform complex and varied functions which include:

- Establishing overall FTC policy.
- Determining priorities for FTC investigations.
- Designating cases which should be prosecuted.
- Sitting as judges on appeal from FTC administrative law judges decisions.

The Commission, under authority provided by Reorganization Plan No. 4 of 1961 may delegate, by published order or rule, certain of its functions to a division of the Commission, an individual Commissioner, an administrative law judge, or an employee. In practice, many of these responsibilities are assigned to the FTC staff.

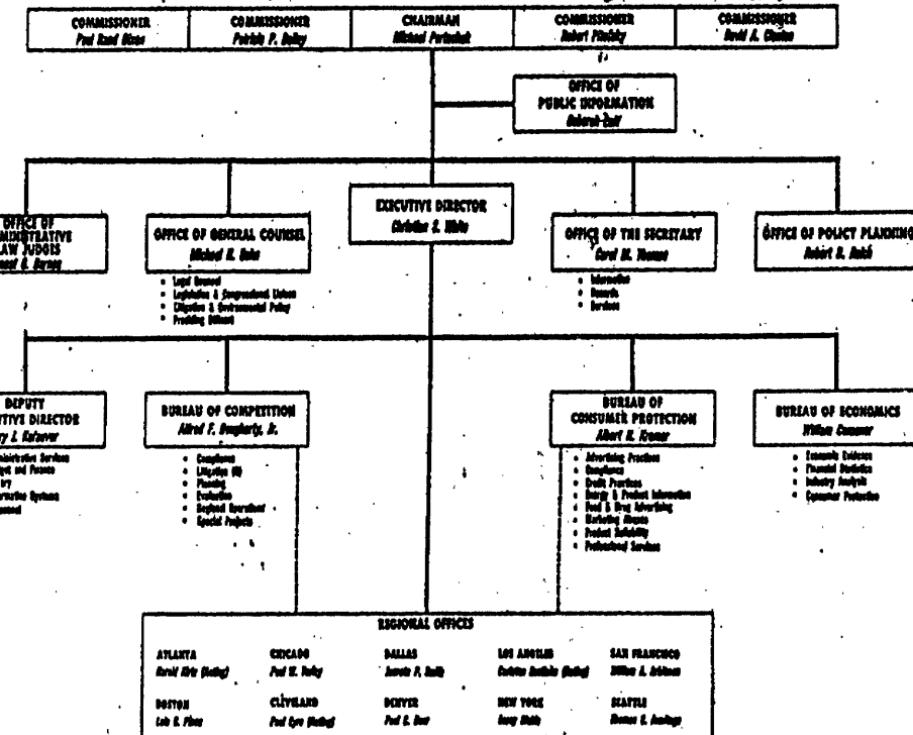
The President designates the Chairman who is the administrator of the Commission and has broad powers in directing the overall policy of the Commission. With certain exceptions, the Chairman makes all staff appointments. The full Commission must approve the designation of the Executive Director, General Counsel, Secretary, Director of Policy Planning, Director of Public Information, Chief Administrative Law Judge, and the Directors of the Bureau of Competition, Consumer Protection, and Economics.

The Federal Trade Commission has been charged by the Congress with the enforcement of statutes designed to keep competition in the business community vigorous and fair and to protect the consumer from unfair or deceptive practices.

Primarily, these phases of the FTC's assigned responsibilities are carried out by the two operating bureaus--the Bureau of Consumer Protection (BCP) and the Bureau of Competition (BC). These bureaus are responsible for rulemaking, industry guidance, complaint investigation, and prosecution in their respective areas. BC is responsible for practices which hinder competition; BCP is concerned with consumer problems. The Bureau of Economics (BE) is the third bureau which assists in carrying out the principal work of the Commission. BE provides economic analyses and other investigational support to the two enforcement bureaus. In addition, it compiles and prepares statistical reports which reflect the financial conditions and the operating results of private corporations.

The chart that follows shows the present FTC organization and functions:

FEDERAL TRADE COMMISSION



F. Specific Delegation of Responsibilities

Specific and more detailed descriptions of the functions carried out by the major FTC components follow:

The Commission

The Federal Trade Commission--composed of the Chairman and four other members--exercises enforcement or administrative responsibilities pursuant to certain acts of Congress. The five-member Commission determines the general policies of the Commission and makes regulatory decisions, findings, and determinations as may be authorized by law.

The Commission's work is broadly divided into two categories--Investigational (part II) and Adjudicative (part III) of the Commission's Rules of Practice. Everything exclusive of adjudicative matters (between issuance of a complaint, i.e., the preparation of the complaint itself, and issuance of a final order) is nonadjudicative. Matters originating at staff level include:

- Proposed investigational resolutions and order to file special reports.
- Consent settlements.
- Consideration of compliance reports which are required to be filed by respondents within 60 days of issuance of a cease and desist order.
- Staff proposed comments on legislation solicited by Congressional Committees or the Office of Management and Budget.
- Requests for advisory opinions.
- Staff proposals for issuance of Guides and Trade Regulation Rules.
- Appeals of denial by the Secretary of requests for access to confidential records.

Adjudicative matters--including everything post-complaint-interlocutory matters--are part III. All work--parts II and III--is generated by the staff and is funneled to the Commission through the Secretary's office. Usually, work is assigned in rotation, and all of the Commissioners are assigned about equal amounts of work.

However, one Commissioner is designated as the Subpoena Commissioner. He prepares proposed dispositions dealing with motions to limit or quash investigational subpoenas referred to the Commission by the Secretary. The Subpoena Commissioner then circulates the proposed dispositions of these matters to the

other Commissioners. Appeals to the Commission from bureau or regional office denials of extensions of time to file motions to limit or quash are also handled by the Subpoena Commissioner.

Another exception to the rotational assignment of work is interlocutory motions in adjudicative matters. One of the Commissioners is designated Motions Commissioner who prepares orders and opinions dealing with motions referred to the Commission by an Administrative Law Judge pursuant to the Commission's Rules of Practice or submitted directly to the Commission by the parties in those instances permitted by the rules. The Motions Commissioner then circulates the proposed dispositions of these matters to the other Commissioners.

Commission decisions are reported in Federal Trade Commission Decisions. Cases involving appellate review of Commission decisions are reported in Statutes and Decisions and Supplements.

#### The Chairman

The Chairman of the Commission is designated by the President and subject to the general policies of the Commission. He is the executive and administrative head of the Federal Trade Commission. He presides at meetings of and hearings before the Commission and participates with other Commissioners in all Commission decisions.

#### Executive Director

The Executive Director is responsible to the Chairman for the overall management direction of the Federal Trade Commission. He is responsible to the Chairman and Commissioners for providing overall budgetary, management, and administrative policy guidance and advice. The Executive Director, with the Bureau Directors and other key officials, is also responsible for directing, co-ordinating, controlling, and evaluating the work of the Commission's 10 regional offices. Within the framework of policies established by the Chairman and the Commission, the Executive Director exercises general management oversight over all phases of the work of the Commission and makes substantive decisions impacting the work of the bureaus and offices. He has overall agencywide responsibility for implementing, through the operating organizations, the policies and decisions of the Chairman and Commissioners.

#### Office of Public Information

The Director of the Office of Public Information advises the Chairman and Commissioners of the Federal Trade Commission on public information policy and directs the public relations and informational programs of the Commission.

#### Office of Administrative Law Judges

The Administrative Law Judges perform adjudicative factfinding functions in formal proceedings within the jurisdiction of the

Federal Trade Commission. They rule upon all matters in controversy and make initial decisions thereon.

#### General Counsel

Under the Chairman and the Commission, the General Counsel serves as the chief law officer of the agency. The office advises the Commission on legislative policy and the need for legislative proposals; represents the Commission in the Federal courts; and prepares memorandums, opinions, reports on questions of law and policy, advises the Commission on the trade regulation rule process, and is responsible for the conduct of hearings during rulemaking proceedings.

#### Office of the Secretary

The Secretary is responsible for providing and obtaining management services essential to the direction and operation of the Commission. Services include assigning of matters to the Commission; signing official documents and letters representing Commission actions, assuring that these actions are adequately presented to interested parties and the general public; maintaining records; keeping the Minutes of the Commission; managing the program of receiving, acting on, and replying to complaints and requests for information from the public, other Federal agencies, State agencies, and Congress; and managing certain aspects of responsibilities incurred under the Freedom of Information, Privacy, and Sunshine Acts.

#### Office of Policy Planning

The office advises top level management officials concerning policy analysis and strategy planning. It develops long-range agencywide objectives consistent with the public interest, determines priorities designed to allocate Federal Trade Commission resources more effectively, and conducts in-depth studies of current and potential problems in the competitive economy for the purpose of recommending policy and program direction.

#### Bureau of Competition

The Bureau is responsible for enforcing Federal antitrust and trade regulation laws under section 5 of the Federal Trade Commission Act, the Clayton Act, and a number of other special statutes which the Commission is charged with enforcing. The Bureau work aims to preserve the free market system. Its activities seek to insure price competition, quality products and services, and efficient operation of the national economy. It carries out its responsibilities by investigating alleged law violations and recommending to the Commission such further action as may be appropriate. Such action may include injunctive relief in Federal district court, complaint and litigation before the agency's administrative law judges, formal nonadjudicative settlement of complaints, trade regulation rules, or report. The Bureau

also conducts compliance investigations and initiates proceedings for civil penalties to assure compliance with final Commission orders dealing with competition and trade restraint matters.

#### Bureau of Consumer Protection

The Bureau of Consumer Protection is responsible for the investigative, prosecutive, rulemaking, and compliance functions involved in the enforcement of those provisions of the trade regulation laws which are directed against unfair or deceptive acts or practices other than unlawful restraint of trade. The Bureau's responsibilities encompass the detection of alleged or suspected violations of the laws, the preparation of formal complaints, the trial of complaints before Administrative Law Judges, the presentation of appeals to the Commission, the drafting of cease and desist orders, drafting of Trade Regulation Rules (TRR's), investigation of compliance with orders and rules, development of educational materials for consumer and business users, and the preparation of civil penalty suits in cases of noncompliance.

It is also responsible for encouraging voluntary compliance with these laws on the part of the business community and for providing guidance to the Commission's regional offices with respect to consumer protection activities. It is responsible for the preparation, promulgation, and enforcement of regulations under the Magnuson-Moss Warranty--Federal Trade Commission Improvement Act; Energy Policy and Conservation Act; Textile, Wool, and Fur Labeling Acts; and Fair Packaging and Labeling Act. The Bureau is responsible for enforcement of major portions of the Consumer Protection Act.

#### Bureau of Economics

The Bureau of Economics has responsibility for the formulation of policies and goals in the field of economics related to the antitrust and trade regulation statutes administered by the Commission; the conduct of surveys of the economy to identify emerging monopoly problems; the furnishing of economic analysis of cases and rules; the furnishing of economic analysis and evidence for use in the investigation and trial of legal cases and in rulemaking proceedings; the preparation of economic reports for publication as requested by the Commission, the Congress or the President; and the compilation and publication of statistics reflecting the current financial condition and operating results of corporations constituting major segments of American business. The Bureau publishes aggregations of data collected. This is accomplished through two programs--the Quarterly Financial Reports program and the Line of Business program.

#### Regional Offices

Each regional office has responsibility within an assigned geographical area for investigational, trial, compliance, rule-making, and consumer education activities as delegated by the Commission.

Federal Trade Commission Resources

During the past 5 years, the resources available to the FTC increased--funds by approximately 60 percent and work years by some 11 percent. For FY 1979, total funds appropriated amounted to \$65.3 million. As of September 30, 1979, there were 1,665 people employed at the FTC. Of these, 648 were attorneys; 87 were economists and 351 were other professionals; and 579 were clerical. Approximately 464 of the attorneys were located in Washington, D.C.

The following tables show the allocation of resources from FY's 1975 to 1979:

**FUNDS ALLOCATIONS AND WORK YEARS BY MISSION**

**FY's 1975-1979**

	<u>FY 1975</u>	<u>FY 1976</u>	<u>To</u>	<u>FY 1977</u>	<u>FY 1978<sup>1</sup></u>	<u>FY 1979<sup>1</sup></u>	<u>Total</u>
(dollars in thousands)							
Maintaining Competition --	\$11,725	\$16,176	\$ 4,263	\$18,686	\$23,688	\$25,359	\$ 99,897
Consumer Protection -----	16,634	18,265	4,928	19,389	25,032	26,815	111,063
Economic Activities -----	3,022	3,678	977	3,389	5,169	5,398	21,633
Executive Direction -----	2,256	2,646	698	3,038	-0-	-0-	8,638
Administration and Management -----	3,273	3,775	999	4,649	-0-	-0-	12,696
Consultants -----	372	469	129	490	489	574	2,523
Contracts -----	1,701	2,190	549	5,039	7,722	7,154	24,355
Total -----	\$38,983	\$47,199	\$12,543	\$54,680	\$62,100	\$65,300	\$280,805

**Work Years:<sup>2</sup>**

Maintaining Competition --	503	-----	594-----	643	741	790	3,271
Consumer Protection -----	729	-----	692-----	674	773	808	3,676
Economic Activities -----	145	-----	151-----	140	180	186	802
Executive Direction -----	91	-----	97-----	104	-0-	-0-	292
Administration and Management -----	142	-----	148-----	151	-0-	-0-	441
Total -----	1,610	-----	1,682-----	1,712	1,694	1,784	8,482

<sup>1</sup>In FY 1978 the Executive Director and Policy Planning and Administration and Management missions were combined into the Maintaining Competition, Consumer Protection, and Economic Activities missions.

<sup>2</sup>Total work years and total dollars include some administrative support (General Counsel, Administrative Law Judges, Office of the Secretary, and a portion of the Information Systems Division) for each mission for FY's 1975-1977.

Funding for the Commission's operations for FY 1980 has not been included in any appropriation bill. Congress enacted H.J. Resolution 402 continuing appropriations until November 20, 1979, pending consideration of regular authorization legislation. This resolution contained a provision that none of the funds made available could be used for the final promulgation of trade regulation rules \*\*\* nor to initiate any new activities." A second continuing appropriations resolution, H.J. Resolution 440, to fund the Commission until March 15, 1980, was enacted on November 20, 1979, as P.L. 96-123. This resolution also contains a provision that \*\*\* no new trade regulation rules promulgated under the authority of section 18 of the Federal Trade Commission Act, as amended, are to become effective during the period covered by this joint resolution for the Federal Trade Commission or unless authorizing legislation is enacted prior to that time."

ANALYSIS OF CURRENT PROFESSIONAL  
STAFFING BY ORGANIZATION  
AS OF SEPTEMBER 30, 1979

<u>Professional Skill</u>	<u>Regional Offices</u>	<u>Bureau of Competition</u>	<u>Bureau of Consumer Protection</u>	<u>Support<sup>1</sup> Organization</u>	<u>Bureau of Economics</u>	<u>Total</u>	<u>Percent</u>
Attorneys -----	184	207	159	98	-0-	648	39
Economists -----	2	1	-0-	-0-	84	87	5
Other							
Professional <sup>2</sup> --	52	45	34	171	49	351	21
Clerical -----	85	110	112	212	60	579	35
Total -----	323	363	305	481	193	1,665	100
Percentage -----	19	22	18	29	12	100	

<sup>1</sup> Includes General Counsel--Office of Secretary, Administrative Law Judges--Office of Public Information, Commissions, Executive Director, Policy Planning, and Administrative and Management.

<sup>2</sup> Includes consumer protection specialists, research analysts and overhead and management support personnel.

## II. WORK FLOW AND ALTERNATIVES

In enforcing the statutes charged to it, the principal tools of the Commission are:

- **Adjudication**, where the Commission issues a complaint and sits as a court in determining whether a violation has occurred.
- **Rulemaking**, where, after receiving comments and conducting a hearing, the Commission issues a rule stating that particular practices are contrary to law.

The Commission has statutory authority to conduct any inquiry necessary to the performance of its duties. Law enforcement activities may take any lawful form, from information gathering to the prosecution of cases in either quasi-judicial adjudicative proceedings upon administrative complaint or the institution of civil penalty actions in U.S. district court charging specific respondents with violations of laws enforced by the Commission. Law enforcement activities are conducted in accordance with the provisions of pertinent statutes and the Commission's Procedures and Rules of Practice.

### A. Limitations of FTC's Authority

Several conditions are imposed upon the law enforcement powers of the Commission:

- The practice involved must come within the jurisdiction of the laws the FTC enforces.
- The Commission's authority extends only to conduct "in or affecting" interstate commerce.
- The Commission proceeds only against practices of significant interest to the public. It does not act on matters primarily of interest to private parties.
- The Commission itself has no authority to imprison or fine. However, if cease and desist orders or Trade Regulation Rules are violated, it can seek civil penalties in Federal court of up to \$10,000 a day for each violation. It can also seek redress for those who have been harmed by unfair or deceptive acts or practices.

### Introduction

When law violations are individual rather than industrywide, FTC exercises its corrective responsibility by issuing complaints and orders to halt false advertising or fraudulent selling or to prevent a business or corporation from using unfair or deceptive tactics against competitors. Violation of these orders can

result in civil penalties and consumer redress in appropriate cases. By contrast, rulemaking represents an effort to shape the details of substantive law by a unitary proceeding, rather than on a case-by-case adjudication, as the means for achieving this result.

As part of its enforcement function, the Commission conducts investigations and reports to the Congress, the business community, and the public on its findings.

#### Factors Affecting Work

Many variables can affect the progress of an investigation. Available program resources, protocols, and case selection criteria influence enforcement activities. The scope and direction of work is also affected by substantive reviews performed at the various organizational levels. Commissioners, Bureau Directors, Deputy and Assistant Directors, regional office directors, and program advisors review work at different stages to provide guidance from selection to final disposition of the FTC action.

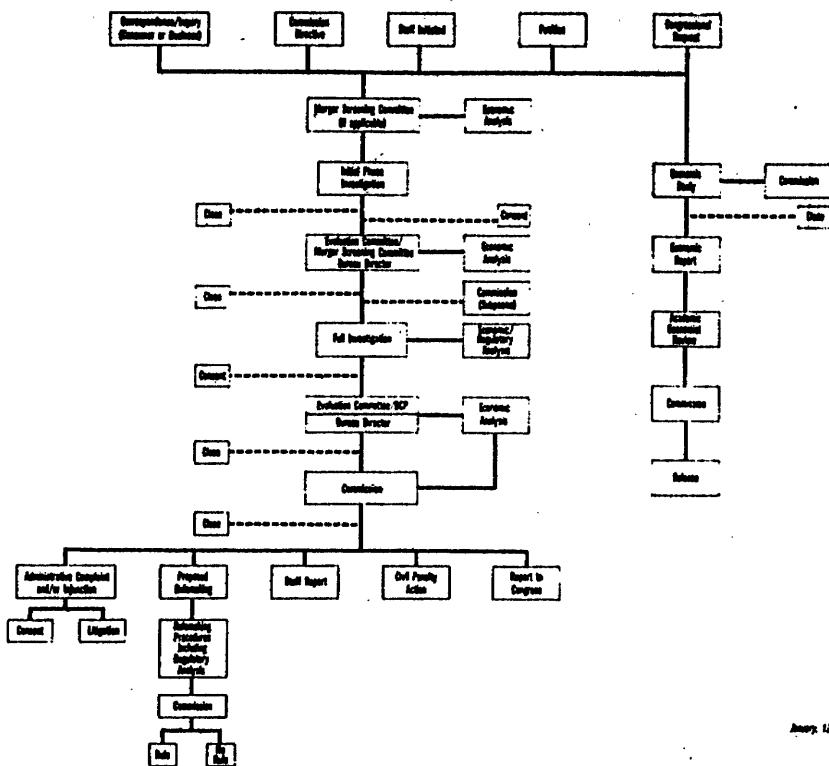
The following pages describe the FTC case process as contrasted with rulemaking which is covered in chapters V and VI of this report. This overview focuses mainly on the law enforcement of consumer protection matters.

#### B. FTC Work Selection and Flow

At each stage of work, from the initial phase investigation to final action taken by FTC, there are various levels of reviews and analyses. The Evaluation Committees include Bureau Directors, Deputy and Assistant Directors, and other members of the staff. These efforts seek to assure that work continues to be in accordance with Commission policy and that justification for further investments of resources exists. Final approval or disapproval is at Commission level.

As may be seen from the following chart, work performed by the FTC may be self-initiated or the result of external factors--requests from Congress, the public, or the business community.

## BASIC FEDERAL TRADE COMMISSION WORK FLOW



JANUARY 1, 1980

### How the Work Begins

The FTC receives a wide variety of complaints and inquiries concerning potentially unlawful trade restraints and alleged violations of consumer protection laws from the public, businessmen, and members of Congress acting on behalf of their constituents. The procedure for filing a complaint is simple and informal. A letter naming the parties and outlining the practices complained of is all that is necessary.

Complaints and inquiries are received, given a control number and logged by the Office of the Secretary, and then forwarded to the appropriate bureau for evaluation. Each application is assigned to a member of the staff. If it relates to a matter in an active status or within an authorized enforcement project or program, it is referred to the responsible Assistant Director or Regional Office Director for initial action determination.

Assistant Directors and Regional Office Directors have authority to initiate 100-hour investigations within their areas of enforcement responsibility. Applications are received at FTC headquarters in Washington, D.C., or directed and processed by one of the 10 regional offices.

Trade Regulation Rule proceedings may be started by the Commission on its own initiative or pursuant to written petition filed with the Secretary by any interested person stating reasonable grounds therefor. Any person whose petition is deemed by the Commission to be not sufficient to warrant commencement of a rulemaking proceeding is so notified and may be given an opportunity to submit additional data.

### Investigations

An investigation of an individual, business entity, or industry may result from public complaints or from FTC staff reports or studies. The Commission may receive, compile, or utilize reports which it requires of industry as a basis for conducting an investigation. As part of the information-gathering phase of an investigation, the FTC staff may seek information on a voluntary basis or it may seek Commission authorization for compulsory process in investigations to permit the use of subpoenas, special reports, and access orders.

Initial phase investigations are opened when it is necessary to go beyond the original public complaint or inquiry to obtain specific information and the matter appears to involve a violation of Commission-enforced law and is of sufficient public interest to warrant the resource commitment. The initiation of an investigation will generally be governed by budget priorities established by the Commission. Upon completion of the initial phase--usually a maximum of 100 hours--a decision is made either to close the case because further effort is not justified or to continue the investigation.

Full Investigation

A full investigation may be pursued when it has been decided by the initial phase of an investigation, or otherwise, that a more comprehensive investigation is warranted. A full investigation is approved by the Bureau Directors. Investigations may be closed by the Bureau Director or the Commission or they may result in recommendations for corrective action. This may take the form of a consent agreement, issuance of an administrative complaint, institution of an injunction proceeding, proposal for a trade regulation rule (TRR) or guide, enforcement of a TRR, or the institution of a civil penalty action. In addition, an investigation may result in a request that nonrespondents receive notice of prior Commission decisions respecting a particular practice as predicate for possible civil penalty action or that respondents be advised that the Commission may seek consumer redress following issuance of a final order. Investigations may also be closed with a recommendation that other forms of actions be taken. Some of the actions that may result from investigations are discussed in the following paragraphs.

Consent Agreements

An investigation may result in the execution of a consent agreement. Proposed respondents are generally provided an opportunity to dispose of matters by executing agreements consenting to the issuance of nonadjudicative complaints and accompanying orders to cease and desist. The Commission may reject the agreement or accept it and place it on the public record for comments, following which it will again be considered and appropriate action taken. Subsequent action could include issuance of a final Decision and Order, remanding the matter to the originating office for further investigation or modification of the agreement, issuance of an adjudicative complaint, or closing the investigation.

Administrative Complaints

When an investigation does not result in an agreement, the staff may recommend to the Commission that an adjudicative complaint be issued, charging the proposed respondents with violation of one or more of the laws enforced by the Commission. Upon issuance of a complaint, a Commission adjudication is instituted and a formal docket number is assigned to the matter. The Commission may also seek injunctive relief in district court prior to issuance of an administrative complaint. At the time the complaint is issued, the notice portion will include either a notice order or a notice of contemplated relief concerning the type of relief which the Commission might seek to impose if the allegations are sustained. The notice order contains specific proposed order provisions in contrast to the notice of contemplated relief which merely outlines the type of relief which may be considered appropriate.

### Judicial Action for Consumer Redress

Where circumstances indicate that respondent's alleged violations of the law may justify consumer redress under the Magnuson-Moss Warranty--FTC Improvement Act (FTCA sec. 19), the respondent is usually notified in the notice order of the complaint that the Commission may seek such relief in court following trial and issuance of a final order. The Commission may institute an action in a Federal district court or State court within one year after the order becomes final, seeking redress on behalf of injured consumers or businesses. The court is empowered to fashion an appropriate remedial award to redress injury upon proof by the Commission that the act or practice to which the cease and desist order relates is one which a reasonable man would have known to be dishonest or fraudulent under the circumstances.

### Enforcement of Decisions Against Nonrespondents

Under the Magnuson-Moss Warranty--FTC Improvement Act, the Commission may seek civil penalties in a U.S. district court against any person, partnership, or corporation who knowingly engages in any act or practice which the Commission has determined in issuing a final cease and desist order to be unfair or deceptive. Under current policy, notification is sent to persons or business entities advising them of Commission determinations and of their potential liability for civil penalties if they subsequently engage in such unfair or deceptive acts or practices.

In addition to civil penalties, the district court may also order other appropriate relief such as an injunction to compel defendants to comply with the provisions of the cease and desist orders. Prior to the institution of a civil penalty action, proposed defendants may enter into a consent judgment with the Commission which is hereafter recommended to the court for approval and entry as a final judgment and order of the court.

### Promulgation of Trade Regulation Rules (TRR's)

An investigation may result in the recommendation that the Commission promulgate a Trade Regulation Rule in regard to certain acts or practices. Rulemaking is a substantive lawmaking proceeding which defines with specificity unfair or deceptive acts or practices within an industry or group of industries, including requirements to prevent proscribed conduct. The Commission is authorized to seek direct enforcement of TRR's in court. (TRR's are discussed in detail in chapter V of this report.)

### Enforcement Actions for Violations of a TRR

Upon final promulgation of a trade regulation rule by the Commission, a person, partnership, or corporation which violates the rule after its effective date may be subject to corrective action by the Commission. An investigation may focus on whether proposed respondents have engaged in practices in violation of a TRR.

Administrative Adjudications

Commission adjudications are commenced upon an affirmative vote of the Commission to issue a complaint. Upon issuance of the complaint, the matter is given a docket number and assigned to an Administrative Law Judge (ALJ) who controls pretrial discovery, rules on motions, presides at "Adjudicative Proceedings," and prepares an initial decision. The Commission may allow full or limited intervention by others. An administrative adjudicative proceeding terminates with the issuance of a final order to cease and desist or to divest, a final decision and order dismissing the complaint, or withdrawal of the matter from adjudication for consideration of a consent agreement settlement.

Consent Agreement Settlement

Respondents and counsel representing the Commission may enter into consent negotiations during the course of the adjudicatory proceeding. If agreement is reached, a joint motion can be made to the ALJ to withdraw the matter from adjudication. Following withdrawal, the executed consent agreement is considered by the Commission for its acceptance.

Discovery, Trial, and Initial Decision

Upon assignment, the ALJ is in charge of the case until filing of the initial decision or matter is withdrawn from adjudication. The ALJ has explicit authority to consider and rule upon certain motions and to regulate hearings. In some instances, specific questions must be certified to the Commission. In addition, the rules permit some interlocutory appeals to the Commission.

Commission proceedings include both pretrial and trial stages. Prehearing procedures are used for discovery and to resolve issues and other matters not requiring formal hearings. These procedures include formal conferences, admissions, depositions, and subpoena returns. An ALJ lacks punitive and coercive authority similar to the criminal and civil contempt powers of a Federal court. If the Commission concludes that compliance with a subpoena or an order is essential to a proceeding, it is necessary to invoke the aid of a Federal district court and that court's contempt powers. At the conclusion of hearings, counsel may file proposed findings of fact, conclusions of law and orders accompanied by briefs, and ALJ's may entertain oral argument. When the parties have completed their submissions, the hearing record is closed and the ALJ prepares and files an initial decision.

Final Commission Decision

The Commission has the responsibility to make a final decision in each case. It may do so by means of any of three alternative courses of action. First, any party may appeal to the Commission from the initial decision. Second, the Commission may decide on

its own initiative to review a matter by issuing an order placing it on the Commission's docket. Third, in the absence of a projected appeal by a party or *sua sponte* review, the ALJ's initial decision automatically becomes the decision of the Commission. Commission decisions are promulgated by final orders. In cases where the Commission determines that a violation of law has not been proven, the final order dismisses the proceeding. The Commission may also return a matter to the ALJ for further hearings. In those cases in which it determines that violations have occurred and should be prohibited or corrected, the final orders contain the order to cease and desist and any ancillary mandates the Commission considers appropriate.

#### Appellate Court Review of Adjudicative Orders

Anyone subject to a Commission order to cease and desist may file a petition for appellate review of the Commission's decision in an appropriate United States Court of Appeals. The decision may be further reviewed by the United States Supreme Court. Except for consent orders which become final upon service, the Commission's final orders do not become "final" in the statutory sense until completion of appellate review upholding the orders or until expiration of the period within which such review may have been sought.

#### Reopening of Cease and Desist Orders

The Commission has statutory authority to reopen its proceedings after its orders have become "final" and to modify or set aside orders to accommodate changed conditions of fact or of law to protect the public interest.

#### Monitoring Compliance with Final Orders

All Commission final orders containing orders to cease and desist or to divest also contain provisions requiring those persons subject to the orders to file with the Commission, within specified periods, reports setting out in detail the manner and form of their compliance. An initial compliance may also be required in connection with the execution of a consent agreement. Commission staff may also require such respondents to file supplemental reports and may conduct compliance investigations to determine whether Commission orders are being violated, in which case the Commission may utilize voluntary or compulsory measures.

Respondents subject to Commission orders to cease and desist or to divest may submit requests for advice as to whether proposed action would comply with Commission orders.

#### Civil Penalties for Violation of Commission Orders

When a respondent subject to a cease and desist order fails to comply with that order at any time after the order becomes

final as a matter of law, a civil suit may be instituted in district court for monetary civil penalties and for injunctive and other appropriate equitable relief. In addition to exacting civil penalties, district courts may include in their judgments injunctive orders commanding obedience to the Commission's orders. Any further violations of a Commission order which was included in the court's injunctive order or judgment may be treated as contempt of court. The court may approve and enter as a final judgment and order a consent judgment agreed upon by a defendant and the Commission.

Pertinent statutes require the courts of appeal which affirm Commission orders to issue their own orders commanding obedience to orders they affirm. Thereafter, violations of Commission orders are also violations of the court's orders, and the latter violations may be treated as contempts.

#### C. Public Information and Education

Federal Trade Commission policy and procedures provide for informational and educational activities by the staff. A proper distinction is made between the two activities. However, funding for informational actions is neither separately identified in the budget nor are the man-hours expended segregated in the Weekly Activity Report. The FTC procedures make the following distinctions:

##### Public Information Program

The responsibility for keeping the public informed is in the Office of Public Information which has three general functions:

- To inform the general public--primarily through the communications media--about the Commission's public actions. This is done principally through the issuance of news releases and the publication of a weekly calendar and Weekly News Summary.
- To advise the Commission on public information policy.
- To guide and coordinate the public information programs of the regional offices.

News releases inform the public of enforcement actions taken by the Commission such as the issuance of complaints, decisions and orders, acceptance of consent agreements, promulgation of trade regulation rules, and other actions.

News briefings are also a communication tool used by the FTC. The decision to schedule a news briefing is made jointly by the Director of Information and the appropriate Bureau Director and/or Regional Director. These briefings may be held to announce some particularly important FTC activity or action which is so complex that explanation or interpretation is considered essential.

The office maintains mailing lists for news releases and the Weekly News Summary. Although the Office of Public Information has primary responsibility for informing the media of Commission actions, there is no prohibition against communications between the staff and representatives of the media regarding matters of public record. FTC views this form of communication as a means of contributing to more accurate reporting of FTC actions. However, such discussions are to be held only after the information has been released to the public.

#### Consumers and Business Community Education

The Commission defines an educational activity as any activity directed toward preparing and disseminating materials relevant to the Commission's enforcement activities beyond the issuance of news releases and holding news briefings. Such activities may be conducted in connection with a specific enforcement program, warranties, or may be related more generally to the activities of the Commission.

Educational activities include the preparation and distribution of descriptive and interpretive materials, educational speeches, and the conducting of seminars, workshops, and similar programs for consumers and the business community, the bar, academic groups, and personnel of other Government agencies, including State and local agencies.

The FTC considers educational activities of particular value when:

- New laws are passed and trade regulation rules are promulgated in final form.
- An industrywide practice creates a need for an immediate "alert" to consumers. This type of educational effort may take the form of advising consumers as to practical questions they should ask before making a purchase.
- A significant contribution can be made to attaining enforcement objectives by explaining to relevant groups how to participate in certain Commission activities such as the development of a trade regulation rule.
- Commission enforcement activities can be enhanced by encouraging the business community to take voluntary action to eliminate unfair, misleading, or anticompetitive practices.

Educational materials such as consumer information brochures may be prepared for distribution to the public. The FTC staff may write law reviews and other articles so long as the information has already been publicly disclosed by the Commission.

**D. Goals of FTC Education Efforts**

A former Commissioner in a memorandum dated March 8, 1979, identified the role of consumer education as the process of informing:

- Consumers about their rights and responsibilities under laws enforced by FTC.
- Businesses to assist them in understanding and complying with the laws and rules enforced by FTC.

The goals of consumer/industry education are set forth as follows:

- Assure access to relevant information to assist consumers to purchase goods and services which meet their needs and interests.
- Assist consumers to understand their legal rights and responsibilities in marketplace activities.
- Motivate consumers to use relevant information about goods and services in making their purchasing decisions.
- Motivate consumers to seek their legal rights and just remedies in the marketplace.

This memorandum reinforced a number of prior statements which had been made over the years concerning the importance of the educational process in carrying out FTC responsibilities.

In 1972 a memorandum from the then Director of the Bureau of Consumer Protection, and now a Commissioner, in pertinent part stated:

"Sensibly conceived consumer education efforts are extremely efficient ways of protecting the consumer's interests and can fit comfortably within the Bureau's total enforcement efforts."

The present Commission has in a number of recent actions demonstrated a growing awareness of the value of consumer education as an integral and important part of FTC functions. Certain steps have been taken by the Commission. For the public record, the five Commissioners were recorded as voting in the affirmative on the following actions:

- Attention was directed to the Commissioner's memorandum dated March 8, 1979, on consumer education.
- The Director, Bureau of Consumer Protection, was made responsible for reviewing the Bureau's consumer education program.

- The Executive Director was designated as the official responsible for coordination of the Commission's education activities.
- The Executive Director was further instructed to survey and report his findings and recommendations on consumer education with respect to establishment of program priorities and objectives and an impact evaluation program. The study was to include activities being performed, staffing involved, work years being expended, and current and projected funding.

Survey of Consumer Education Program

The Consumer Education Survey Report noted that in the past, Commission interest in consumer education had fluctuated. The report stated in pertinent part that:

"A major portion of the Commission's consumer/industry education activities are performed by the operating divisions and Consumer Education Unit of the Bureau of Consumer Protection.

"Consumer education time expended by staff in the operating Division of the Bureau and regional offices is not necessarily reported as a separate line item but is sometimes reported directly into an operational program area."

In FY 1979, there were three professionals, a clerk, and one part-time employee assigned to the Consumer Education Unit. The FTC report stated that work years designated for consumer education totaled 14.6. However, for the same period, the Weekly Activity Report accounted for a total of approximately 6 man-years for consumer education activities which appears to account for the employees in the Consumer Education Unit in the Bureau of Consumer Protection. In response to a questionnaire, all bureaus and offices, including regions, reported participating in some form of consumer education. However, because at present there is no single reporting code, the total effort expended in consumer education cannot be computed.

There are several reasons why it would be extremely difficult, if not impossible, to account with any degree of accuracy the activities in this area. Some of these reasons follow:

- As was noted in the FTC report, sometimes consumer education activities are charged to operating programs and therefore are unidentifiable.
- Educational activities are also being charged to other program codes such as Federal-State Liaison/consumer codes

(P-9) by the Bureau of Competition, (P-10) by the Bureau of Consumer Protection, and to (P-11) Public Information.

- Regional offices use various program codes to charge this activity.

#### E. Consumer Education Products

Through its consumer education program, the Federal Trade Commission prepares and publishes materials on three broad topics:

- Information on the agency's responsibilities and services, including explanation of its law enforcement programs.
- The FTC's role in the marketplace.
- Specific programs such as public participation in rulemaking.

The FTC provides information on consumer rights and remedies through various publications, public service announcements distributed to radio and television stations, and public service notices made available to the newspaper media. To illustrate, in 1979 the FTC distributed television public service announcements on the Equal Credit Opportunity Act and the Commission's Mail Order Trade Regulation Rule.

The Commission provides two types of written material for consumers. These include "Facts for Consumers" which are plain-language fact sheets of the law on various topics of FTC jurisdiction such as vocational schools, gasoline saving devices, and octane ratings. Secondly, the FTC produces brochures on trade regulation rules, statutes, or other areas of FTC jurisdiction. These brochures are usually four to six pages in length and have been issued on such subjects as eyeglasses, care labeling, and warranties.

An example of a well written announcement which clearly informs the public follows:

"How many times have you gone into a store to buy something and the salesman said, 'Don't worry, it's guaranteed'? Then when the product breaks down you read the warranty and you find it's full of exceptions you wish you'd known about before. The point is, not all warranties are FULL warranties. Many are LIMITED. So read before you buy. Find out what's missing. It's your right under the law. The Federal Trade Commission thought you'd want to know. Look before you leap. Read before you buy."

The Investigative Staff was informed that some 600 television and 6,000 radio stations are participating in these announcements and that the response has been good.

- The survey report on consumer education contained a number of recommendations which appear sound and reasonable. The report recommended:
  - The establishment of program priorities and objectives together with an impact evaluation program.
  - That increased attention be given to consumer/industry education.
  - That the Bureau of Consumer Protection provide a distinct budget for its consumer education activities.
  - A revised management information system to insure the capturing of accurate time for consumer education.

The Investigative Staff is of the opinion that at the present time there is no way to arrive at a firm total of how much is being expended for consumer education--not only is there no uniformity in accounting but also there are other deficiencies noted in a prior Investigative Staff report concerning the status of reporting systems at FTC. Deficiencies noted in the consumer education area are symptomatic of weaknesses existing throughout the FTC reporting system. Therefore, the Investigative Staff would suggest the Committee require the Chairman of the Commission that the revision of MIS encompass a comprehensive approach to provide improved information in all areas of FTC matters and to correct previously identified deficiencies. Because of the weaknesses discussed in the prior paragraphs, the Investigative Staff refrains from recommending that the consumer education program be increased.

Nonetheless, the Investigative Staff believes consumer/industry education can be a highly cost-effective alternative in attaining a primary FTC objective of protecting the consumers' interests. A well-informed buyer can be the best defense against "unfair and deceptive" advertising or questionable sales methods.

### III. THE COMMISSION'S SYSTEM FOR SELECTING AREAS/SUBJECTS FOR REGULATION

The Commission's law enforcement activities are arranged by major missions. The three major operating missions of the Commission under the statutes it enforces and administers are Maintaining Competition, Consumer Protection, and Economic Activities. Each mission is divided into program areas in which the Commission seeks to plan and direct specific cases, projects, and rulemaking activities to achieve its objectives and administer its law enforcement responsibilities.

A program comprises all activities within a particular industry such as health care or land sales or related enforcement efforts that warrant allocation of substantial resources. Activities may be confined in a single program when they concern the same problem and share the same overall goal. Generally, activities, together with policy planning, inquiries, evaluation, workload and program reviews, and case reevaluation efforts, are charged to programs as an overhead expense.

The Commission's law enforcement missions involve coordination among bureaus and the regional offices in selection and planning, with early and substantial use of economic support. Primary enforcement responsibility for each program in the Bureau of Consumer Protection is under the general supervision of an Assistant Director or a Regional Office Director. The program is coordinated on a day-to-day basis by a program advisor who is an attorney. In the Bureau of Competition, primary responsibility for subject area programs is under the general supervision of one or more Assistant Directors, and law programs are under the general coordination of the Evaluation Office.

The Commission conducts periodic reviews to focus on each individual program's policies, objectives, plans, and status, as distinguished from budgetary allocations. However, the Investigative Staff could find no evidence that separate and independent reviews were being made to provide the Commission the objective followup necessary to evaluate effectively the extent of implementation of Commission policies. In the opinion of the Investigative Staff, such independent assessments are essential to assure the Commission that it has the most informed basis for decisionmaking.

#### A. Case Selection Criteria and Reviews

The manner in which law enforcement activities are conducted is governed by the mandates of pertinent statutes and the Commission's Procedures and Rules of Practice. Program resources, protocols, and case selection criteria also influence enforcement activities. Consideration and monitoring of resource commitments required for the investigation and litigation of a matter are other integral parts of case selection.

In addition, there are supervisory reviews by the Commission, operating bureaus, Evaluation and Merger Committees, program advisors, and cognisant supervisors to provide guidance, direction, and control of case work products. On the surface, these procedures would seem to be adequate to provide reasonable assurance that the ultimate goal of FTC--giving the maximum protection to consumers-- is attained. However, in spite of these many levels of reviews, there is one missing ingredient in present FTC methods--an independent after-the-fact evaluation. The Investigative Staff believes these operational reviews are important and afford a needed element of internal control in the reassessment of continuing justification of a selected course of action. Currently, these various supervisory reviews are made by the same people who selected what was assumed to be the best alternative action in the first place. Subsequently, these same people are expected to review objectively and criticize the original course of action.

In the opinion of the Investigative Staff, what is needed is an objective after-the-fact evaluation performed by an independent group reporting directly to the Commission. So long as this element of control is lacking, there will be no assurance that policy is being properly implemented or that the Commission is receiving all the information necessary to perform its approval function on the most informed basis.

#### B. Consideration of Resources

The program budget is the Commission's principal mechanism for allocating resources. It is the primary means for making future plans and for establishing FTC priorities. It is the means by which Congress and the Office of Management and Budget become aware of Commission overall plans.

The Commission conducts four budget planning resource utilization sessions each year when all programs are reviewed and resources are allocated. The budget sessions should also--but because of inadequacies in the overall budgetary process does not--provide the means of measuring the attainment of Commission-established goals.

- o The allocation of resources is the first control that affects the type and extent of work performed by the operating bureaus. Bureau Directors recommend to the Commission the priorities, goals, and objectives which are believed to be appropriate to accomplish the bureau's mission. Once objectives and priorities have been approved by the Commission, the Bureau Directors are responsible for maintaining them through the entire mission.

Resource considerations are an important component of program and case selection, establishing strategy and priorities within operating units. The FTC staff also considers other anticipated resource expenditures, such as availability of travel funds, program contracts, and stenographic reporting. Periodic review and evaluation are made to assure that Commission resources are

expended in conformance with established priorities, goals, and objectives. Policy planning and priorities are considered at each level of review, not only for the initial determination to begin investigations and during all subsequent enforcement decisions, but also in the assignment of personnel and the expenditure of travel funds and other resources.

However, it should be noted this accounting is performed on a program basis only. Due to a lack of consistency in charging programs and existing inaccuracies in reporting, aggregate expenditures for any single program are at best approximations. For example, the Executive Director in a report dated July 27, 1979, has reported such deficiencies in the Consumer Education Program. Furthermore, the accounting and reporting does not provide the necessary breakdown within programs to show accomplishments and/or remedial actions obtained for dollars spent.

#### Accomplishments and Workload Statistics

FTC officials advised that statistical indicators of agency accomplishments have not been compiled on a regular basis because they are generally thought to be of little value--some cases which are more complex than others extend over many years as compared to others which are concluded quickly.

However, in response to a request from the Investigative Staff, the FTC compiled "lists of Federal Trade Commission accomplishments by fiscal year for FY 1975 through FY 1979." Among the pertinent items listed were the following:

	<u>FY</u> <u>1975</u>	<u>FY</u> <u>1976</u>	<u>FY</u> <u>1977</u>	<u>FY</u> <u>1978</u>	<u>FY</u> <u>1979</u>
<b>Part II (Investigative Stage)</b>					
<b>Consent Orders:</b>					
Consumer Protection Mission --	146	141	45	20	38
Competition Mission -----	15	24	16	8	17
<b>Part III (Litigation Stage)</b>					
<b>Consent Orders:</b>					
Consumer Protection Mission --	16	28	13	10	11
Competition Mission -----	9	8	8	4	9
<b>Litigated Orders:</b>					
Consumer Protection Mission --	15	17	4	12	5
Competition Mission -----	10	12	9	12	10
<b>Total Final Orders -----</b>	<b>211</b>	<b>230</b>	<b>95</b>	<b>66</b>	<b>90</b>
<b>Orders Resulting in Consumer Redress -----</b>					
	11	2	14	8	11
<b>Civil Penalty Actions:</b>					
Consumer Protection Mission --	12	21	14	19	17
Competition Mission -----	3	2	2	2	2
<b>Preliminary Injunctions:</b>					
Consumer Protection Mission --	3	1	1	3	4
Competition Mission -----	0	0	6	3	0

In part, the reduction in the number of orders from FY 1976 to FY 1977 (230 to 95) reflects the change in emphasis from case-by-case adjudication to rulemaking and to more complex cases.

Among the items furnished by PTC under the heading of accomplishments were the following workload figures:

	<u>FY</u> <u>1975</u>	<u>FY</u> <u>1976</u>	<u>FY</u> <u>1977</u>	<u>FY</u> <u>1978</u>	<u>FY</u> <u>1979</u>
<b>Industrywide Investigations:</b>					
Consumer Protection Mission --	6	11	16	5	0
Competition -----	0	0	0	11	0
<b>Freedom of Information Act Requests -----</b>					
	529	690	674	1,154	1,641
<b>Consumer and Business Inquiries and Complaints -----</b>					
	30,384	39,802	38,544	42,149	43,149

The inclusion of such workload items as "requests and complaints" in a list of "accomplishments" demonstrates a failure on the part of the FTC to distinguish between workload and accomplishments--between the results of the work effort and the work itself.

An ongoing statistical accounting of the results of FTC efforts would seem to be a valuable management tool which would indicate--among other things--success and failure, trends, weaknesses, efficiency, and the results of policy changes. More importantly, it would fulfill a need for FTC to account for expenditures on the basis of results rather than merely by overall programs.

The Investigative Staff believes that if this information were provided on a systematic and timely basis, it would be of value in giving the Commission an effective workload-management tool. This type of information could be equally valuable to the Appropriations Committees. At present, this breakdown can only be obtained by generating data which would represent a costly and laborious effort.

#### C. Policy Protocols and Case Selection Criteria

Policy protocols and case selection criteria are used as work-selecting management tools and as evaluation standards. Protocols describe the types of issues and questions particularly relevant to a specific type of case or investigation and assist the FTC staff in determining the existence of violations and evaluating the public interest and market impact of individual matters. Case selection criteria are the tools to evaluate the answers to the protocol questions in order to compare the relative benefits of similar or alternative individual cases and options.

Initial drafts of protocols and case selection criteria are prepared and reviewed by the enforcement bureaus, Office of Policy Planning, Bureau of Economics, and other interested offices or personnel prior to submission to the Commission for approval. Protocols and case selection criteria are intended for use as guidelines at all levels of the Commission. They are intended to govern both the day-to-day considerations in planning, investigating and preparing cases, and the administrative review of programs and activities. Case selection criteria are designed to improve the quality and the consistency of the Commission's enforcement efforts and to enhance the judgment of the staff in selecting cases and projects.

#### D. Case Review and Evaluation

Although there are some differences of organization, and how work is controlled and flows through the two major operating bureaus, in a large measure, methods and procedures followed are basically alike. The overriding objective is to achieve the most effective and efficient operation to carry out assigned missions. However, there are some differences because the two major operating bureaus have different overall missions--one dealing with antitrust matters and the other with consumer protection.

Bureau of Competition--Monitoring Workload

Monitoring of FTC staff progress is conducted through periodic workload review meetings among staff supervisors. Changes in enforcement priorities, program plans, and work assignments may be made as a result of these meetings. Workload reviews within the Bureau of Competition involves the Director, Deputy Directors, Associate Directors, Assistant Directors, and supervisory attorneys. Headquarters' matters are reviewed approximately every 2 months by the Bureau Director. The regional office workload is reviewed approximately three times a year.

The Office of the Associate Director for Evaluation is the center of the case evaluation, selection, and control over mission resources. The Associate Director is responsible for program formulation and development, budgetary planning and resource allocation, and administers the evaluation and workload review functions. He is responsible for developing new and specific case or program proposals and for submission of matters to the Evaluation Committee.

Evaluation Committee--Bureau of Competition

The Evaluation Committee, chaired by the Bureau Director, is composed of two classes of members--permanent and nonpermanent. The permanent members of the committee are the Director, Deputy Directors, Assistant Director for Regional Operations, Associate Director for Evaluation, a rotating Assistant Director, selected representatives from the Bureau of Economics, and a rotating Regional Director. The following officials may also attend the evaluation meetings as nonmembers: any Assistant Directors, Bureau of Competition; Regional Director or representative of regional offices; and representatives of Bureau of Consumer Protection and Office of Policy Planning.

Within the Bureau of Competition, there is also a Merger Screening Committee. Premerger Notification Reports required by the Hart-Scott-Rodino Antitrust Act (1976) are filed with and reviewed by the Associate Director for Premerger Notification for selection of matters that may require immediate enforcement determinations. The Merger Screening Committee is chaired by a Deputy Director and composed of representatives of the Bureaus of Competition and Economics. The committee reviews notification reports and other information taken from trade and financial publications for selection of additional merger and joint venture activities that may warrant routine investigation.

The committee makes recommendations and reviews staff recommendations to the Director of the Bureau of Competition for initiating and closing investigations. Staff recommendations with regard to mergers and joint ventures are made to the appropriate Assistant Director who, if in agreement, forwards it to the Merger Screening Committee. Regional office proposals are made through the Assistant Director for Regional Operations who forwards it to the committee. If an investigation is approved under this

procedure; clearance is obtained from the Department of Justice before proceeding.

All investigative proposals--not relating to mergers, joint ventures, or acquisitions--will be reviewed by the Evaluation Committee process. Proposals for investigations are circulated to the permanent committee members for evaluation. The Evaluation Committee's function is advisory. The Bureau Director makes the final determination of each matter under consideration and the decision is circulated through "Director Determinations" on a periodic basis to all Commissioners, permanent members, and other interested parties.

All substantive program development and enforcement recommendations--whether or not reviewed by the Evaluation Committee--may be considered and commented upon by the Bureau of Economics. The Bureau also makes routine industry analyses and submits reports and recommendations to the Evaluation Committee for consideration in the formulation and development of new enforcement programs and activities.

#### E. Evaluation Committee--Bureau of Consumer Protection

The Deputy Director for Policy and Evaluation has responsibility for case evaluation and policy planning functions in the Bureau of Consumer Protection. Control over mission resources and operational activities are the responsibilities of the Deputy Director for Operations.

The Evaluation Committee is chaired by the Deputy Director for Policy and Evaluation. Membership consists of the two Deputy Directors, an Assistant for Evaluation, the Program Advisor for the matter, and representatives from the Bureau of Economics, the Office of Policy Planning, the Office of the General Counsel, and a regional office on a rotating basis.

The Evaluation Committee reviews requests by bureau divisions and regional offices for expenditures of Commission resources, including:

- Requests for investigations involving a substantial commitment of resources.
- Requests for compulsory process.
- Issuance of part 3 complaints and notice orders.
- Requests for injunctions or temporary restraining orders.
- Requests for consumer redress under FTCA section 19.
- Issuance of a proposed TRR or guide.
- Initiation of action for civil penalties.

- Cases falling under one of the special statutes such as Truth-in-Lending, the Fair Credit Billing Act, and the Fair Packaging and Labeling Act.

F. Role Played by Office of Policy Planning

An important function of the Office of Policy Planning (OPP) is its participation with operating bureaus in carrying out impact evaluations of specific programs and rules. OPP may also evaluate other aspects of Commission policy as well as review and make recommendations on investigations, programs, orders, etc., in response to specific referrals from the Commission on an ad hoc basis.

The Office of Policy Planning sends a representative to the Merger Screening Committee and to the Evaluation Committee meetings of both enforcement bureaus. OPP also works with the operating bureaus in developing the policy protocols and the case selection criteria. The office is available for consultation with the staff in respect to changes in existing programs or development of new programs.

G. Application of the Commission's System for Selecting Areas/Subjects for Regulation

Because of differences in missions, the specific selection criteria may vary among the bureaus.

A description of how each of the three bureaus use specific criteria in the selection of areas and subjects for regulation follows:

1. Bureau of Economics

The Bureau of Economics (BE) has two functions in the area of selecting or recommending investigations, projects, rules, or complaints. The first is to provide advice and recommendations on legal initiatives proposed by the Bureaus of Competition and Consumer Protection and the regional offices.

In evaluation proposals--in the maintaining competition mission--factors which indicate costs and benefits are analyzed. Among these are market structure--concentration, barriers to entry, and the extent of vertical integration--market performance, and any evidence of anticompetitive effects or behavior. The size of the market is considered to learn the amount of injury to consumers which would result from any anticompetitive activity. Finally, the bureau looks at the costs of investigating and litigating a matter.

The Bureau of Economics conducts research studies and analyses in response to Congressional requests or Commission directives. In the antitrust area, studies are aimed at learning more about a specific industry which may require Commission attention. Factors considered in evaluating a proposed industry

study area, the probability of competitive problems, recent changes in industry structure or performance suggesting new situations in need of analysis; and where controversy exists about the competitiveness of the industry.

Evaluations of consumer protection proposals focus on questions of the degree of injury caused by a questioned business practice and the degree of likelihood that the proposed remedy will correct the problem. The cost of the remedy and the effectiveness and cost of alternate remedies are also considered. Finally, the Bureau of Economics attempts to determine whether competitive forces in the marketplace would correct the problem without Commission intervention.

Research in the consumer protection area seeks to focus primarily on two areas. One is the question of the economic effects and the function of advertising in consumer goods and in the professional service markets. A second area of research is concerned with the economic impact of information disclosures relating to the performance attributes and quality of goods and services.

### 2. Bureau of Competition

The bureau's fundamental criterion for initiating any activity is whether it will serve the public interest by enhancing competitive behavior. Generally, answers are sought to several kinds of questions dealing with conduct, performance, and market structure. For example, what is the size of the market, the nature of the product or market involved, the level of market concentration, the degree of market power present, the size of firm(s) involved, the nature and prevalence of the restraint of trade being alleged, the significance of the impact on competition, and the possibility of a satisfactory remedy?

Also involved are considerations dealing with FTC itself, such as the adequacy of resources to pursue the proposed action, whether resources might be expended more effectively elsewhere, and whether the law is sufficiently clear to provide a reasonable chance of success in making a test case. Although the Bureau of Competition examines the feasibility of rulemaking along with other alternatives, it has not yet proposed any rule in the competition area.

### 3. Office of Policy Planning

The Office of Policy Planning presents more policy options than can be undertaken to permit a selection among the alternatives most favored by the Commission. Considerable attention is given to possible remedies and cost benefit assessments.

OPP functions are advisory only and decisions are made by the bureaus as directed by the Commission. About eight times each year, the Office of Policy Planning presents policy review

sessions which address important issues in selected economic sectors--health, automobiles, housing, food, and energy, or deal with crosscutting issues such as mergers and consumer protection remedies.

These policy sessions provide an overview of ongoing projects and pressing issues of interest to the Commission as well as discussions of the range of possible options. They also provide the basis for preliminary cost benefit assessment by FTC economists so that the Commission may have as much information as necessary in formulating policy and in selecting cost-effective alternative actions.

#### 4. Bureau of Consumer Protection (BCP)

In general, criteria developed and followed by the Bureau of Consumer Protection focus on:

- The extent of injury to consumers.
- The ability of the marketplace to resolve the problem without FTC involvement.
- Whether other Federal or State agencies have a clearer mandate to act.
- The availability of a workable remedy and sound legal theory.
- An analysis of the costs and benefits of a proposed proceeding.
- The likelihood that FTC action might deter others from the same practices.

In pursuing the Commission's mandate to eliminate unfair and deceptive acts or practices, BCP cases and rulemaking initiatives often seek remedies to improve the information available to consumers about goods and services. Eliminating restraints on advertising of optical goods and services and affirmative disclosure requirements are two examples of such information remedies.

The Consumer Information Policy Session Briefing Book, dated June 1, 1979, contained the economic, behavioral, cultural, and legal theories applicable to consumer information problems. While not all of the questions raised would be relevant in every case, the following questions track analytical points that are to be considered in recommending particular information remedies:

- Is there an information problem that merits regulatory intervention?
- Can competing sellers provide the necessary information?

- Can alternative information sources offset deceptive claims or supply omitted information?
- If certain sellers are making deceptive claims, will a simple cease and desist order be sufficient to remedy the deception?
- Will cease and desist be an efficient use of Commission resources?
- Are sellers inhibited from communicating about certain qualities of their products, or are confusing and deceptive claims being made because a standard measurement does not exist?
- Will disclosures that are triggered by misleading claims or omissions have the negative result of reducing the total information available to consumers by causing a shift to nonregulated claims?
- Is the proposed disclosure designed in such a way that it will be meaningful to consumers?
- Will more effective communication of information result if advertisers design their own disclosures but must demonstrate their effectiveness?
- Has every possible alternative been considered before a recommendation is made to prohibit certain unfair or deceptive claims, words, or trade practices on an industrywide basis?

Another example of how the Bureau of Consumer Protection applies criteria in the determination of the approach to be taken is in the Consumer Leasing Program. The case selection criteria used in this program can be grouped into three general categories:

- Characteristics of respondent--size, culpability, and contumacy.
- The nature of the violation--its novelty, its difficulty of proof, and harm to consumers.
- Indirect objectives--availability of consumer redress, setting of section 205 precedent, vindicating or establishing new law, and high deterrence value. Section 205 of the Magnuson-Moss Act provides that the Commission "may commence a civil action to obtain a civil penalty" (not more than \$10,000) against any person, partnership, or corporation which engages in acts or practices found to be unfair or deceptive in a prior cease and desist order issued by the Commission.

The decision whether to bring one case or another--or whether to bring a particular case at all, given its cost--depends on a weighing of all these considerations. A memorandum written by the Director, Bureau of Consumer Protection, dated July 7, 1977, stated in pertinent part that, " \* \* \* cases should be brought:

- "1) regardless of respondent's size, if there is prospective litigation which will allow a favorable decision to be used as a Section 205 predicate.
- "2) against major lessors in the automobile and furniture lease industries to establish initial Commission enforcement. Such cases should be accompanied by maximum publicity.
- "3) if informal enforcement is ineffective, if enforcement credibility is challenged, and if deterrence is necessary. The number of such cases must necessarily be very limited. Applying the case selection consideration discussed above in order to choose among possible respondents is crucial.
- "4) if the cases will vindicate a new interpretation or amendment of the Leasing Act or Regulation 2 or demonstrate the closing of a loophole or an attempted circumvention of the law.
- "5) if Section 206 consumer redress is viable\* \* \*. It may be that any statutory violation constitutes a dishonest or fraudulent act or practice per se \* \* \*. (Section 206 of the Magnuson-Moss Act allows FTC to sue in district court to obtain compensation for consumer injury resulting from unfair or deceptive acts designated by the Commission in a prior cease and desist order if "a reasonable man would have known (it) was dishonest or fraudulent.")
- "6) if there are violations of either of the two substantive provisions of the Act.
- "7) if there is an unfair or deceptive act or practice conducted in connection with consumer leasing\* \* \*."

The memorandum stated that the case selection criteria set forth allow flexibility because the statute, at that time, was new and the FTC needed more familiarity with the leasing industry. Another reason given for not promulgating a "shopping list" of desirable and undesirable cases--shared by other programs involving lengthy statutes and regulations--was that conditions might change due to new amendments, interpretations, policies, new information about the industry, and new industry practices. Furthermore, the memorandum stated that:

"We do not want to give the misimpression that once a provision is labeled important, every regional office needs to vindicate that same provision. Nor do we want to chill regional offices from exercising their judgement in funding and selecting cases."

#### H. Investigative Staff's Assessment of the Work Selection Process

Review of miscellaneous documents and discussions with key officials in the operating bureaus and offices of the FTC would indicate that there are adequate guidelines for selecting areas/subjects for regulation. However, they are neither in the most usable form nor readily available to attorneys and others involved in the work selection and review process. Guidelines and criteria used at the FTC are flexible and widely dispersed.

Information to be gathered, steps to be taken, and questions to be answered in case selection are documented in miscellaneous Commission memorandums and statements, policy session briefing books, policy protocols, economic and cost/benefit analyses and impact evaluations, and in a general and partial way in the Operating Manual. Therefore, issues to be considered in the selection process are contained in numerous documents and studies.

In addition, there are a number of supervisory evaluations, Merger Screening and Evaluation Committee reviews which, in essence, support or deny a request for initiating, continuing, or terminating work. These reviews start at the Assistant or Regional Director levels and in some cases end at the Commission level.

It is apparent that much effort has been expended in trying to develop ways of selecting and establishing work priorities. Examination of documentation and discussions with key officials in headquarters and regional offices gave evidence that during the various stages of the work process, serious consideration is given to continue, modify, or terminate work. In general, issues involved appear to have been clearly defined. Yet, in spite of the fact that the total information available from all sources within FTC would seem sufficient for sound planning and selection of areas/subjects to be regulated, documentation is too widely dispersed to be fully effective. As a result, information which has been documented in one form or another might not be used because attorneys may not be aware of the source or may be too pressed for time to do the necessary research. The consequence is that in such a situation, the selection decision would be made on the basis of less than adequate information--which could lead to a different or an erroneous decision.

A principal motive for using all available information in the work selection process would be to increase the likelihood that work undertaken by the FTC would result in the maximum benefits

to consumers. To accept less than a constant effort to obtain substantial benefits for consumers would represent a breakdown of the work selection process and a partial failure on the part of the FTC.

The Investigative Staff does not in any way infer that the FTC must or ever could achieve a perfect hit record. The Investigative Staff recognizes that, at times, there will be administrative errors and outside factors over which FTC has no control, such as a court case which can reverse an FTC action. However, the Investigative Staff does suggest that to use less than all the pertinent methods and guides developed by FTC is to risk increased difficulties and criticism.

In the opinion of the Investigative Staff, the lack of a consolidated system for selecting areas/subjects for regulation and the lack of adequate independent internal audits (chapter IV) may be major contributing factors to some of the many problems now confronting the Commission.

As a first step, the Investigative Staff would suggest that the Commission direct that all work selection criteria be reviewed, updated, consolidated, and communicated to all levels of the FTC--including staffs at regional offices. More formalized procedures should result in more consistent application of existing FTC case selection criteria in conformance with overall Commission policy.

As a second step, the Investigative Staff believes there is a paramount need for objective, followup evaluations by an independent staff--one which has been involved neither in program designation nor in the work selection process. However, this is but one phase of the FTC operations where internal audit could be beneficial.

Only by separating the management review function from operational responsibilities can the Commission have assurance that established Commission policy and plans are being carried out as intended. There is no other way the Commission can assure itself that all pertinent information--negative as well as positive--necessary for sound decisionmaking has been made available.

#### IV. SYSTEM FOR MANAGING THE FTC WORKLOAD

Although statistics do not show any steady trends, the measurement of whether the FTC is performing in an effective and efficient manner does not in and of itself rest solely on the number of investigations/cases in process, initiated, completed, or closed-out over a given period of time. Bureau of Competition and Bureau of Consumer Protection officials repeatedly stated that more complex and significant cases are now being selected which accounts for the declining numbers of investigations/cases reported during the past few years.

FTC officials reiterated a commitment to select more complex matters against larger respondents--in some cases, industries-- and to seek more effective remedies for consumers. However, it was conceded that a combination of these approaches would likely engender increased resistance from both respondents and industry which could necessitate greater staff time to complete a particular investigation/case.

The Chief Administrative Law Judge's present workload tends to corroborate this. The increasing complexity of work being undertaken by the Commission--involving larger firms and in some instances entire industries--is supported by the types of cases being adjudicated at the present time. For example, the Chief Administrative Law Judge observed that cases were far more complex than those brought years ago and that, therefore, a reduction in the number of cases did not necessarily represent a reduced overall workload.

However, assuming that the Commission is correct in zeroing in on larger and more complex targets, the significant question remaining to be answered is: "How many of these complex matters will be successfully concluded and which will serve as a deterrent to others in the industry?" A case in point is rulemaking which has not proven overly successful in spite of a significant FTC effort.

##### A. Investigation/Case Workload

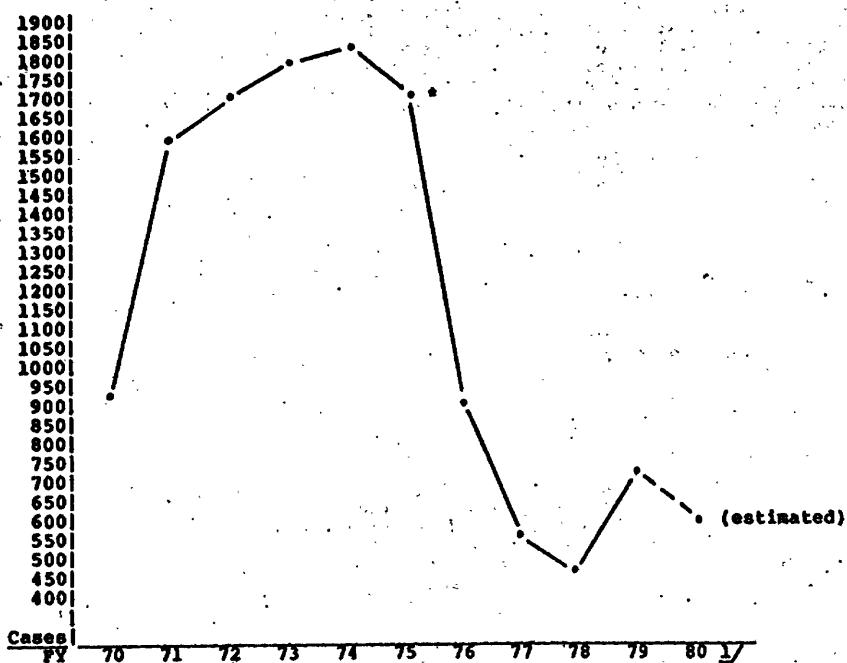
Workload statistics covering FY 1970 through FY 1979 are presented in the following tables. Subject to the qualifications noted in the previous paragraphs, the tables show that there has been a general decline in numbers over the past few years. With the caveat that statistics alone do not have much meaning or significance, they do show a concerted effort by the Commission to close-out cases that were no longer pertinent. As may be seen from the tables, the peak reductions occurred during FY's 1975 and 1976 when some 700 cases were closed out.

INVESTIGATIONS/CASES

FY's 1970-1979

	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979
<u>Maintaining Competition</u>										
Active—Beginning FY ——	166	322	432	494	416	386	131	143	138	128
Initiated During FY ——	<u>179</u>	<u>160</u>	<u>119</u>	<u>77</u>	<u>79</u>	<u>43</u>	<u>91</u>	<u>56</u>	<u>44</u>	<u>164</u>
Total Workload ——	345	482	551	571	495	429	222	199	182	292
Completed During FY ——	23	50	57	155	109	298	79	61	54	126
(6.7%) (10.4%) (10.3%) (27.2%) (22.0%) (69.5%) (35.6%) (30.7%) (29.7%) (43.2%)										
Active End of FY ——	322	432	494	416	386	131	143	138	128	166
(93.3%) (89.6%) (89.7%) (72.8%) (78.0%) (30.5%) (64.4%) (69.3%) (70.3%) (56.8%)										
<u>Consumer Protection</u>										
Active—Beginning FY ——	215	501	914	818	980	1,046	535	307	202	212
Initiated During FY ——	<u>353</u>	<u>602</u>	<u>217</u>	<u>380</u>	<u>324</u>	<u>223</u>	<u>137</u>	<u>64</u>	<u>83</u>	<u>235</u>
Total Workload ——	568	1,103	1,131	1,198	1,304	1,269	672	371	285	447
Completed During FY ——	67	189	313	218	258	734	365	169	73	122
(11.8%) (17.1%) (27.7%) (18.2%) (19.8%) (57.8%) (54.3%) (45.6%) (25.6%) (27.3%)										
Active End of FY ——	501	914	818	980	1,046	535	307	202	212	325
(88.2%) (82.9%) (72.3%) (81.8%) (80.2%) (42.2%) (45.7%) (54.4%) (74.4%) (72.7%)										
<u>Total</u>										
Active—Beginning FY ——	381	823	1,346	1,312	1,396	1,432	666	450	340	340
Initiated During FY ——	<u>532</u>	<u>762</u>	<u>336</u>	<u>457</u>	<u>403</u>	<u>266</u>	<u>228</u>	<u>120</u>	<u>127</u>	<u>399</u>
Total Workload ——	913	1,585	1,682	1,769	1,799	1,698	894	570	467	739
Completed During FY ——	90	239	370	373	367	1,032	444	230	127	248
Active End of FY ——	<u>823</u>	<u>1,346</u>	<u>1,312</u>	<u>1,396</u>	<u>1,432</u>	<u>666</u>	<u>450</u>	<u>340</u>	<u>340</u>	<u>491</u>

**INVESTIGATIONS/CASES**  
**WORKLOAD ANALYSIS**  
**FY 1970-1980**



1/ Note: FY "1980" projected.

- \* The Commission during the period FY 1975-1976 closed out an estimated 700 cases that were considered to be no longer productive or relevant.

While these statistics would indicate progress has been made by the Commission to better manage its workload, problems still exist which hamper the most effective and efficient operations. An analysis of the investigations/cases reported active at the end of FY 1979 shows that, in spite of the strides made by the Commission to close out unproductive work, over 30 percent of the current workload was started over 2 years ago. Even more significant may be the fact that over 25 percent of the cases active in the Bureau of Consumer Protection (BCP) are over 3 years old. This represents 81 of the 325 cases being handled by BCP. The breakdown of the FY 1979 active cases follows:

AGE OF ACTIVE INVESTIGATIONS/CASES  
AS OF SEPTEMBER 30, 1979

	<u>Bureau of Competition</u>	<u>Bureau of Protection</u>	<u>Total</u>
Number Active -----	166	325	491
Age:			
Less than 1 year -----	58.4%	46.0%	50.2%
Less than 2 years -----	70.5%	66.5%	67.8%
Less than 3 years -----	80.7%	74.8%	76.8%
Over 3 years -----	19.3%	25.2%	23.2%

**B. Management Techniques Used**

An effort is being made by the FTC to effect better control over the workload. In a large measure, the methods used to manage and control the FTC workload are similar to and a continuation of criteria used in the work selection process. Once a decision has been made to proceed with an investigation or project, it becomes a part of the workload and, as such, should be accounted for in the computerized reporting system.

Among the techniques used to control and direct workload are: management, planning, research and evaluation, operations, and administration. Briefly, the objectives of these functions are to accomplish the following:

- Management provides the planning, execution of plans, analysis, evaluation, and control of the execution process.
- Planning encompasses all the activities necessary for establishing strategies, operational, and program plans for Commission approval. It also includes proposed allocation of funds to a specific program.
- Research and evaluation contains two major subfunctions: program impact evaluation and economic industry and consumer research. Impact evaluation seeks to measure the affects of

programs upon industry and consumers, and research attempts to develop consumer and economic theories to support Commission programs to aid in case and investigation workflow.

- Operation is concerned with the execution of the plans and programs and is the source of much of the activity and cost data used by the Commission.
- Administration supports operations and management and provides such functions as budgeting, accounting, personnel, procurement, and data processing which provides the budget, financial, and statistical data used by FTC management.

The basic responsibility for initiation and day-to-day management of investigations and adjudicative proceedings relating to both consumer protection and competition matters lies with the directors of the Commission's 10 regional offices and with assistant directors in charge of litigation sections.

Initial phase investigations are begun by regional and assistant directors who have authority to commence investigations related to most matters, providing the Justice Department or the Commission does not already have a similar or overlapping investigation in progress. These investigations may proceed for 100 hours or 90 days, whichever comes first. At that point, the investigation should be closed or submitted to an Evaluation Committee for review. However, a review of documentation and discussion with regional and bureau staffs disclosed that the 100-hour designation is more of a guide than an inflexible rule. There are certain exceptions to the authority of assistant and regional directors to begin initial investigations. Merger and acquisition matters are examples. Initial phase investigations of proposed mergers and acquisitions are authorized by the Bureau of Competition Merger Screening Committee.

Once an investigation is begun, the assistant or regional director responsible for the investigation reports at least quarterly on the progress of the investigation. At these quarterly meetings, the status of each matter is discussed and deadlines for developments in the investigation are determined. Deadlines for competition matters are to be monitored by the Assistant Director for Evaluation and the Assistant Director for Regional Operations. The Bureau of Consumer Protection's principal tool for managing their workload is workloading sessions. Top bureau officials attend these sessions to review the status of each matter discussed, and guidance is issued on legal and factual matters, the resources used, and progress being made.

Criteria used to select and to continue or close out investigations and to recommend adjudication of cases include:

- The significance of the product in question.
- Size of firms involved.

- Importance of the industry in the economy.
- Effect of alleged unlawful practices on consumers and competitors.
- Potential for successful conclusion of investigation.
- Estimate of the possible relief to consumers.

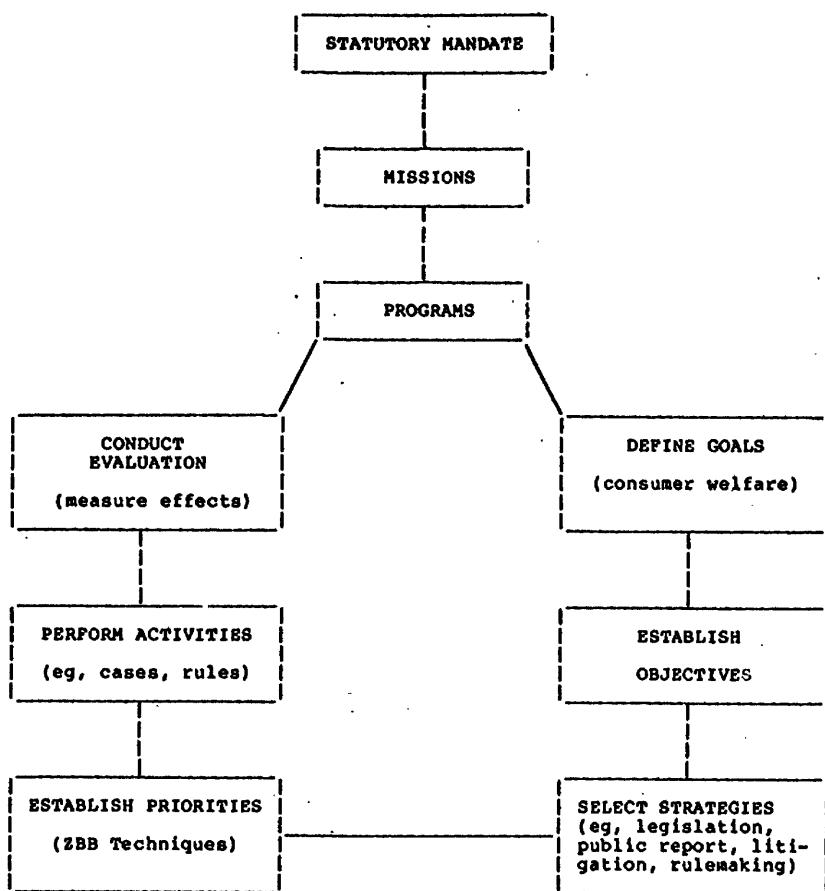
#### The Budget as a Control

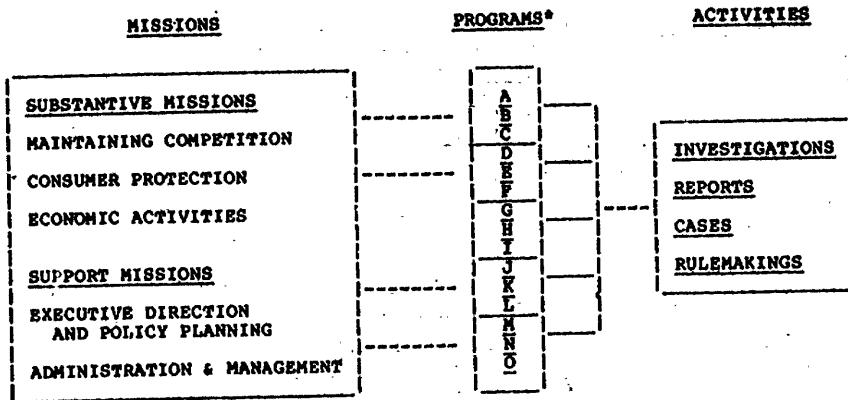
The budget, as previously discussed, is the Commission's principal mechanism for allocating resources. The program budget helps the Commission perform several related functions. It is used to plan, establish priorities, and communicate them to the staff. Budget sessions seek to provide an opportunity for review of agency progress.

The Commission's various programs are grouped into three substantive missions--Maintaining Competition, Consumer Protection, and Economic Activities--and two supportive missions--Executive Direction and Policy Planning, and Administration and Management. Programs consist of related activities designed to achieve operational objectives associated with an identified project area.

Each program has a unique and detailed statement of goals, objectives, strategies and activities, and evaluation components. Manpower and dollar resources are allocated to each program. Professional time is reported by activity to each of these programs on a weekly basis. A conceptual overview of the budgetary process follows:

**PTC PLANNING/BUDGETING PROCESS**  
**CONCEPTUAL OVERVIEW**



MISSIONS AND PROGRAMS

\* Example of programs:

- Petroleum Industry Litigation
- Health Care Program
- Horizontal Restraints
- Funeral Industry
- etc.

The Commission conducts four budget planning and resources utilization sessions each year during which programs are reviewed and resources allocated among programs. These sessions allow the Commission to:

- Review previous expenditures for each program.
- Review program progress on planned activities.
- Consider evaluations of each program.
- Reprogram appropriated resources.
- Consider new initiatives and terminate low priority efforts.
- Consider requests for increased resources.

In the opinion of the Investigative Staff, the FTC budgetary process, as far as it goes, appears sound and accomplishes its mission of allocating resources. While the planning phase of the budget is carried out and adequate budget reviews are performed, the effectiveness of the execution phase of the budget is more difficult to assess. Although the FTC maintains an accounting for total expenditures, it does so only by mission and program; the FTC does not systematically or on a regular basis provide an accounting by the types of activities performed. Therefore, while the dollars budgeted and the dollars spent for each program are accumulated and can be related to a general program area, there is no accounting report which shows the number and types of activities and money spent by individual case/investigation/project. In short, without an extensive ad hoc effort involving a voluminous data base record search, it is not presently possible to specify the resources expended for investigations, rulemakings, adjudications, consent orders, injunctions, mergers, restraints, compliance, consumer education, etc. The unavailability of accurate individual activity/costs raises questions of FTC's ability to measure the adequacy of the budget execution in conformance with the budget plan. It denies management the basis to make sound decisions regarding Commission progress or to select the most effective alternative methods of operation. Furthermore, the Commission is prevented from adequately measuring accomplishments.

The Investigative Staff believes that this type of breakdown would provide an additional valuable management tool and would be of considerable use to the Appropriations Committee. Without such a breakdown, there is no way the Commission can arrive at an effective evaluation of the productivity of Commission policy.

#### Evaluation Committees and Supervisory Reviews

The FTC uses a variety of supervisory and management processes and techniques to determine, manage, and control its workload. In the Bureau of Competition, there are two evaluation committees.

The Merger Screening Committee considers investigations of proposed mergers and acquisitions. This committee, which consists of attorneys and economists, meets weekly to review the filings received under the Commission's premerger notification program and clippings from the trade press. Decisions by the Merger Screening Committee are also based on recommendations of the staffs of the premerger notification office, regional offices, and the bureau's litigation section. The Evaluation Committee considers matters and investigations not involving mergers. Within the Bureau of Consumer Protection, there is one Evaluation Committee which performs in a similar manner and approves or disapproves all matters falling within its area of responsibility.

Once an investigation is started, the responsible Assistant Director or Regional Director reports periodically on the progress of the investigation. At meetings the status of each matter is discussed and targets are established for anticipated developments. If an initial phase investigation is not closed within the first 100 hours, its continuation is reviewed by the Evaluation Committee. The factual and legal basis for the investigation are reviewed and discussed, and the request is related to the resource allocation priorities. The Evaluation Committee—if it approves the request—makes a recommendation to the Bureau Director whose approval is required to commence a full-phase investigation.

After a full-phase investigation has been authorized, the responsible Regional Director or Assistant Director prepares a plan for the investigation which is submitted to the bureau for review and approval. Major changes in plans must be approved by the bureau. The progress of the investigation is reviewed through a periodic workload process. The bureau's principal tool for managing bureau activities is work review sessions to look at the operations of each office. These periodic sessions among senior officials of each office or division and the Director and Deputy Directors review the status of each matter and whether work is progressing as planned. When problem areas are uncovered, they become the subject of more extended discussions. The status and direction of adjudicative matters is also reviewed at workload meetings.

When an investigation reaches a point where Commission approval is required—request for authorization to use compulsory process, recommendation for issuance of a complaint—the Regional Director or Assistant Director prepares a memorandum which is reviewed and evaluated at the bureau level prior to submission to the Commission.

The objectives of these procedures seek to provide a combination of flexible and reasonable means in managing and controlling the FTC workload. They provide for evaluation and screening of investigations when they reach a point that substantial resources may be required. The bureaus try to follow the progress and direction of all investigations, particularly of full-phase investigations when the agency may be committing itself to an irreversible direction. Cognizant Regional Directors and Assistant Directors

are primarily responsible for the progress of investigations. Reviews by committees and bureau Directors provide the means for higher level supervisory review and monitoring of the workload.

#### Policy Planning Sessions

In conjunction with the budget process, the Office of Policy Planning (OPP) undertakes a review of possible policy sessions for senior FTC staff. OPP prepares a tentative topics list which it distributes to the staff along with an invitation for additional topic areas. As a result of comments received, final changes are made in the OPP project list and a schedule of policy sessions is established.

Policy briefings are made to the full Commission about eight times each year. These sessions address important economic sectors such as health, automobiles, housing, and energy, or issues such as mergers and consumer information remedies. Each session is intended to provide the basis for the Commission to make decisions on matters brought to its attention. These policy sessions also provide a basis for a preliminary cost benefit assessment by FTC economists.

#### Economic Analyses and Other Studies

The FTC makes a number of different type studies in an effort to contribute to the decisionmaking base used to select and manage its workload. Studies vary in intensity and comprehensiveness and on the emphasis placed on different issues. The major studies performed by the FTC include Economic Analysis, Impact Evaluation, and Cost/Benefit Analysis. Since the 1976 transition quarter, a total of \$1,841,000 has been expended in various studies. During FY 1979, 15 studies were made at a cost of \$708,000. In addition, there are overhead costs which are not identifiable.

Although there are some differences in how economic analysis is performed within the two operating bureaus, the process is basically the same. Therefore, for the purposes of this report, the methods followed by the Bureau of Consumer Protection primarily will be described.

#### Criteria Used in Selecting Evaluation Projects

A memorandum dated November 13, 1979, subject "Additional Information Concerning the Bureau of Consumer Protection's Impact Evaluation Program," identified the criteria used for selecting evaluation projects, and established procedures for developing Scope of Work statements. Eight factors are considered in determining which projects are funded and implemented. These are:

1. The amount of information already available. Higher priority is given to areas for which relatively little information is available as compared to issues for which

- the overall objectives are more likely to be funded.
3. The amount of controversy associated with the proposed rule. If there is substantial disagreement among the various parties participating in a rulemaking proceeding concerning certain issues, a high priority will likely be given to a study to resolve the involved issues.
  4. Economic impact of the proposed rule. A rule which is likely to have a substantial impact on the economy is typically given a high priority.
  5. Feasibility of conducting the study. For some projects it may be virtually impossible to conduct a study because of methodological limitations. For example, with a product like hearing aids which has a low purchase rate, it may be difficult to establish a baseline measure, forcing a delay in the evaluation of the rule until a year or two after promulgation when sufficient experience has been acquired.
  6. Cost of the study. A study which would require a very substantial proportion of the bureau's impact evaluation budget may not get funded because of limitation on the amount of available funds.
  7. General Applicability. There are occasions where a proposed study would be useful in developing or evaluating other programs or remedies. In these situations, a higher priority is given to the proposed study.
  8. Other considerations. Occasionally, Members of the Commission or Congress have a special interest in a particular project. For example, special consideration was given to the funding of a pilot study of Medicare Supplemental Insurance.

#### Impact Evaluation Program

Impact evaluation studies are performed by each of the FTC's three bureaus. There are a number of stages in the impact evaluation process. The first step is the identification of potential projects. As part of their Annual Operational Plan, each division submits requests for funding for impact evaluation projects. In addition, ideas for impact evaluation studies are solicited from the Office of the Executive Director, the Bureau of Economics, and the Office of Policy Planning. The information thus gathered is used by the Impact Evaluation Group and the Office of the Director to assess the feasibility of and the priorities of impact evaluation projects.

The next phase of the process--Project Control--involves the monitoring of projects. This requires the development of detailed scope of work statements which include a description of issues, hypotheses to be investigated, variables to be measured, methodology to be used, target dates, estimated cost, and potential contractors. When a report has been prepared for each impact evaluation project, a go-no-go decision is made. After a contractor has been selected, the project is monitored, and as a final step, the contractor's performance is evaluated.

Impact evaluation is loosely defined and as used by the FTC can include a cost/benefit analysis, a cost-effectiveness study, or something less comprehensive as a survey. Thus, an impact evaluation may be a study to determine whether a firm or firms are complying with a Commission order. An example would be a survey to ascertain the extent of creditor compliance with the Truth-in-Lending Act and whether the correct annual percentage rate of interest was being charged.

In summary, an impact evaluation to determine the type of energy labeling most effective would be called a cost-effectiveness study; an impact evaluation which sought to compare economic conditions before and after the Used Car Rule was promulgated would be a cost/benefit analysis.

Impact evaluation studies can be prospective or retrospective. A prospective impact evaluation is conducted prior to the implementation of a program and attempts to predict the impact of the program on consumers and industry. A retrospective evaluation study is performed after the program has been implemented and attempts to measure the actual economic and other impacts of the program. When retrospective impact evaluations are conducted, baseline data are included. The baseline study is replicated after the regulations have been in force, enabling measurement of the economic impact by comparing "before" and "after" conditions.

#### Responsibilities Under the Impact Evaluation Program

Within the Bureau of Competition and the Bureau of Economics, individuals are designated for overseeing the impact evaluation function. The Bureau of Consumer Protection has a separate unit--the Impact Evaluation Group, consisting of three full-time professionals--to coordinate the Impact Evaluation Program. On the surface, there would seem to be a certain amount of overlap in functions. In the opinion of the Investigative Staff, this would not necessarily be bad since there are some important differences in the roles assigned to the two organizations.

The primary role of the Impact Evaluation Group is the collection of data from consumers and from industry which becomes the basis for assessing the impact of FTC action. Economists in the Bureau of Economics have an interest beyond data collection, including the analysis of existing data or data collected by the

Impact Evaluation Group or others. The Evaluation Group has only one economist on its staff and relies heavily on the Bureau of Economics for economic advice on the various projects undertaken.

On a number of impact evaluation projects, there has been close interaction between one or more members of both organizations. The economists serve an important role of identifying information necessary for evaluating the economic impact of consumer protection regulation.

#### Cost/Benefit Analysis

A primary objective of a cost/benefit study is to identify and measure all relevant costs and benefits to obtain some indication of whether the proposed action appears to be economically desirable.

The analysis of costs and benefits is essential to the FTC in determining, for example, whether to deal with an unfair trade practice and how to do so. A basic question that must be answered: "Is the proposed remedy worth more to consumers than it would cost suppliers?" To answer this threshold question, the FTC must assess the degree of injury from the questioned practice, the likelihood that the proposed remedy will undo this injury, the cost of the remedy compared to that of possible alternative remedies, and the possibility that competitive market forces might correct the problem in the near future without Commission intervention.

In the opinion of the Investigative Staff, these questions are more easily asked than answered. Yet they must be answered with reasonable accuracy if the alternatives selected by the FTC are to be successful and result in expected benefits to the consumer. Invalid answers could easily lead to higher costs and greater complexities to consumers.

Complete, formal cost/benefit analyses are generally very difficult and costly to perform, particularly in cases involving market information where the economic effects are not well understood. Such analyses require substantial resources and complex analytic techniques. Significant resources are devoted to regulatory proposals approved by the Commission, although it is not always possible to provide complete and precise assessments of costs and benefits during the early stages of evaluation.

In recognition of the importance of having an adequate Impact Evaluation Program, FTC is allocating increased resources to cost/benefit analysis. For PY 1981, the Commission has planned a four-fold increase in work years devoted to program evaluation.

In addition, the FTC makes less comprehensive cost-effectiveness studies which are more single-purpose. For example, if the Commission decides to provide energy usage information to potential appliance buyers, a cost-effectiveness analysis would attempt to

determine the least costly way of providing the desired information. Alternatively, if there were equal cost methods of providing information, a cost-effectiveness study would seek to determine the method which would provide the greatest benefits. The cost-effectiveness analysis asks only about the most efficient way of performing a certain action.

#### Economic Analysis

Economic analysis has played an increasing role in decision-making at the FTC. The economic function is performed primarily by economists in the Bureau of Economics. Since the bureau is separate from the other two operating bureaus, it can provide independent economic analysis both to the staff of the legal bureaus and to the Commission.

Much of the economic data provided by the Bureau of Economics goes to the Merger Screening Committee and to the Evaluation Committees. Economists serve as members of these committees which are heavily involved in the consideration of proposed investigations. In addition to contributing to the evaluation process within the two legal bureaus, economic analysis is provided to the Commission to assist in deciding whether to authorize compulsory process, issue a complaint, or take other action.

Economists usually work with the other bureaus and regional offices as investigations proceed and cases go through trial. The main role of the economist during this part of the litigative process is to make sure that the important economic questions are answered. The economist may also evaluate evidence and develop theories which change the assessment of the relative costs and benefits of the matter. Decisions about the resources which should be allocated to a matter and the kind of remedy which should be accepted can be affected by new appraisals of costs and benefits.

The economist's role in an ongoing rulemaking proceeding is slightly different. At the end of the process, an evaluation of the economic effects of the rule must be written for inclusion in the final statement of Basis and Purpose for the rule. The Magnuson-Moss--FTC Improvement Act requires that the statement of basis and purpose section of Commission rules must include: " \* \* \* a statement as to the economic effect of the rule, taking into account the effect on small business and consumers." Analysis of costs and benefits plays a key role in this statement as does the resolution of any other economic issue raised during the proceeding. Economists work with the Bureau of Consumer Protection staff as the rule progresses.

The role of economic analysis is not limited to evaluating and assisting on specific cases and rulemaking actions. The Office of Policy Planning employs few economists and hires consultants who are involved in developing Commission policy options. Similarly, economic analysis plays an important part in the planning by the

bureaus. Economic analyses in the form of research studies are also conducted to aid the Commission in selecting new rules or in evaluating the effectiveness of existing rules or orders.

Many of the research studies done by the Bureau of Economics are aimed at assisting the Commission in the selection of new areas for investigation. For example, in the antitrust area, two types of studies may be undertaken. The first of these is industry studies. Usually, these studies seek to learn more about the functioning of an industry which may require Commission attention. Such studies could uncover practices which hinder free and open competition and result in a recommendation that a legal investigation be undertaken. On the other hand, the study may conclude that expenditure of Commission resources in a particular industry is unlikely to have substantial benefit.

Occasionally, an industry study is done to report the findings of an investigation which has not led to the issuance of a complaint. Usually these industries exhibit characteristics or practices which are also found in other industries. By explaining the effect of these practices in a particular industry, guidance can be provided on the desirability and direction of future investigations.

In addition to industry surveys, other studies are conducted in the antitrust areas. These address specific issues which could make anticompetitive problems more likely, or which could impact on the effectiveness of particular remedies. The objective of this type of study is to assist the Commission in the selection of future alternatives and remedies.

Research studies in the Consumer Protection area are also aimed at assisting the Commission to select appropriate targets and remedies. One area where attention has been focused involves the economic effect of advertising in the consumer goods and professional service markets. An example of studies in the area of professional services is the current study of the optometry industry.

#### C. FTC Management Information System Still A Miss

Although the Federal Trade Commission is a relatively small agency, its size does not negate the need for timely, accurate, and useful data. In some respects, the quality of the information is of greater importance to smaller organizations because they lack the sufficiency of resources to permit the luxury of ad hoc solutions. Regrettably--as the FTC fully knows--size alone does not necessarily reflect the complexities of designing an effective Management Information System (MIS).

The Federal Trade Commission, seeking to obtain the optimal use from its resources, has developed and struggled to install a management information system. The system was to provide the Commission with an extensive array of data ranging from cost allocations and case selections to evaluation of the Commission's

activities. Its objectives were to provide a reporting system for managing the Commission's workload and which would permit determination of costs and benefits. Thus, it was hoped that the management system would supply comprehensive support of the management process.

Specifically, the automated system was to provide accurate and timely information relating to cases--Case Project Tracking System (CPTS); work years expended--Weekly Activity Reporting Systems (WARS); monies obligated and disbursed--Financial Management System (FMS); and personnel--Personnel Management Information System (PMIS). The management information collected is supplied to the Commission and its management staff through a series of computer generated reports, an example being the Commissioner's Monthly Status Report. However, the management information system at the FTC has not succeeded in providing the accuracy and timeliness of data essential to sound decisionmaking. The FTC is once again redesigning its MIS in an effort to provide the necessary accuracy of data.

There is no doubt that a meaningful MIS could contribute significantly to the management and control of the FTC workload. Unfortunately, in spite of substantial investment of resources, the agency has been unable to develop such a system.

#### A Continuing Effort

In January 1975, the Surveys and Investigations Staff reported on the "Information Systems, Automatic Data Processing, and Related Matters of the Federal Trade Commission." At that time, the Investigative Staff noted that there were many problems with the FTC information system but that the Commission recognized these deficiencies and directed the design of a new computer system to overcome these shortcomings.

Five years later, the current investigation disclosed that in spite of the resources expended--time, money, and manpower--most of the very same problems still exist. Producing information on workloads which should be readily available to management on a periodic basis was a major ad hoc effort requiring overtime on the part of the data processing people. Much of the information provided the Investigative Staff was too old and inaccurate and could not be reconciled. Further, it took several months to obtain requested information which had been reported as being readily available in the computer system data files. In fact, the data had to be specifically programed and generated, even though it represented the types of information which could provide a sound basis for Commission decisionmaking.

#### Resources Expended on MIS

In the fiscal year ending September 30, 1979, the cost of the Commission's operation was approximately \$65.3 million and the requested amount for FY 1980 was an estimated \$69 million. During

FY's 1979 and 1980, actual and projected costs for information systems design, development, and data processing operations totaled \$2,675,000 and \$2,509,000, respectively.

During the period from FY's 1975 through 1980, FTC allocated an estimated \$12.5 million, of which \$8.5 million (67.8 percent) represented contracts with some 41 private contractors. Of the total funds expended, 46.8 percent was for service contracts; 32.2 percent for personnel; 11.8 percent for hardware rental; 6.5 percent for contracts in support of ADP; 0.5 percent for consultants; and 0.2 percent for software rentals.

The following table presents the FTC's use and allocation of resources to support its management information system from FY 1975 to the present.

**FEDERAL TRADE COMMISSION**  
**MANAGEMENT INFORMATION SYSTEM RESOURCES**  
FY's 1975 THROUGH 1980

	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>Total</u>	<u>Percent Total</u>
<b>Work Years Expended by:</b>								
FTC Personnel	23.0	33.0	32.0	28.0	35.0	39.0	190.0	
Consultants	1.0	0.3	0.0	0.0	.6	.3	2.2	
<b>Funds Expended by:</b>								
FTC Personnel	\$348,000	\$ 616,000	\$ 665,000	\$ 634,000	\$ 885,000	\$ 894,000	\$ 4,042,000	32.2
Consultants	32,000	7,000	-0-	-0-	20,000	7,000	66,000	0.5
Hardware Rental 1/	171,000	151,000	286,000	347,000	236,000	290,000	1,481,000	11.9
Service Bureau Contracts 1/	170,000	652,000	980,000	1,807,000	1,318,000	1,200,000	6,127,000	48.8
Contracts—ADP Support 1/	264,000	94,000	64,000	71,000	207,000	109,000	809,000	6.5
Software Rental 1/	-0-	-0-	-0-	5,000	9,000	9,000	23,000	.2
<b>Total</b>	<b>\$985,000</b>	<b>\$1,520,000</b>	<b>\$1,995,000</b>	<b>\$2,864,000</b>	<b>\$2,675,000</b>	<b>\$2,509,000</b>	<b>\$12,548,000</b>	<b>100.1</b>

1/ Computer contracts from FYs 1975 through 1980 have amounted to \$8,440,000. These contracts were made with 41 various firms for the following:

	<u>Amount</u>	<u>Contracts*</u>	<u>Percent Dollars</u>
Service Contracts	\$6,167,920	8	73.1
System Analysis	697,292	10	8.3
Program Development	22,818	1	0.3
Hardware Rental	1,470,428	20	17.4
Maintenance	2,482	1	0.03
Software Program	17,212	2	0.2
Key Punch	39,030	3	0.5
Data Base	22,818	1	0.3

\*Some firms had more than one contract.

Continuing Problems

Management information systems are designed to assist managers in making informed decisions. However, the construction of a MIS does not just happen nor can it be wished into being--as may be noted from the preceding table--it comes with a high price tag. Many data and information systems are erroneously referred to as management information systems when, in fact, they are only unrelated segments of such a system.

Even though efforts to improve the quality of information at the FTC continue unabated, there is little to indicate much success. Attempts continue to be made to develop related case tracking, weekly employee activity reporting, and operational planning and control systems which would blend into a single information system. To date, none has been developed in spite of substantial expenditures.

A number of major problems continue to exist in the information systems area which require immediate attention. Some of the more significant are described in the following paragraphs.

1. Inaccurate and Incomplete Data

The Investigative Staff was informed that the reports produced from the data processing systems were meaningless due to inconsistent and carelessly prepared input data. Agency officials reiterated the common concern that data in support of information systems was suspect and that, as a result, users maintained their own manual systems. There was general agreement that the systems currently under development, if successful, would produce much-needed information but only if the accuracy of underlying data could be assured.

Discussions at the Commission and various management levels disclosed an awareness of the lack of and a concern with the reliability of available data. In particular, the integrity of time reported spent on assignments was questioned. The need for accurate input data is highly significant because it is a cornerstone on which the Case/Project Tracking and Status system is built.

The Investigative Staff is of the opinion that even if every other deficiency which now exists in the computer system could be eliminated, the system would still be of little value to the Commission unless the validity of the input data is assured. There is no question whatsoever that the professional staff must be held accountable for the accuracy of reported time if the system is to work properly. The Investigative Staff does believe, however, that there is a fundamental question the Commission might wish to address, and that is whether it is worth the effort and money necessary to continue, year after year, the development of the portion of the system for tracking cases. At the FY 1979 yearend, FTC operating bureaus reported 491 active cases.

## 2. Lack of Adequate Documentation

Adequate documentation is an integral part of the overall systems design and development. However, unrealistic time constraints often do not permit the necessary documentation. The emphasis is on getting the system designed and operating with the rationale that documentation will be prepared when time permits. That time seldom comes.

The lack of adequate documentation to support systems design and development and the absence of audit trails to permit management to review and reconstruct data or programs as necessary pose a serious problem. Documentation refers to the information recorded during the design, development, and maintenance of computer applications to explain pertinent aspects of a data processing system, including:

- Purpose of each system or program and how to run it.
- Format and flow of data through the computer system.
- Controls included to insure the validity and integrity of the data being collected and processed and the results.

With regard to FTC, the lack of documentation becomes particularly serious when coupled with the limited number of midlevel managers with technical skills and a high turnover of key management and system personnel. This was illustrated when the Investigative Staff requested information which had been reported as being available in the data base. After several months delay by the data processing people, it was determined that the requested data was not accessible.

The Investigative Staff is of the opinion that, had adequate procedures and documentation been maintained, it would have provided the FTC personnel a better basis for understanding what is contained in the data base and how to extract it. However, without written procedures and other documentation, systems design and data processing will continue to depend on individuals rather than on good system support.

## 3. Timeliness of Information

The Investigative Staff observed--and the FTC admitted--that the information contained in FTC reports--at a minimum--are approximately 60 to 90 days old, thereby negating any management benefits to the Commission. The system in its present structure is updated normally on a monthly basis. Furthermore, the Investigative Staff could find no evidence that effective communication existed to permit timely information or the systematic input of data on cases, programs, Commission policy, and general matters.

The Investigative Staff believes there are two underlying causes for the delayed data input--inadequate accountability and

the lack of an automated feedback mechanism to report to bureaus and regional offices when data has been rejected by the computer. Accountability is affected by the number of individuals who report their time late, thus denying the system a timely basis for a meaningful information flow to operating bureaus. Further, the professional staff in many instances are unaware of which information has been accepted and which rejected.

FTC systems people explained that longstanding errors have accumulated and are still in the system's data file. Until such time as these past errors which are being purged are completely corrected, the data base will be suspect.

#### 4. Lack of a Long-Range Data Processing Plan

The Commission has yet to develop a comprehensive, long-range plan to select, budget, and account for the most effective use of its data processing resources. The present proliferation of data processing support from private contractors indicates an urgent need for the prompt formulation of a long-range plan. Since FY 1975, some 41 contractors have been engaged in some phase of the FTC systems development.

While proper emphasis has been placed on the development of information systems, less attention has been given to the methods of procuring data processing services. If the FTC continues to procrastinate and additional applications are processed by a number of different outside computers, costs for conversion at a later date will be greater.

The Investigative Staff believes that the Commission should consider carefully all alternative methods for acquiring needed services, including the use of an in-house computer and the possibility of sharing through a joint regulatory computer center. Complete cost benefit analysis should be made to select the most efficient and effective methods to provide the Commission long-range as well as short-range data requirements.

#### 5. Reporting Capability

Though the present automated system offers various capabilities, it is not flexible enough to allow quick and easy retrieval of most information. Periodic, standard, or ad hoc reports cannot be generated on a timely basis. It takes three programmers and clerical help working overtime to produce the standard production reports.

The Investigative Staff found that its requests for information reported as existing in the data base caused the FTC to invest additional staff time in an effort to generate the required data. Furthermore, in some instances, FTC was unable to meet the request for specific data or had to generate a listing which was then searched manually to produce the information requested. The Investigative Staff is of the opinion that years

of modifications and patching have left FTC with a system that is not in an efficient operational mode.

#### Corrective Actions Taken by FTC

While many problems exist with the present system, the FTC is approaching these problems on two fronts--still trying to correct recurring failures in the existing system and developing a new case progress tracking/resource monitoring system.

For the intermediate solution, FTC has assigned a system manager, two programmers, one quality assurance analyst, and three quality control technicians who are responsible for resolving data problems existing within FTC. As for its long-range approach, FTC is developing a replacement Management Information System--the STAR TRACER System (Staff Time and Activity Reporting, and Tracking and Case/Event Reporting). The stated objectives of the proposed system are to:

- Maintain the status of matters (case/project/rule) before the Commission.
- Monitor the use of resources (staff work years) in the service of those matters.

The Investigative Staff agrees that this type of information on an accurate and timely basis is badly needed and long overdue.

#### Proposed Management Information System

The proposed system--STAR TRACER--seeks to address the two most vexing problems of the current system--timeliness and accuracy. In addition, the proposed system design considered organizational impact, availability, confidentiality and security of data, hardware and software, and supporting service capabilities. The new information system is comprised of three subsystems:

- Staff Time and Activity Reporting System (STAR System)
- Tracking and Case/Event Reporting System (TRACER System)
- Assignment Control System (ASSIGN System)

The system is designed so that hopefully the three main sub-systems will interface with the Financial Management System (FMS) and the Personnel Management Information System.

It is hoped the system will be capable of providing current and historical data to aid management in its decisionmaking. An inquire and search capability is planned to allow the data base(s) to be searched by a variety of keys. Standardized periodic reports will be generated in addition to the provision of a standardized ad hoc inquiry capability. The STAR TRACER System is scheduled to be implemented in mid 1980.

Development and Costs

The proposed information system is being developed by a contractor with the assistance of in-house staff. It has been estimated by FTC that the project effort will be completed by June 1980. The interim between implementation (estimated February 1, 1980) and the end of the contractual effort will allow time for system modifications, where necessary, related adjustments, completion of the system documentation, and post implementation review activities.

The FTC has estimated that the STAR TRACER System will cost \$280,862 to develop and \$186,000 annually to operate. The operating projection, if accurate, would provide a savings in the annual operating costs of approximately \$184,000--a 50 percent reduction in expenditures over current levels.

The following table provides a breakdown of the proposed system costs:

ESTIMATED PROPOSED SYSTEM COSTS**Development Costs (15-month interim)**

Staff	\$135,862
Contractor	134,000
Computer Processing	11,000
	<u>\$280,862</u>

**Operational Costs (Annual)**

Staff, Operations	
Systems Manager	\$ 30,000
Data Entry (2)	<u>22,000</u>
	\$ 52,000
Staff, Technical Support	
Programmer (Maintenance)	22,000
Total Staff Costs	<u>\$ 74,000</u>
Computer Processing	
COMNET (Host Computer)	
Processing	\$ 72,000
Inquire/Search	<u>36,000</u>
	\$108,000
HARRIS (Data Entry)	<u>4,800</u>
Total Operational Costs	\$186,800

**Existing System Costs (Annual)****Operational Costs**

Computer Processing	
COMNET (Host Computer)	
Processing	\$144,000
Inquire/Search	<u>72,000</u>
	\$216,000
Staff, Technical Spt/Ops	
Systems Manager	\$ 30,000
Computer Programmers (2)	35,400
Quality Assurance Analyst (1)	32,000
Quality Assurance Technicians	<u>33,000</u>
	\$130,400
Data Entry (Contractor)	24,000
Total Existing System Costs	<u>\$370,400</u>

#### D. Lack of Independent Internal Audit

The FTC does not have a satisfactory independent internal audit function to keep the Commission apprised of what is happening at the various levels of the FTC. Until several years ago, an operational evaluation function was a responsibility of the Office of Policy Planning and Evaluation (OPPE). Even though the evaluation function was too restricted to be called internal audit, OPPE did seek to review cases and rules upon their submission to the Commission and to evaluate the effectiveness of FTC policy. The removal of the evaluation function from the Office of Policy Planning was justified by FTC on the basis that it had proved inadequate for several reasons:

- The evaluation came too late in the decisionmaking process after the FTC staff had put in "enormous time and resources."
- It created an adversarial process which led to a breakdown in cooperation between evaluation staff and project staff.
- Evaluations tended to be too narrowly focused, concentrating solely on narrow economic criteria.

The FTC sought to correct these noted deficiencies, by transferring the evaluation function back to the individual bureaus.

The Investigative Staff is of the opinion that this was a move in the wrong direction. The little objectivity that had existed was completely eliminated. Responsibility for monitoring and analyzing the operational function was given to those same people who were responsible for the original management decisions.

#### Limited Executive Director Reviews

Since April 1977, the Executive Director has had the responsibility for performing limited reviews of operating bureaus and regional offices. The goal of these reviews is to improve operational efficiency and effectiveness.

The present management review program objectives serve to provide a formal assessment of efficiency, operating procedures and systems, and work force requirements. The management review does not encompass independent analyses of the case selection process. These limited surveys, however, pinpoint managerial performance and organizational deficiencies which require corrective action. In addition, they provide information--not otherwise available--to key officials in the bureaus and regional offices.

The Investigative Staff examined reports of studies which had been completed in 6 of the 10 regional offices and the Bureau of Economics, and found that within their limited scope, the reviews had been performed satisfactorily. However, the Investigative Staff is concerned that these reviews neither

adequately address workload management and control of the case selection process, nor do they provide independent assessments of the reliability and validity of data regularly reaching the Commission. The Executive Director reviews accounting, workload, reporting, personnel management, and data processing--for which he is operationally responsible.

The reviews do not explore basic issues as:

- how individual cases are selected,
- how active investigations meet current Commission objectives and goals,
- how selected alternatives improve conditions in the marketplace, and
- whether these FTC actions are providing consumers the maximum benefits for dollars spent.

Discussions with some key officials in the operating bureaus and regional offices indicated a misunderstanding or an unwillingness on their part to accept the fact that independent internal reviews do not exist at the FTC. They continually referred to supervisory reviews, policy briefing sessions, budgetary reviews, and various impact evaluations as providing management with a satisfactory evaluation function. The Investigative Staff agrees these functions are valuable management tools--many of which are performed before the fact and are largely used to select and manage workloads. They were not designed to provide an independent after-the-fact evaluation. Chapters III and IV of this report recognize and give full credit to FTC for the use of these valuable management tools.

The evaluation process which now exists within the FTC is not the type of objective review needed by the Commission to assure itself that established policies are being adequately implemented. Under no circumstances should operational reviews be considered a reasonable substitute for independent audits. The Investigative Staff views the internal audit function as a viable management tool which, if effectively performed, would provide objective and independent assessments of Commission activities.

The Institute of Internal Auditors has defined the internal audit activity in its "Statement of Responsibilities for Auditors" (1979) as follows:

"Internal Auditing is an independent appraisal function within the organization to examine and evaluate its activities as a service to the organization. A managerial control, which functions by measuring the effectiveness of other controls."

The lack of an independent group to evaluate the effectiveness, efficiency, and economy of FTC activities creates a void in the management system. At present, the Commission must rely on the upward flow of information from the operating staffs. Thus, the same people who made the decision in the first place are also required to evaluate and report to the Commission on how well or poorly the matter is progressing. The absurdity of this situation is readily apparent.

Without independent audit, the Commission is denied the necessary objective feedback of how well-established policies are working in the marketplace and, perhaps even more basic, of how well-established policies are being complied with.

Adequately performed internal audits can be a steady source of providing information to help decisionmakers improve the effectiveness, efficiency, and economy of FTC operations by suggesting improvements as needed.

#### 1. Recommendation

In view of serious deficiencies existing at the FTC concerning the validity and quality of information available and the relatively high turnover rate of key officials, the Commission should consider the establishment of an independent audit group reporting directly to the Commission. This staff should in no way be involved with the day-to-day decisionmaking process.

Creation of an independent audit function could go a long way to assure the Commission of the completeness and reliability of information reaching them. Further, it could provide an assessment of how well Commission policy is being implemented.

#### V. RULEMAKING UNDER THE MAGNUSON-MOSS MARRANTY-FTC IMPROVEMENT ACT

Congress has granted FTC limited legislative authority in the form of trade regulation rulemaking. Rulemaking is essentially the establishment of force-of-law regulations that specify particular practices as unlawful. Rules may be national in scope or limited to certain markets, industries, or geographic areas. A rule once issued has the force of law and FTC needs only to show that a firm is engaged in a practice forbidden by the rule to make its case.

Substantive rulemaking is just one of the remedial options open to FTC when investigations establish the existence of unfair or deceptive acts or practices in or affecting commerce. Rulemaking is regulatory, nonadjudicatory, and nonspecific in that it does not single out individuals or entities as targets but deals rather with the practice of an entire industry. It is differentiated from FTC activities which seek enforcement against specific respondents, including issuance and litigation of administrative complaints, issuance of orders to cease and desist, acceptance of consent agreements, compliance-civil penalty proceedings, and various other enforcement techniques.

##### What Substantive Rulemaking is Not

The Commission's substantive rulemaking authority derives from several statutes which establish procedural requirements for the promulgation and enforcement of rules. The Commission makes distinction between substantive rulemaking and related activities:

- The development and issuance of the Commission's own procedural rules, set forth in its Rules of Practice, do not constitute substantive rulemaking. These rules require only publication in the Federal Register to become effective (5 U.S.C. section 553(b)(3)(A)).
- The issuance by the Commission of interpretations of the substantive law it administers--industry guides, advisory opinions, policy statements, staff reports--does not constitute substantive rulemaking.

##### A. Legislative History Leading Up to Magnuson-Moss

The original purpose of the FTC when it was created by the Congress in 1914 was to join in the antitrust battle by preventing unfair methods of competition in commerce. It was not until the Wheeler-Lea Amendment was enacted in 1938 that the FTC was directed to protect consumer interests. The amendment included a broad prohibition against "unfair and deceptive acts," even if the practice in question did not harm competition or tend to create a monopoly. The Wheeler-Lea Amendment was the first expression by Congress of the need for direct protection of consumers.

Congress did not attempt to define with precision "unfair and deceptive acts" as used in the Wheeler-Lea Amendment. It left this task to the FTC and the courts.

Until 1962, the FTC relied mainly on case-by-case adjudication as the means to shape and define the substantive law. Starting in 1962, however, the Commission commenced proceedings aimed at promulgating legislative rules declaring certain specific practices "unfair" and "deceptive."

In 1962, the FTC adopted its first rule with the force of law "Advertising and Labeling of Sleeping Bags as to Size" (16 C.F.R. part 400).

The Commission's authority to promulgate trade regulation rules was challenged in *National Petroleum Refiners Association v. FTC*, 482 F.2d. 672 (D.C. Cir. 1973), cert. denied, 415 U.S. 951 (1974). The courts held that the FTC has substantive rulemaking power in addition to adjudicatory power to carry out its mandate. The court spelled out some of the advantages of rulemaking over adjudication.

- Rulemaking can save the agency resources compared with proceeding on a case-by-case basis to terminate industrywide practices.
- It can provide business greater certainty as to what business practices are not permissible.
- It allows the agency to solicit and consider a wide range of data and view-points from various interested persons as a means of formulating a rule that is sound and fair to those who will be affected by it.
- It avoids singling out one respondent for initial imposition of a new and perhaps costly legal obligation.

#### Magnuson-Moss Warranty--FTC Improvement Act

On January 4, 1975, the Congress amended the Federal Trade Commission Act (15 U.S.C. 41, et seq.) by enacting the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Public Law 93-637, 88 Stat. 2183 et seq.). Title II, Section 202 of the act confirmed the authority of the FTC to issue Trade Regulation Rules. Specifically, it authorizes that "The Commission may prescribe (A) interpretive rules and general statements of policy with respect to unfair or deceptive acts or practices in or affecting commerce \* \* \* and (B) rules which define with specificity acts or practices which are unfair or deceptive acts or practices in or affecting commerce \* \* \* Rules under this subparagraph may include requirements prescribed for the purpose of preventing such acts or practices." (underlining added)

This act has had a significant effect on the FTC. Not only did it confirm by specific statute FTC's rulemaking authority, it encouraged the use of this remedial procedure.

The Senate Conference Report No. 93-1408, December 18, 1974, which accompanied the Magnuson-Moss Act at page 7763 states "This authority (to make substantive rules) is regarded...as an important power by which the Commission can fairly and efficiently pursue its important mission. Because the prohibition of section 5 of the Act (unfair and deceptive acts or practices) are quite broad, trade regulation rules are needed to define with specificity conduct that violates the statute and to establish requirements to prevent unlawful conduct."

The act significantly broadened FTC's jurisdiction to include acts which affect commerce. Previously, FTC's jurisdiction was limited to the acts which were in commerce.

FTC's own appraisal of the significance of the Magnuson-Moss legislation is set forth in the FTC Report to Congress dated June 1979 which stated in pertinent part:

" \* \* \* enactment at that point in the Commission's history fundamentally altered the nature and function of the FTC \* \* \*.

"prior to the Act the Commission could have been viewed as mainly a law enforcement agency. Its primary means for preventing unfair or deceptive acts or practices was by proceeding on a case-by-case basis usually with only one or two respondents \* \* \*.

"Responding to this directive from Congress, the Commission became involved not only in enforcement proceedings against individual respondents but in numerous rulemaking proceedings involving multiple participants in such diverse areas as funerals, used cars, hearing aids, creditor's remedies, mobile home warranties, food advertising, and drug advertising."

The broad authority to promulgate trade regulation rules (TRR's) granted in Section 202, Title II of the act is augmented by authority granted in Section 205(a) to commence civil penalty suits in the United States District Court against any person, partnership, or corporation which violates a TRR. Section 206 authorizes commencement of a civil action against a violator of a TRR to provide redress for consumers or other persons who are injured by such violations.

#### B. Rulemaking Activity Since 1975

Immediately after the passage of the Magnuson-Moss Warranty--FTC Improvement Act in 1975, there was a flood of rulemaking activity by FTC. Within the first 16 months, the Commission initiated 16

rulemaking proceedings. However, the pace has slowed down and only five have been initiated since April 1976.

Following is a table listing all of the rules which have been initiated or promulgated under the Magnuson-Moss Rulemaking Procedures. This table lists the rules alphabetically and with: total program expenditures for each; Code of Federal Regulations, Chapter 16, citation for each; date the rule was proposed; and its status.

MAGNUSON-MOSS RULES OR RULEMAKING PROCEEDINGS  
FROM INCEPTION TO DECEMBER 31, 1979

<u>Trade Regulation</u>	<u>Expenditures Through FY 1979 in \$000's</u>	<u>Title 16 CFR Part No.</u>	<u>Date Rule Proposed</u>	<u>Status of Rule at 12/31/79</u>
Advertising and Labeling of Protein Supplements	317	454	9/05/75	Presiding Official's Report Completed
Gard Labeling of Textiles & Wearing Apparel (Amendment)	210	423	1/26/76	Commission Consideration of Promulgation, Rejection or Other Action Pending
Cellular Plastics Flammability	114	439	7/28/75	Recommendations to Close Pending
Children's Advertising	919	461	4/27/78	Legislative Hearings Completed
Credit Practices	459	444	4/11/75	Staff Report Pending
Eye glasses	505	456	1/16/76	Finalized by Commission Effective 7/3/79; Appeal Pending Awaiting Opinion Second Circuit
Food Advertising (Phase I)	505	437	5/18/75	Public Comment on Presiding Official's & Staff's Report Completed
(Phase II)	78.2			Recommendation to Commission to Terminate Rulemaking in Draft Form
Franchise Rule	478	436	*	Finalized 10/21/79; Challenge filed in Court of Appeals Pending
Funeral Industry	542	453	8/29/75	Commission Consideration of Promulgation, Rejection or Other Action Pending
Games of Chance (First Amendment)	20	419	10/19/78	Presiding Official's Report Pending

<u>Trade Regulation</u>	<u>Expenditures through FY 1979 in \$000's</u>	<u>Title 16 CFR Part No.</u>	<u>Date Rule Proposed</u>	<u>Status of Rule at 12/31/79</u>
(Second Amendment)			9/05/79	Staff Report Pending
Health Spas	430	443	8/18/75	Staff Report Pending
Hearing Aid Industry	424	440	6/24/75	Commission Met 10/24/79 for Consideration of Promulgation, Rejection, or Other
Holder in Due Course (Amendment)	285	433	*	Promulgated 11/18/75 Commission approved in Substance 9/21/79. Proceedings Reopened for Comments on Drafting of Language Changes
Mail Order Merchandise	102	435	*	Finalized 10/5/75; Effective 2/2/76
Mobile Home Sales & Service	700	441	5/29/75	Staff Report Pending
Over-the-Counter Antacids	304	451	4/06/76	Staff Report Pending
Over-the-Counter Drugs	500	450	11/11/75	Commission Will Consider in December 1979 for Promulgation, Rejection, or Other
Prescription Drugs	134	447	6/04/75	Proceeding Terminated 11/24/78
Standards & Certification	500	457	12/07/78	Presiding Official's Report Pending
Thermal Insulation	254	460	11/18/77	Finalized 8/27/79 to Become Effective 12/30/79 Motion for Judicial Review or Remand and Reopening of the Record Pending Tenth Circuit Court of Appeals
Used Cars	626	455	1/06/76	Commission Met 10/11/79 to Consider Promulgation Rejection, or Other, Pending

<u>Trade Regulation</u>	<u>Expenditures through FY 1979 in \$000's</u>	<u>Title 16 CFR Part No.</u>	<u>Date Rule Proposed</u>	<u>Status of Rule at 12/31/79</u>
Vocational Schools	391	438	5/15/75	Final Rule Published 12/28/78; Scheduled to Become Effective on 1/1/80. Opinion from second circuit 12/12/79 remanding rule to the Commission.

\*Rulemaking proceeding substantially completed prior to enactment of Magnuson-Moss Act, however, rule promulgated after date of enactment in accordance with Section 202(c)(1), Public Law 93-637 (Magnuson-Moss Warranty-FTC Improvement Act)

The above table shows that six rules have been finalized by the Commission since the enactment of the Magnuson-Moss Amendment. Of these, only three--Eyeglasses, Thermal Insulation, and Vocational Schools--were handled under the Magnuson-Moss rulemaking procedures.

Rulemaking proceedings for the Franchise, Holder in Due Course, and Mail Order had been substantially completed prior to the Magnuson-Moss Act, even though the rules were promulgated after its enactment. These rules have the same force of law as provided for in section 202(c)(1), Public Law 93-637--Magnuson-Moss Amendment.

DESCRIPTION OF PROPOSED MAGNUSON-MOSS  
RULES (PENDING AND FINALIZED)

Advertising and Labeling of  
Protein Supplements (16CFR454)

The rule was proposed on September 5, 1975, and would alert the public to health risks protein supplements pose to infants and persons with certain health problems. It would prohibit various alleged misrepresentations of the nutritional benefits of protein supplements.

Care Labeling of Textile and  
Wearing Apparel (Amendment) (16CFR423)

Current rule requires that care instructions be provided on permanent label on wearing apparel. The amendment proposed January 26, 1976, would extend the coverage to a number of products such as upholstered furniture, carpets, and draperies.

Cellular Plastics Flammability (16CFR439)

This rule proposed on July 23, 1975, would require that manufacturers test their products for combustion using state-of-the-art fire tests and disclose in promotional materials any unreasonable combustion hazards revealed by the tests.

Childrens' Advertising (16CFR461)

This rule proposed April 27, 1978, seeks remedies to perceived problems of advertising to very young children. Possible remedies might include: (1) elimination of certain deceptive advertising techniques; (2) reductions in the numbers and frequency of ads to children; (3) disclosure of health information in ads; (4) broadcast of public service announcements on health and nutrition in children's programming; (5) prohibitions on some or all ads in children's programming.

Credit Practices (16CFR444)

This rule proposed on April 11, 1975, seeks to reform consumer sales contracts by prohibiting the inclusion of certain clauses which effectually limit or waive consumer rights in consumer credit

transactions. The rule would also place a number of limitations on cosigner agreements including written disclosure of cosigner's liability in the event of default.

Eyeglasses, Also Known As Advertising of Ophthalmic Goods and Services (16CFR456)

This rule was proposed on January 16, 1976, and became effective July 3, 1978. It removed restrictions on the advertising of the price of eyeglasses, contact lenses, and eye examinations. It also required examiners to provide customers with prescriptions, thereby enabling the customer to compare prices. On February 6, 1980, the District of Columbia Court of Appeals suspended the rule (except the prescription section) and remanded it to the Commission.

Food Advertising (16CFR437)

This rule was originally proposed on November 11, 1974, and repropoosed to conform to the Magnuson-Moss requirements on May 28, 1975. This rule seeks to reform and standardize certain nutritional terms in food advertising. It deals with such things as natural and organic food claims, energy and caloric claims, health and related claims.

It is anticipated that the proposed rulemaking will be handled in three phases. To date procedures have been initiated in two of the phases.

Franchise Rule (16CFR436)

This rule was proposed in November 1971. Hearings were held in 1972. A revised rule was proposed in August 1974. The effective date of the rule is October 21, 1979. The rulemaking was conducted under pre-Magnuson-Moss procedures. The rule requires franchisors to disclose key information to prospective franchisees before any sale is consummated.

Funeral Industry (16CFR453)

A rule concerning Funeral Industry Practices was proposed on August 29, 1975. The proposed rule would prohibit practices such as embalming without permission and requiring caskets for cremation; prohibit misrepresentation concerning legal and public health requirements regarding embalming and the use of caskets; and require price disclosure including itemized price lists. Other sections of the rule would prohibit private restraints on disseminating information about merchandise or services offered by funeral directors or memorial societies.

Games of Chance (16CFR419)

This rule requires disclosures of the chances of winning in supermarket and gasoline games and requires that prizes be awarded on a totally random basis. It also requires a hiatus between

consecutive games. An amendment was proposed on October 19, 1978, which would modify the hiatus rule to a standard 30-day period. A second amendment was proposed on September 3, 1979, which would limit the information currently to be posted in all participating outlets.

#### Health Spas (16CFR443)

This rule which was proposed on August 18, 1975, would require that consumer be given a written contract with specific information, a 3-day, cooling-off period in all cases and a 10-day cooling off period for the sale of memberships in nonoperational spas, a right to cancel and a right to a pro-rata refund upon cancellation.

#### Hearing Aid Industry (16CFR440)

This rule was proposed on June 24, 1975. It would give the buyer a right to cancel within a 30-day trial period and receive a refund. It would prohibit advertising representation that a demonstration device replicates the actual way a consumer can expect to hear with a hearing aid and it would prohibit other exaggerated claims. The rule would also require certain affirmative disclosures for particular hearing aids or features.

#### Holder-In-Due Course (16CFR433)

The original rule was promulgated on November 18, 1975. It requires that consumer credit contracts made between a buyer and a seller or a creditor affiliated with a seller include a clause which expressly preserves the buyer's legal rights against the seller.

An amendment was proposed on November 18, 1975. Currently, only sellers have a duty to comply with the rule. The amendment will require compliance by affiliated creditors, also.

#### Mail Order Merchandise (16CFR435)

This rule was proposed in September 1971 and was promulgated in October of 1975. This rule requires delivery of mail order goods and establishes time requirements for delivery or refund.

#### Mobile Home Sales & Service (16CFR441)

This rule was proposed on May 29, 1975. It proposes requirements to ensure that warranty obligations on mobile homes are fairly honored. Manufacturers would be responsible for delivering warranty service within reasonable time limits and warranty service would be required to be performed at the site of the mobile home.

#### Over-the-Counter Antacids (16CFR451)

This rule was proposed on April 6, 1976. It proposes that FDA mandated contraindications and warnings for labeling should also be disclosed in advertising.

Over-the-Counter Drugs (16CFR447)

This rule was proposed on November 11, 1975, and prohibits indication of use claims in advertising which are not allowed in labeling under FDA regulations.

Prescription Drugs (16CFR447)

This rule was proposed on June 4, 1975, and was withdrawn on November 24, 1978. The rule would have removed restrictions on advertising of the price of prescription drugs and would have required that the seller provide price information to prospective purchasers.

Standards and Certification (16CFR457)

This rule was proposed on December 7, 1978. This rule would prescribe minimum due process requirements for standard development organizations, including adequate notice, written procedures, equal rights of participation, appeal, and recordkeeping. It would establish a mechanism to challenge restrictive or deceptive standards. The rule also would require truthfulness by third-party certifiers and prohibit discriminatory certification practices. It would also require truthful self-certification by marketers.

Thermal Insulation (16CFR460)

This rule was proposed on November 18, 1977; the effective date is December 30, 1979. This rule requires that standard American Society of Testing and Materials (ASTM) methods be used to determine the "R" value of residential thermal insulation materials. It also requires the disclosure of "R" value and related information and an explanation of "R" value on labels and fact sheets at point-of-sale and in most advertisements.

Used Cars (16CFR455)

The Used Car Rule was proposed on January 6, 1976. The rule proposes that information concerning condition of major components of a used car be disclosed on the vehicle.

Vocational Schools (16CFR438)

This rule was proposed on May 15, 1975. The final rule was promulgated on December 28, 1978, to become effective on January 1, 1980. The rule provides for a 14-day cooling-off period for new students; mandatory disclosure by schools of graduation and drop-out rates; disclosure of placement rates when schools make claims about jobs or earnings; and a pro-rata refund for students who cancel after the cooling-off period. On December 12, 1979, the Second Circuit Court of Appeals set this rule aside and remanded it to the Commission.

### C. Future Rulemaking Activities

According to the Bureau of Consumer Protection (BCP) at present there is only one investigation that has resulted in a definite recommendation for future rulemaking. Based on BCP staff proposals, the Commission will consider a recommendation for a rulemaking proceeding dealing with warranties and advertising claims about warranties. This will be handled in accordance with the special provisions of Title I of the Magnuson-Moss Warranty Act.

In addition, there are three other investigations involving sellers of vision care, dental laboratories, and dentists that could result in rulemaking proceedings under the general rulemaking provisions of Title II of the Magnuson-Moss Act. In each inquiry, the staffs are conducting extensive prospective impact evaluations that seek to measure the quality of care and pricing methods among different providers of these services. The results of these studies will provide the basis for deciding what future action may be most appropriate--rulemaking proceedings or a public report may be recommended.

An official of BCP advised that each of these inquiries is focusing on different kinds of state laws. Generally, they are concerned with whether such laws may unduly restrict competition among health care providers and stifle the development of innovative delivery systems. Completion of these impact evaluations is not expected until the second and third quarters of FY 1980. Staff recommendations will be made in the third and fourth quarters of FY 1980.

### Magnuson-Moss Rulemaking Procedures

Before passage of the act, FTC rulemaking was conducted under the general authority of Section 6(g) of the Federal Trade Commission Act by following procedures established by section 553 of the Administrative Procedures Act (5 U.S.C. sec. 553). This section provides for informal rulemaking. Principally, it requires that an agency publish a notice of the proposed rule or the subjects to be covered by the rule, accept written comments from interested persons, and when a final rule is promulgated, publish a general statement of the rule's basis and purpose. There is no requirement that oral presentations be allowed, opportunity for cross-examination granted, or rebuttal submission accepted.

The Magnuson-Moss Amendment to the Federal Trade Commission Act (15 U.S.C. 41, et seq.) not only grants FTC the authority to promulgate Trade Regulation Rules (TRR) it specifies in section 202 of title II the procedures to be followed in forming a TRR.

Section 202 of the Improvement Act requires the Commission, when issuing a Trade Regulation Rule, to proceed under section 553 of the Administrative Procedures Act and the special requirements established by the Improvement Act. These special requirements are:

- The notice of proposed rulemaking states with particularity the reason for the proposed rule;
- Interested persons have an opportunity to submit written data, views, and arguments;
- An opportunity for an oral hearing be provided;
- Any final rule be based on the rulemaking record and be accompanied by a statement of basis and purpose to include prevalence of the acts or practices treated by the rule, and a statement as to the economic effect of the rule, taking into account the effect on small business and consumers.
- An interested person is entitled to present his position orally or by documentary submissions or both;
- If the Commission determines that there are disputed issues of material fact it is necessary to resolve, an interested person is entitled to present such rebuttal submissions and to conduct (or have conducted by persons designated by the presiding officer) such cross-examination of persons as the Commission determines to be appropriate and required for a full disclosure.

The major addition to the Administrative Procedures Act, section 553, rulemaking procedures is the requirement that an opportunity for an informal oral hearing be provided and that interested persons be afforded opportunities for rebuttal submissions and limited rights of cross-examination to resolve "disputed issues of material fact."

The act grants the Commission authority to prescribe procedural rules to avoid unnecessary cost or delay.

Rulemaking procedures under Magnuson-Moss allows for a greater amount of public participation in its rulemaking process. As stated in part in the Magnuson-Moss Act Conference Report: "More effective, workable and meaningful rules will be promulgated if persons affected \*\*\* have the opportunity \*\*\* by cross-examination and rebuttal evidence or other submissions, to challenge the factual assumptions on which the Commission is proceeding and to show in what respect such assumptions are erroneous."

The usual principal stages of a Magnuson-Moss rulemaking procedure as implemented by FTC are:

- Initial notice of rulemaking
- Final notice (designating disputed issues and setting hearing sites and dates).
- Prehearing comment period (initial notice to 45 days before hearing)

- Hearing
- Posthearing rebuttal period
- Presiding Officer's report
- Bureau of Consumer Protection staff report
- Public comments on the Presiding Officer and Bureau of Consumer Protection staff reports
- Final recommendations by the Director of the Bureau of Consumer Protection
- Oral presentation to the Commission by selected interested persons
- Commission meets to consider rule
- Publication of final rule and statement of basis and purpose

A final rule is subject to judicial review in the United States Circuit Court of Appeals upon the petition of any interested person, including consumers. In addition to the usual ground for review specified in section 706 of the Administrative Procedures Act, the Magnuson-Moss Amendment specifically states: "The court shall hold unlawful and set aside the rule if the court finds that the Commission's action is not supported by substantial evidence in the rulemaking record \* \* \* taken as a whole, or, the court finds that a Commission determination \* \* \* that the petitioner is not entitled to conduct cross-examination or make rebuttal submissions \* \* \* has precluded disclosure of disputed material facts which was necessary for fair determination by the Commission of the rulemaking proceeding taken as a whole."

Once a TRR promulgated under the Magnuson-Moss provisions has been upheld by the courts, a violator of the rule can only litigate whether his conduct violated the rule, not whether the conduct itself is in violation of the FTC Act.

#### Notice to Public of Proposed Rulemaking

The initial notice of rulemaking published in the Federal Register is the first formal notice to the public of the proposed rulemaking. FTC advises that the Commission also publishes in the Federal Register, a semiannual agenda of its forthcoming rulemaking proceedings and other activities, such as economic reports, of interest to the public. Each entry contains a brief description of the activity, the target date for its completion, and the name of the person who can supply more information about each item. The agenda is primarily a means of informing all interested persons of future FTC activities so they can plan their own participation more effectively.

The semiannual agenda published on August 1, 1979, contains individual notices on 18 ongoing rulemaking proceedings. This agenda does not announce any new rulemaking undertakings.

In addition to the advance notice of rulemaking activity published in the semi-annual agenda, the FTC indicates it will make submissions to the Regulatory Calendar describing in detail major rulemakings likely to be undertaken in the next year. The Regulatory Calendar is a Government-wide publication of the Regulatory Council. It is intended primarily as a tool for identifying regulatory activity by different agencies affecting the same economic sectors, so that better coordination can be achieved.

The latest Regulatory Calendar was published in the Federal Register, Volume 44, No. 230, November 28, 1979. The FTC entry, page 68327, et seq., contains items for children's advertising, credit practices, mobile homes, and standards and certification which describe rulemaking proceedings currently in progress. There is an entry for Blue Shield and certain other medical prepayment plans which describes an investigation which might lead to a rule-making proceeding.

#### Increased Activity Under Magnuson-Moss Act

Soon after the enactment of the Magnuson-Moss Amendment, there was a surge of rulemaking activity. Sixteen separate rules were proposed between January 1975 and April 1976. Most of the early proposed Trade Regulation Rules were based on investigations initiated prior to 1975. It was the objective of these early investigations to identify and proceed against individual violators in cease-and-desist proceedings under prior procedures. Consequently, these investigations were not tailored to the different procedures of Magnuson-Moss.

No other agency had been called upon to implement a "hybrid" rulemaking procedure. Consequently, FTC had no models on which it could look for guidance and experience.

The FTC may have grossly underestimated the problems that new rulemaking procedures would bring. Nor could they foresee the concerted resistance on the part of some industries where rulemaking was proposed. In any event, the volume of rulemaking proceedings undertaken after the enactment of Magnuson-Moss--in such a short period--severely taxed the resources of the FTC.

A number of the rulemaking proceedings initiated early in the post Magnuson-Moss period are just now reaching the final stages. Among these are rules based on investigations originally initiated for other than rulemaking proceedings as well as some early proceedings considered to be experimental.

The present Commission Chairman testified before the Senate Consumer Subcommittee of the Committee on Commerce, Science, and Transportation on October 5, 1979. In his testimony he stated:

"Our procedures have been criticized and in some cases justly; the objectivity and judgement of our junior staff in some of the proceedings has been questioned, the breadth of wisdom of rules proposed or remedies considered has been challenged \* \* \*. There is no question that there were occasions in the past, especially the early rulemaking proceedings--especially with respect to the Funeral Rule, the Vocational School Rule, and the Hearing Aid Rule--in which your criticism of junior staff in effect conducting a vendetta against the industries involved--there was some justice in these accusations \* \* \*. I can tell you that the staffs involved, the staff who are the subject of those criticisms, are no longer with the Commission. But more important we have made a very strong effort since I have been at the commission, and before, to assure that the staff approach these proceedings in an open objective way."

#### The Changing Face of Rulemaking

FTC rulemaking procedures have not remained static. Technical aspects of the procedures have been changed to meet unforeseen obstacles, to improve efficiency, and to respond to certain criticisms. Just one example of procedural change is the use of a two-stage hearing procedure used in a recent rulemaking proceeding. A legislative-type hearing was held to identify "disputed issues of material fact it is necessary to resolve." Thereafter, these disputed issues were addressed at a separate adjudicative-type hearing at which interested persons were afforded the limited right to cross-examine.

The "hybrid" rulemaking proceedings prescribed by Magnuson-Moss serve both legislative and adjudicatory purposes. They are by nature adversary-type proceedings. As such, questions of "fairness" or bias have been raised. One such question involved the "presiding officers" used at the Magnuson-Moss hearings. In the earliest proceedings, both the presiding officers and staff responsible for formulating and promoting the proposed rule were located organizationally in the Bureau of Consumer Protection. Criticism centered on the fact that presiding officers could not, therefore, have the degree of independence essential to the conduct of an impartial hearing. In the opinion of the Investigative Staff, the appearance of partiality could be as damaging as actual partiality. In response to this criticism, the presiding officers currently consisting of four senior attorneys were transferred from the Bureau of Consumer Protection to the Office of General Counsel. Other criticisms and adjustments made by FTC are discussed in Chapter VI of this report.

Internal and External Review of  
Magnuson-Moss Rulemaking

The Magnuson-Moss Act directed FTC and the Administrative Conference of the United States to study and evaluate the rulemaking procedures delineated by the act. Both agencies submitted their reports in July 1979. Each of these reports makes reference to technical and procedural problems that have been experienced in the first 20 rulemaking proceedings. The reports specify changes in procedures which have alleviated some of the early difficulties. For the most part, these are technical procedural changes. However, it is significant that neither FTC nor the Administrative Conference in their respective reports recommended any legislative change.

As the Chairman pointed out in his testimony, in retrospect it would have been better for FTC to proceed more cautiously into the Magnuson-Moss rulemaking activity. It might have been more prudent to have completed substantially one rulemaking which could have provided a basis for formulating tested procedures. Thus, a pilot application of the rulemaking proceedings could have isolated and limited the technical and mechanical difficulties which were later encountered on a widespread basis in the rulemaking process. The fact that 16 proceedings were initiated during the first 16 months and only 5 since may indicate a growing awareness of the problems inherent in rulemaking and a more realistic appraisal and use of limited FTC resources.

D. Recent FTC Developments

Serious charges have been made by Congress and the business community, questioning the logic and validity of the basis used by the FTC to justify proposed rules. Challenges have also arisen concerning the cost effectiveness of rulemaking.

Partially, as a result of mounting criticisms, the FTC has taken certain actions to defuse some of the issues. During the past 18 months, the FTC has emphasized and fortified its commitment to assess the economic soundness of proposed rules. In September 1978, the Bureau of Economics established the Division of Consumer Protection as a separate organizational unit. Specific resources, particularly those involving rulemaking, were thus earmarked for the study and analyses of consumer protection issues. This unit of approximately 14 economists supports and interacts with attorneys in the Bureau of Consumer Protection. An economist is assigned to each of the investigations which may lead to the proposal of a TRR to provide economic expertise and assistance during the investigation. He is responsible for developing the economic factors to be considered in each phase of the investigation and rulemaking proceedings.

The establishment of the "Impact Evaluation Staff" within the Bureau of Consumer Protection has also been significant. This staff, which came into being in 1976, consists of an economist and market research specialists, with the training and experience necessary to contribute importantly to the impact evaluation program.

This group is playing an active and what should be an influential role in investigations being conducted by the Bureau of Consumer Protection. The staff are designing and administering various economic analyses, impact evaluations, and cost/benefit studies used in the FTC decisionmaking process. One of the staff's most important functions is to conduct impact evaluation studies in anticipation of proposed TRR's.

The impact evaluation staff is also involved in doing "baseline" studies to determine the current status and practices in particular markets. The data developed can then be used to compare the same market at some future date after a Trade Regulation Rule or some other FTC action has been imposed on a particular market.

It was the opinion of the Impact Evaluation Staff that the "whole process" of the FTC is gradually changing in recognition of the value and need for a sound economic basis for FTC actions. The Commission has placed increasing emphasis and reliance on baseline studies and impact evaluations using state-of-the-art sampling and market survey techniques to select available enforcement alternatives. The Investigative Staff was informed that commissioners have referred matters back to the staff questioning the adequacy of cost versus benefits analyses and of impact evaluations of proposed FTC actions. It was the opinion of one official that much of the current criticisms of the FTC rulemaking process could have been avoided if adequate impact evaluations had been used in the past. He mentioned that the Vocational Schools rule was being challenged in the U.S. Court of Appeals on the "sufficiency of the evidentiary base." Since this information was obtained, the Vocational Schools Rule has been reversed and remanded by the U.S. Court of Appeals. In his opinion, current FTC procedures provide sound prospective and retrospective impact analyses which, had they been followed in the early phases of the Vocational Schools rulemaking proceedings, could have minimized the challenge.

The increased use of impact evaluations and other economic analyses in the Bureau of Consumer Protection is enhancing the basis for decisionmaking. Based on projected cost effectiveness identified in cost/benefit analyses, alternative remedial actions are being suggested in lieu of initial bureau staff proposals. As a result of the greater emphasis on analyses, there seems to be a more comprehensive consideration of the general economic impact of rulemaking. An indication of this was given by one commissioner in testimony before the Consumer Subcommittee of the U.S. Senate Committee on Commerce, Science and Transportation on October 5, 1979:

"On the point about having some regulatory reform proposals, that would clarify and set forth some criteria as how we should consider rulemaking proposals, what kind of evidentiary support, what kind of an economic analysis, in particular, would be appropriate.

Again, I think we are doing a lot more of that and I think it has been reflected in the significant lower volume of rulemaking proposals that we have started in the last two or three years simply because we're looking much harder at the desirability of going that way."

In addition to the use of these economic analyses in considering prospective FTC activities, they are also being used to review the effects of past actions. One such example is an attempt to determine the actual effect on the market of certain required warnings on product labels. It is anticipated that studies of this type may be the basis for modification of existing rules and will be used in consideration of future remedies.

The Commission in its FY 1981 budget request is proposing that additional resources--12 professional work years and nearly one million dollars in contract funds--be allocated to the Consumer Protection Mission for increased regulatory analysis support to rulemaking.

#### E. Resources Used in Rulemaking

The FTC furnished estimates of the total resources used in its rulemaking activity. Through FY 1979 FTC has expended a total of \$9,176,200 on its rulemaking activity and related programs. This figure does not include the costs of legal and administrative support activities--which could add substantially to the estimated total. Such support would include reviews and analyses performed by the Office of General Counsel, the commissioners, and others. Also, this does not include expenditures made under the Public Participation Funding Program which are set out separately in Chapter VI of this report.

The following table shows reported expenditures for all rulemaking activities and related programs through FY 1979 in both work years and dollars. This chart also shows the percentages of rulemaking expenditures as compared with the total expenditures of the Bureau of Consumer Protection and of the Federal Trade Commission. The individual expenditures in dollars for each separate rulemaking program is shown in the table on pages 81-83.

RULEMAKING RESOURCE EXPENDITURES

	<u>Prior Years</u>	<u>FY 1976</u>	<u>FY 1977</u>	<u>FY 1978</u>	<u>FY 1979</u>	<u>Total</u>
Work Years	15.8	85.7	64.5	72.6	73.6	312.2
Dollars (in 1000's)	360	2258	1600	2271	2687.2	9176.2
Percent of BCP	2.8	9.4	8.0	8.2	9.1	7.8
Percent of FTC	.9	3.8	2.9	3.7	4.1	3.3

Non-Magnuson-Moss Trade Regulation Rules

In addition to the rulemaking authority under the FTC Act, as amended, various statutes dealing with narrow substantive areas expressly grant the Commission authority to promulgate rules implementing provisions of the statutes. They include:

- The Clayton Act (1914), as amended by the Robinson-Patman Act (1936)
- Wool Products Labeling Act (1939)
- Fur Products Labeling Act (1951)
- Textile Fiber Product Identification Act (1965)
- Fair Packaging and Labeling Act (1966)
- The Magnuson-Moss--FTC Improvement Act  
Warranty provisions (Title I) (1975)
- Energy Policy and Conservation Act (1975)

The following table lists all "legislative" trade regulation rules--other than those promulgated under Section 18 of the Magnuson-Moss Act--initiated since January 1975; the current status of each; and the legislative authority under which each is or was handled:

<u>Trade Regulation Rule</u>	<u>Legislative Authority</u>	<u>Status at December 31, 1979</u>
Appliance Labeling	Energy Policy and Conservation Act Public Law 94-163	Commission has approved the Rule and it was sent to the Federal Register for publication on November 19, 1979.
Octane Certification & Posting Rule	Petroleum Marketing Practices Act Public Law 95-297	Finalized by Commission on March 30, 1979; rule became effective June 1, 1979
Reasonable Duties Under a Full Warranty	Magnuson-Moss Warranty Act Title I, substantive authority: 15 U.S.C. § 2304, procedural authority: 15 U.S.C. § 2309.	Staff Report pending.
Rule Concerning Disclosure of Written Consumer Product Warranty Terms & Conditions (16 C.F.R., Part 701);	Magnuson-Moss Warranty Act Title I, substantive authority: 15 U.S.C. § 2304, procedural authority: 15 U.S.C. § 2309.	Promulgated December 31, 1975; effective December 31, 1976.
Rule Concerning Pre-sale Availability of Written Warranty Terms (16 C.F.R., Part 702);	Magnuson-Moss Warranty Act Title I, substantive authority: 15 U.S.C. § 2304 procedural authority: 15 U.S.C. § 2309.	Promulgated December 31, 1975; effective December 31, 1976.
Rule Concerning Informal Dispute Settlement Procedures (16 C.F.R., Part 703).	Magnuson-Moss Warranty Act Title I, substantive authority: 15 U.S.C. § 2304, procedural authority: 15 U.S.C. § 2309.	Promulgated December 31, 1975; effective July 4, 1976.

**F. Conclusion and Assessment**

There is at the present time a general concern in the business community and the Congress about the powers of regulatory agencies and the proliferation of rulemaking activities. Senator Sam Nunn in discussing this matter at the FTC oversight hearings before the Senate Consumer Subcommittee on October 10, 1979, stated:

"Of the 31000 pages of the 1978 Federal Register, more than 11000 pages were devoted to publication of proposed rules and rule amendments, and final rules and amendments occupied another 15000 pages."

At the same hearings, reference was also made to a speech given by the then Attorney General Griffin Bell at the University of Kansas who was quoted as saying in part:

"I would urge Congress to sharply curtail, if not abolish, the so-called rulemaking powers of the independent regulatory commissions. To most of you in the audience tonight, the concept of rulemaking might sound as though it were a procedural device used to set out rules under which a particular agency might conduct itself. That is far from the way the term is used in Washington. In truth, rulemaking is a total substitute for all other forms of government, executive, legislative and even judicial. Its abuse can stymie and frustrate the government of whole states and the operations of entire industries."

Although the Attorney General's comments may have been overstated, they do nonetheless focus upon the unusual powers Congress has delegated to agencies such as the FTC.

Judge John O. Newman, U.S. Court of Appeals, Second Circuit in a dissenting opinion to the Court's decision in consideration of the FTC's Vocational School Rule, infra, stated in part:

"Congress enacted the Magnuson-Moss Act to empower the Commission to take vigorous action on behalf of American consumers to protect them against deceptive trade practices. The Commission spent four years investigating and documenting extensive deceptive practices in the field of proprietary vocational and home study schools. The petitioner's major assault on the Rule that resulted from that investigation is that it ushers in a new era of N.R.A.-type industry-wide codes. That fear is not groundless.

Whether codes of the type exemplified by the Rule challenged in this case are a sound way to protect consumers from misleading trade practices and whether the resulting burden of regulation is worth the benefits are policy issues for the Congress. When Congress gives an agency substantive rule-making authority, it accords it a large measure of legislation power. It is the responsibility of Congress to determine how wisely that power is being used. Our task is to determine only whether it is being used lawfully."

The significance of the FTC rulemaking powers is well summarized by FTC in its June 1979 report to Congress wherein it stated in pertinent part that the Magnuson-Moss legislation:

\* \* \* fundamentally altered the nature and function of FTC. This rulemaking authority worked a radical transformation on the FTC's Consumer Protection Mission. Prior to the Act, the Commission could have been viewed as mainly a law enforcement agency. Its primary means for preventing unfair or deceptive acts or practices was by proceeding on a case-by-case basis usually with only one or two respondents. The Act was a clear signal to the Commission that it should consider rulemaking as an important tool with which to prevent unfair and deceptive acts or practices."

It is the opinion of the Investigative Staff that the FTC unfortunately overreacted to its new powers and failed to perceive or consider some of the broader public responsibilities and the full consequences this legislation could have on the economy as a whole.

Rulemaking authority is in effect limited legislative authority granted by Congress. FTC is the surrogate of Congress in its rule-making role. Congress has passed on to FTC the responsibility to establish force-of-law regulations that specify and seek to prevent unfair or deceptive acts or practices in or affecting commerce. The Congress is well aware of the responsibilities of legislative authority and the need for public acceptance and support if the legislative process is to achieve intended goals. The FTC demonstrated in the early phases of its accelerated emphasis on rule-making that it may not have been alert to these subtleties. Recent Congressional hearings and intensive criticism from the business community seem to have had a cautionary effect. Criticisms--justified and unjustified--may have done much to force FTC's attention on these issues.

None of the Magnuson-Moss rulemakings have as yet withstood the "test of time." Three rules have been finalized wherein the Magnuson-Moss procedures were used--Eyeglasses, Thermal Insulation, and

Vocational Schools--all were appealed to the U.S. Circuit Court of Appeals.

On December 12, 1979, the Second Circuit Court of Appeals ruled that the Commission had erred in the Vocational Schools Rule in failing to comply with certain procedural requirements of the Magnuson-Moss Act. In a two-to-one decision the court also found several substantive provisions of the rule to be defective. The court set aside the rule and remanded it to the Commission so that the Commission may comply with the procedural requirements and delete or amend the provisions which the court found to be improper. This is the first case to decide the legality of a rule promulgated by FTC under powers granted by the Magnuson-Moss Act.

In discussing the "procedural error" the court, in its ruling, stated in part:

"Petitioners contend, and we agree, that in order to comply with section 57a(a)(1)(b) the Commission must define with specificity in the Rule those acts or practices which are unfair or deceptive and may include requirements for preventing them. Petitioners contend further, and again we agree, that the challenged Rule does not comply with these statutory provisions. Instead of defining with specificity those acts or practices which it found to be unfair or deceptive, the Commission contented itself with treating violations of its 'requirements prescribed for the purpose of preventing' unfair practices as themselves the unfair practices."

The Vocational Schools Rule provides simply that it is an unfair or deceptive act or practice for any school to fail to comply with the requirements of the rule (16 C.F.R. 438).

On February 6, 1980, the District of Columbia Circuit Court of Appeals suspended and remanded the Eyeglasses Rule--except for the part requiring eye examiners to provide a copy of the prescription to the customer which was left intact. It was remanded to the Commission to consider whether the 1977 Supreme Court decision in Bates v. State Bar of Arizona, lifting a ban on professional advertising, now makes the Eyeglasses Rule unnecessary.

The Eyeglasses Rule would have prohibited States from barring ophthalmic advertising and would have limited the right of States to impose affirmative disclosures in such advertising. Judge Carl McGowan, who wrote the opinion for the court, commented in part:

"\* \* \* the Commission has at least approached the outer boundaries of its authority and may have infringed on that deference to the States exercise of their police powers dictated by the principles of federalism."

Other serious questions raised in this opinion and left unanswered were:

"\* \* \* Did Congress authorize the Commission to pre-empt state laws? If so, did the scope of the Commission's delegated power permit it to pre-empt state laws to the extent of pre-empting the whole field of ophthalmic advertising? \* \* \* Has the Commission exceeded its jurisdiction in treating the states as persons under the Magnuson-Moss Act? \* \* \*

The other finalized rule--Thermal Insulation--is still under appellate review. The court's review is and will continue to be a significant legal evaluation of each of the rulemaking procedures. In the broader sense the real test of effectiveness will occur sometime in the future in the marketplace where benefits to the consumer and the impact on the economy can be measured.

The Administrative Conference of the United States (ACUS) made a detailed analysis of the FTC rulemaking efforts under Magnuson-Moss. Its report was published in the Federal Register, Vol. 44, No. 129, pg. 38817, et seq. The report makes a number of important observations and recommendations to improve the technical rulemaking procedures. The Investigative Staff concurs generally with the ACUS report. However, the Investigative Staff believes that one observation in particular is worth emphasis. In part the report said: "Many rules were based on novel theories of unfairness or deception rather than on traditional principles. Some rules contained multiple theories of unfairness or deception or covered numerous and varied commercial practices." A review of the proposed rules by the Investigative Staff substantiated the ACUS observation. In the opinion of the Investigative Staff, it was this approach giving the appearance of adventurism--that engendered some of the more significant criticism of FTC rulemaking--criticism far in excess of that normally expected from affected parties.

The rulemaking process is too expensive and time consuming to be used arbitrarily to test the extent of the law or to expand legal precedents. In the opinion of the Investigative Staff, rulemaking should be most carefully considered and used only after comprehensive analysis clearly indicates a compelling need for a TRR and all other remedial alternatives have been seriously considered.

In the opinion of the Investigative Staff, to be effective, Trade Regulation Rules must meet certain prerequisites. There must be a well perceived need for the rule; it must be capable of enforcement; and because rules are not self-enforcing, there must be a reasonable acceptance on the part of industry. Otherwise, compliance enforcement would be overburdened and discredited.

To obtain acceptable results require awareness of and a sensitivity to consumer and industry interests and capabilities.

Although some of the investigations which formed the basis for proposed rules covered a long period of time, many of FTC's rules were initiated without sufficient data and background information to make these very significant judgments. A number of the rule-making proceedings seemed to rely heavily on information developed during the hearing phase of the rulemaking concerning industry capabilities and attitudes. The Investigative Staff is of the opinion that much of this information should have been obtained in depth during the investigative phase and used to determine whether or not a TRR should have been proposed in the first place. To do otherwise--as history has already demonstrated--will continue to be counter productive and not a cost effective alternative.

FTC rules of procedure require that in the course of developing a proposal for a TRR, FTC staff should consult with representatives of State and local governments to ascertain the potential effect of the proposed TRR on State and local laws and to resolve or minimize potential conflicts. The Investigative Staff believes that there should be a similar requirement to contact those who would be adversely affected by the TRR. Such a procedure would demonstrate that the FTC has an open mind in solving a competition, consumer, or trade problem.

The FTC budget process and presentation is deficient in that it does not provide a line item accounting for rulemaking which could be informative and of value to the Commission, the Office of Management and Budget, and the Appropriations Committees of the Congress in their budget review and approval process. However, the Magnuson-Moss Act did establish a \$1 million annual limit on public participation funds which represents only a part of the costs attributable to rulemaking. Subsequent authorization resolutions have provided a total of \$750,000 in FY 1979 for public participation. (Public participation funding is discussed in greater detail in Chapter VI.)

The Committee might wish to consider directing that the FTC submit a more meaningful budget presentation to the Appropriations Committees by providing a line item breakdown for rulemaking proceedings. The aggregate should be supportable by an individual accounting for each rulemaking proceeding included in the budget request.

## VI. PUBLIC PARTICIPATION FUNDING

With the enactment of the Magnuson-Moss Warranty--FTC Improvement Act, January 4, 1975, the FTC was granted authority to compensate interested persons for certain costs of participation in the rule-making process.

Section 202(h) of the act states:

"The Commission pursuant to rules prescribed by it may provide compensation for reasonable attorneys fees, expert witness fees, and other costs of participating in a rulemaking proceeding under this section to any person (A) who has, or represents, an interest (i) which would not otherwise be adequately represented in such proceeding, and (ii) representation of which is necessary for a fair determination of the rulemaking proceeding taken as a whole, and (B) who is unable effectively to participate in such proceeding because such person cannot afford to pay costs of making oral presentations, conducting cross-examinations, and making rebuttal submissions in such proceeding."

This authority to compensate public participants when viewed in context with the expanded rulemaking procedures mandated by the act signals an intent on the part of the Congress to broaden the public's role by making it possible for the consumer and the small businessman to participate in the FTC rulemaking process.

The Senate Conference Report--No. 93-1408, December 18, 1974--accompanying the Magnuson-Moss Act, described the purpose of the public compensation provision as follows:

"In order to provide to the extent possible that all affected interests be represented in rulemaking proceedings so that rules adopted thereunder best serve the public interest, the FTC is authorized to provide compensation for reasonable attorneys and expert witness fees and other costs of participating in rulemaking proceedings. \* \* \* Because the utilization of these funds may be critical to the full disclosure of material facts in the rulemaking proceedings, the conferees expect the Commission to assign a high priority to their proper expenditures."

### A. Implementation

Procedures for handling applications and administering the public funding program have undergone changes and refinements

as a result of the experience gained by FTC under this novel program.

Initially the public participation program was administered by the Bureau of Consumer Protection, which was also responsible for formulating the TRR's and handling the rulemaking hearings. Critics of the early rulemaking proceedings charged that the FTC was using the public participation funds to support those "public interest" groups friendly to the FTC to weight the rulemaking record in favor of the proposed rule.

During the fall of 1978, administration of the public participation funding program was reorganized. FTC transferred the responsibility for the overall administration from the Bureau of Consumer Protection to the General Counsel's office. At the same time, the presiding officer's unit was also transferred to the General Counsel's office. The Office of the General Counsel has no substantive responsibility for investigations or rulemaking. Likewise, it has no program responsibility for recommending a proposed rule to the Commission.

FTC has two staff guidelines which are available to the public. They describe the public participation funding program and furnish guidance for submission of applications in accord with established procedures. These two documents, "Applying for Reimbursement for FTC Rulemaking Participation" and "Rulemaking and Public Participation Under the FTC Improvement Act," are being revised and will be consolidated. The draft of the new pamphlet is titled "The Public Rulemaking Participation Program: Rulemaking Proceedings and Reimbursement for Costs of Participation."

In addition to the dissemination of these documents, it is the current FTC practice to include in the initial rulemaking proposal specific information concerning the public participation program and the availability of funds. Details are published in the Federal Register, identifying the contact point for additional information and the address to which applications may be submitted.

#### Outreach Program

The Office of Federal, State, and Consumer Relations in the Office of the Executive Director is responsible for seeking out groups interested in FTC rulemaking activities to inform them about rulemaking and the public participation reimbursement program. The outreach program identifies qualified groups and persons which might not otherwise have known of Commission proceedings to encourage their active participation. The staff maintains a continuing liaison with Federal and State officials and consumer groups. It also contacts business and trade organizations which may be interested in FTC activities. The staff uses mailing lists of various organizations, workshops, conferences, and seminars to announce and provide information to those who might want to participate.

A preponderance of the funds have gone to "public interest"--consumer oriented--groups. However, public participation funds have assisted small businessmen who desired to participate in rule-making. FTC estimates that nearly 25 percent of the expended funds reimbursed participants who represented small business interests. This does not mean that all of the small business interests have been opposed to the proposed regulation.

In his appearance before the U.S. Senate Subcommittee on Administrative Practice and Procedures, on July 20, 1979, the Chairman of the FTC testified that 10 different small business groups received public funds to participate in the Standards and Certification proceedings. The Chairman pointed out this proposed rule is of particular interest to small businessmen as it deals, in part, with the relationship between small businesses and private organizations which establish standards and make certification. This is one of the most recent proceedings and the number of participants may be the result of energized outreach activity. However, the participation by small businessmen should not be confused with the participation by "those who would be regulated by the rule." Funds for the latter category are limited by law to 25 percent of the aggregate in any one year. For example, in the Standards and Certification proceedings, there were only six funded participants "who would be regulated by the rule." In fact, there have been only 12 funded participants in this category for all 18 proceedings. They received just 6.8 percent of the public participation funds. It is the opinion of the Investigative Staff that the outreach program should concentrate on attracting a greater number of qualified participants from among those who would be regulated by the rule.

#### Availability of Public Participation Funds

Rulemaking procedures start with the initial announcement of the proposed rule in the Federal Register and end with the Commission's promulgation of a final rule. In accordance with FTC "Rules of Procedure and Practice," public funds are available for participation in any of the intervening steps in the rulemaking process. However, funds cannot be expended for efforts prior to the initial announcement of the proposed rule or subsequent to the promulgation of the final rule. For example, public participation funds cannot be used for efforts made in connection with post-rulemaking judicial review.

Compensation can be made for costs incurred in the development of substantive data, views and arguments for written submissions or oral presentations. During the hearing phase, public participation can include appearing as a witness, presenting studies or testimony, or participating as a party in the informal hearing with the right to examine or cross-examine witnesses. Compensation can also be made for public participation in the preparation of rebuttal statements and in the preparation of posthearing comments.

The types of public participation are varied. Applications for participation and funding are made in accordance with prior

for this period. The FTC Improvement Act limits expenditures to 25 percent of the aggregate in any one year for those who would be regulated. FTC records show that for this group the amount obligated was 1.9 percent in FY 1977; 16.8 percent in FY 1978; and 11.8 percent in FY 1979.

In addition to participant compensation costs, FTC incurs costs for administrative support which includes three full-time and five part-time staff. FTC estimates the total costs of administering the public participation program for FY 1979 was \$93,000.

This program is administered by the Office of General Counsel which determines the eligibility of the participants. Fiscal accounting, payments to participants, and auditing of the program are performed by FTC's Division of Budget and Finance.

Following is a list of 65 participants showing the amount of public participation funds obligated and the rulemaking involved.

PUBLIC FUNDING PARTICIPANTS

(FY 1976 Through FY 1979)

<u>Participant</u>	<u>Rule</u>	<u>Obligations</u>
Action for Children's Television (with Center for Science in the Public Interest)	Children's Standards	\$ 86,287 26,591
*American Council of Independent Laboratories, Inc.	Standards	2,397
*American Federation of Small Business	Insulation	1,036
Arizona Consumers Council	Ophth. Goods	2,812
Arkansas Community Organizations for Reform Now	Funerals	7,775
Arkansas Consumer Research	Standards	2,617
Artists Equity Association	Used Cars	29,735
Automobile Owners Action Council	Antacids	68,548
California Citizen Action Group	Funerals	28,526
	Ophth. Goods	38,285
	OTC Drugs	47,223
California Public Interest Research Group (with San Francisco Consumer Action)	Used Cars	38,583
Center for Auto Safety	Used Cars	7,770
	Mobile Homes	48,657
	Standards	21,024
Center for Occupational Hazards, Inc. (Art Hazards Project)	Used Cars	10,148
Center for Public Representation	Standards	8,587
	Children's	20,360
	Insulation	4,737
	Standards	15,410
Central Area Motivation Program	Used Cars	33,146
*Chanter, Warren J.	Funerals	7,410
COALITION: Sierra Club; Friends of the Earth; Environmental Defense Fund; Natural Resources Defense Fund	Standards	201
	Insulation	30,241

<u>Participant</u>	<u>Rule</u>	<u>Obligations</u>
Committee of Children's Television (With Consumers Union, San Francisco Office)	Children's	\$ 81,378
Community Nutrition Institute	Children's	40,666
Connecticut Citizen Research Group	Food Adver.	6,777
Consumer Action (Washington, D.C., Office)	Food Adver.	46,844
Consumer Action Now	Protein Supp.	13,956
Consumer Affairs Committee, Greater Washington Chapter, Americans for Democratic Action	Health Spas	47,780
Consumer Federation of America	Ophth. Goods	30,202
Consumers Cooperative of Berkeley	OTC Drugs	28,460
Consumers Union (San Francisco Office)(with California Citizen Action Group)	Insulation	2,141
Consumers Union (Washington, D.C., Office)	Protein Supp.	3,958
Continental Ass'n of Funeral and Memorial Societies	Health Spas	39,539
*Council of State Credit Institutes	Food Adver.	7,360
Council of Vietnam Veterans	Funerals	3,980
Council on Children, Media and Merchandising	Funerals	18,170
(with Consumer Affairs Committee, Greater Washington Chapter, Americans for Democratic Action and National Council of Senior Citizens)	Credit Prac.	9,730
*Cremation Association of North America	Standards	4,500
*Electronic Specialists, Inc.	Antacids	41,065
*Fitzgerald Management Corporation	Children's	60,530
Gardner, Wendy	Food Adver.	62,434
Geis, Michael	OTC Drugs	25,249
Golden State Mobilhome Owners League	Antacids	4,825
Hayward, John O.	Funerals	3,997
Housing Advocates	Standards	628
Indiana Home Economics Association	Standards	1,670
Iowa Consumers League	Food Adver.	295
Media Access Project	Children's	180
Michigan Mobile Homeowners	Mobile Homes	28,780
Min-Ell Company	Standards	1,631
*National Association of Home Insulation Contractors	Mobile Homes	54,753
National Consumer Law Center	Food Adver.	40
National Consumers League (Congress)	Food Adver.	200
National Council of Senior Citizens	Children's	33,813
(with Greater Washington Chapter, Consumer Affairs Committee, Americans for Democratic Action)	Mobile Homes	2,224
	Standards	1,135
	Insulation	15,850
	Credit Prac.	132,256
	Consumers	
	Claims	3,093
	Voc. Schools	2,474
	Care Labeling	58,889
	Food Adver.	9,295
	Standards	40,755
	Insulation	42,484
	Hearing Aids	46,734
	Pres. Drugs	2,070
	Antacids	21,592
	Funerals	53,730

<u>Participant</u>	<u>Rule</u>	<u>Obligations</u>
*National Hearing Aid Society	Hearing Aids	\$ 49,146
*National Manufactured Housing Federation	Mobile Homes	20,145
Nelson, Mary Ruth	Food Adver.	270
New York Public Interest Research Group	Funerals	12,184
Platt, Joel	Ophth. Goods	12,575
*Pre-Arrangement Interment Association of America	Voc. Schools	5,460
Public Interest Economics Foundation	Funerals	4,642
Ream, Norman J.	Standards	5,866
*SAS Corporation	Standards	2,210
Safe Food Institute	Standards	305
San Francisco Consumer Action	Children's	12,265
Society for Nutrition Education	Ophth. Goods	43,554
Specialty Equipment Manufacturers Association	Protein Supp.	15,507
Foundation, Inc.	Used Cars	11,752
Taylor, Ruth Arleen	Voc. Schools	27,840
Union of Concerned Scientists	Food Adver.	20,860
Wackman, Daniel B.	Standards	12,114
Ward, Scott	Care Labeling	579
Wartella, Ellen	Standards	5,473
	Children's	316
	Children's	210
	Children's	143
<b>GRAND TOTAL</b>		<b>\$1,989,944</b>

\*12 persons or their representatives (\$135,302) who would be regulated by the rule.

#### Internal and External Audits of Public Participation Funding Program

As of November 15, 1979, there had been 15 separate internal audits of public participation funds. The audits were limited to examining financial transactions and focused on determining what cost reimbursements claimed by participants were both reasonable and allowable under FTC's agreements with the participants. The Investigative Staff believes that within their scope, these audits were generally performed in a satisfactory manner.

The act allows for grants to an interested person \*\*\* who is unable effectively to participate in such proceedings because such persons cannot afford to pay costs \*\*\*. The Investigative Staff noted, as did a recent GAO review, October 1, 1979, that the FTC's audits have not included a review of the participant's financial eligibility. FTC's Office of General Counsel determines the eligibility of each applicant on the basis of information furnished by the applicant. No specific criteria has been established to determine whether an applicant "cannot afford to pay costs."

The Investigative Staff discussed the lack of criteria with cognizant officials who stated that, under the present procedure,

public participation applicants' financial statements are being reviewed by the Division of Budget and Finance for an advisory opinion prior to approval for funding by the General Counsel's Office. These officials commented that FTC recognizes the need for well-defined eligibility requirements for financial support. Such criteria are being developed. As soon as they are specified, FTC's internal audit staff will include periodic reviews of participant eligibility determinations in selected audits.

#### C. Conclusions and Assessments

FTC has been criticized, particularly in its rulemaking activities, for overreaching its authority and for unnecessary regulation. Some of this criticism has focused on the public participation funding program--criticism far in excess of what might be expected of a program which represents only 1.1 percent of the total FTC budget.

Much of the criticism alleges that many of the funded participants are proponents of the FTC position, that activist groups--political and consumer--are favored in granting funds, and that FTC is using public funds to solicit and promote the FTC advocacy.

To many of these critics, there is a sense of unfairness in providing public funds to those who support the FTC position. Critics--particularly those who are affronted by the proposed regulations--point out that the public pays twice for this advocacy: first for the FTC staff which investigate and develop the basis for the proposed regulation and second for public funded participants who support the FTC position.

The Magnuson-Moss Act specifically provides for funding participants who advocate the FTC proposed regulations. The pertinent statutory basis for funding is whether the participant " \* \* \* has, or represents an interest which would not otherwise be represented \* \* \* and representation of which is necessary for a fair determination of the rulemaking proceeding taken as a whole." Criteria used in selecting participants require subjective judgments by FTC officials not directly involved in substantive rulemaking process. The act also mandates that the regulated industry and its representatives may not receive more than 25 percent of the aggregate amount paid under the program in any one year. From a practical standpoint, this implies that 75 percent will be used to fund those generally in agreement with proposed regulation.

The language of the act and the conference report which accompanied it suggests that one purpose of the funding program is to provide for a broad expression of public views--participatory democracy--in the regulatory process. FTC commissioners and officials have commented favorably concerning this program. They claim it has been successful in providing the Commission with additional views and valuable information from consumers and small businessmen who would have been unable to participate had the program not existed.

The FTC's philosophy regarding this program is succinctly set forth in its June 1979 report to Congress which was mandated by the Magnuson-Moss Warranty--FTC Improvement Act:

\* \* \* when an agency proposes a rule and hold hearings, those who will without doubt come to plead their cause to challenge the assumptions and the information on which a proposed rule is based, are the representatives of the affected industry--along with their highly skilled and experienced law firms and experts. While their participation in rulemaking is entirely appropriate, Congress concluded that sound decisionmaking required a balance in the advocacy before the Commission and gave the Commission the responsibility and duty to correct the existing imbalance by supporting financially, where necessary, those who sought to present a consumer or a small business point of view."

Inherent in this program is opportunity for bias. Grants are made partially on the basis of subjective judgments which may--consciously or unconsciously--favor one group over another. However, the GAO in its audit and the Administrative Conference of the United States in its study, found no indication of any improprieties in the handling of these grants.

The record indicates that a preponderance of funds have gone to public advocacy groups which have supported consumer causes. In this regard, FTC at times seems to lack adequate sensitivity to the fact that sometimes appearances of bias can be as damaging as actual bias itself. Therefore, extraordinary efforts must be made--to the extent possible--that even the appearance of favoritism be kept to a minimum.

In the opinion of the Investigative Staff, this program can provide effective grassroots participation which broadens the base in this quasi-legislative process. However, conscientious efforts must be made to avoid funding development of "professional advocates" with limited or no constituency. Repeat performers should be held to a minimum.

In order to achieve the best possible results, the outreach program should be enhanced to identify and encourage a wider base of applicants from which a more discrete selection can be made. The selection of applicants should primarily be based on what they can contribute and their constituency, but every effort should be made to select participants within prescribed limitations, from groups--consumers and businessmen--who are specifically, as well as generally, affected by the rule. An aggressive program with these goals would enhance not only the quality and relevance of the participation but could also reduce the number of participants who are funded repeatedly.

It is difficult at this time to assess the value and effectiveness of the public funding program because only three rules have been finalized since the Magnuson-Moss Act was enacted. An assessment of the program will occur in the courts. The act provides for reviews of promulgated rules by the U.S. Court of Appeals. It specifically states that among other considerations " \* \* \* the Court shall hold unlawful and set aside the rule \* \* \* if the Court finds the Commission's action is not supported by substantial evidence in the rulemaking record taken as a whole." To the extent that public funded participants contribute to the rulemaking record, judicial review will eventually provide some indication of program effectiveness. All three final rules were appealed to the U.S. Circuit Court of Appeals. The Vocational Schools Rule and all but one part of the Eyeglasses Rule have been reversed and remanded. The Thermal Insulation Rule is currently under judicial review.

## VII. PENDING LEGISLATION

Congress has expressed its concern about the regulatory process in general and the FTC in particular. Many of these concerns are reflected in proposed and pending legislation in the Congress pertaining to such broad areas as:

- Antitrust
- Consumer Credit
- Dispute Resolution
- Drug Regulation
- Regulatory Reform
- Public Participation
- Warranties
- Truth in Lending
- FTC Authorization
- Attorney Fees for Prevailing Defendants
- Condominiums
- Trademarks
- Insurance
- Priority Energy Projects ("Fast Track")

Specific legislation of significance to the work of FTC is summarized on the following pages. The status of the legislation is current as of January 15, 1980.

### A. Antitrust

#### 1. Illinois Brick

S. 300 (Kennedy) as introduced would, (a) overturn the Supreme Court's interpretation of the Clayton Act in Illinois Brick v. Illinois that only the first (direct) purchasers, but not subsequent (indirect) purchasers, in the chain of distribution may sue for treble damages for price-fixing, and (b) allow "pass-on" defense, at the court's discretion, to preclude duplicate liability. Reported by the Senate Judiciary Committee on May 8, 1979, with five Mathias-DeConcini compromise amendments--(a) permitting only such foreign governments as grant reciprocal rights to sue for actual (but not treble) damages in antitrust cases, (b) deleting a section which would facilitate class actions, (c) permitting court-fixed plaintiff attorney fees in class actions, (d) allowing court-fixed attorney fees to prevailing defendant when plaintiff sues in bad faith, (e) providing the date of enactment as the effective date for pending cases, but allowing pass-on defenses in cases filed thereafter.

Status--The FTC is of the opinion that while a Senate majority would approve the bill (despite vigorous opposition by business), the 60 votes needed to cut off a threatened filibuster apparently are not attainable.

**House--**The Judiciary Committee Subcommittee on Monopolies has held hearings on two bills--H.R. 2060 (Rodino) companion to S. 330, and H.R. 2204 (Mc Clory) which is virtually identical to a bill reported by that Committee last year. Hearings on these two bills resulted in a clean bill which is pending in the full committee.

**Position--**By letter of February 26, 1979, to the Senate Judiciary Committee, the Commission supported S. 300.

### **2. Soft Drink Bottlers**

S. 598 (Bayh and 78 cosponsors) would legalize virtually all territorial restrictions in franchise arrangements for the manufacture, distribution, and sale of soft drinks, and would neutralize the Commission's decisions in the Coke and Pepsi cases.

**Status--**Reported by the Senate Judiciary Committee on December 18, 1979, and Senate passage early in the year is expected.

**House--**H.R. 3567 (Hall (Texas), and 277 cosponsors) is the leading bill in the House. There are more than 20 bills in both Houses combined, varying in form and coverage. Hearings on all of the House bills were held by the Monopolies and Commercial Law Subcommittee of the House Judiciary Committee on October 24, 1979.

**Position--**The Commission has consistently opposed all legislation exempting foods and beverages. The Director, Bureau of Economics, testified in opposition to S. 598 on September 26, 1979.

### **3. Conglomerate Mergers**

S. 600 (Kennedy) would, (1) ban mergers between corporations having combined assets or sales of more than \$2 billion, (2) ban mergers totaling more than \$350 million in sales or assets, unless the transaction would substantially (a) enhance competition or (b) increase efficiency, and (3) ban acquisition by firms exceeding \$350 million in assets or sales, or by firms having 20 percent or more of the sales of a significant market, unless one of the two conditions described in (2) above is met.

**Status--**Hearings held on March 8, 1979, by Senate Judiciary Committee and by its Antitrust and Monopoly Subcommittee on seven dates in March, April, and May. No further action is scheduled or expected.

**House--**Antitrust Subcommittee of the Small Business Committee held hearings on the issue of conglomerate mergers in relation to small businesses and local economies. The House Judiciary Committee has not scheduled hearings.

Position--The Chairman and three staff members testified before the Senate Judiciary Committee on March 8 and presented an alternative proposal, "cap and spin-off," which would prohibit mergers resulting in a new corporation having an average of assets and revenues exceeding \$2 billion unless the acquiring firm divests a subsidiary of a size equivalent to the firm it purchases. Subsequently, the Commission formally recommended this legislative approach to the President and the Chairmen of the Judiciary and Commerce Committees of both Houses.

#### 4. Petroleum Industry

S. 1246 (Kennedy and 12 others) "Energy Antimonopoly Act of 1979," would prohibit the 16 major oil companies from acquiring control of any corporation with more than \$100 million in assets.

Status--On December 4, 1979, the Senate Judiciary Committee reported S. 1246 with amendments which would prohibit for a 10-year period the 18 largest oil companies from purchasing nonenergy companies with assets of more than \$50 million, or other energy companies with assets of more than \$100 million except where competition or energy production would be improved. Its enforcement would be an exclusive Justice responsibility.

Position--The Director, Bureau of Competition, testified on June 26 before the Subcommittee and recommended amendments (a) substituting a definitive test in lieu of the term "control," (b) adding a 10-year sunset provision, (c) requiring two FTC reports on progress and efficacy, and (d) adding a "cap" provision limiting investments in coal and uranium.

House--H.R. 4295 (Luken and 54 cosponsors) and H.R. 4748 (Udall and 53 cosponsors), companion bills. No action scheduled by Judiciary Committee.

\* \* \*

H.R. 4733 (Mottl)--"Petroleum Company Holdings Act of 1979." Provisions--(1) would prohibit, 3 years after enactment, any major petroleum producer, transporter, refiner, or marketer from owning or controlling any interest in a business not in, or directly related to the conduct of commercial activities in, the petroleum industry, (2) would be enforced by the FTC, and (3) has civil and criminal penalties for violation.

Status--Referred jointly to the House Commerce and Judiciary Committees, and no action is scheduled by either.

#### 5. Mineral Leasing

H.R. 8 (Udall, Kastenmeier, and Seiberling) "Public Energy Competition Act" prohibiting major oil companies from acquiring

coal leases on public lands, or from locating or recording uranium or other fissionable material under the Federal mining laws.

Status--hearings were held by the Subcommittee on Energy and the Environment of the House Committee on Interior and Insular Affairs in June and July. Further action is not scheduled.

Position--The Director, Bureau of Competition, testified on July 17, 1979, recommending amendments placing a "cap" or percentage limitation on the total amount of coal or uranium reserves which could be held by the 20 largest oil companies, the cap to be 5 percent on both coal and uranium.

6. Energy Conservation

H.R. 4382 (Staggers and Fuqua) "Energy Management Partnership Act of 1979." Provisions--(1) financial assistance to State and local government for programs implementing Federal programs for energy conservation and the development of alternate sources of energy, (2) private Federal-State coordination in periods of energy emergencies, (3) requires FTC to assist State agencies to protect consumers from unfair or deceptive acts or practices arising out of activities carried out pursuant to the bill.

Status--Referred jointly to the Committee on Commerce (Energy and Power Subcommittee) and Science and Technology (Energy Development and Application). Joint hearings were held on June 8 and October 31. Nothing further is scheduled.

Position--A Commission report is in preparation by the staff.

7. Backhaul Allowances

H.R. 1681 (Lehman) "Diesel Oil and Gasoline Conservation Act of 1979" would authorize the deduction of freight charges from the delivered price of goods when transportation is not furnished by the seller.

Status--Hearings were held by the Energy and Power Subcommittee of the Commerce Committee on July 9, 1979. No further hearings are scheduled.

Position--Director, Bureau of Competition, testified before the Energy and Power Subcommittee (Commerce) on July 9, 1979, indicating that the bill in its present form would encourage the granting of discriminatory transportation allowances and repeated the bureau's long-held position that the allowance should be based upon the deduction of average transportation costs from uniform delivered prices.

**8. Export Trade Association Exemption (Webb-Pomerene)**

S. 864 (Danforth, Bentsen, Javits, Chaffee, Mathias) "To establish within the Department of Commerce an office to promote and encourage the formation and utilization of export trade associations"--Would (1) transfer from FTC to Commerce Department the formation and administration of export trade associations, (2) authorize guidelines established by Commerce, FTC, and Justice to define permissible activities by associations, (3) add "services" to the category of export items eligible for antitrust exemption, and (4) limit private antitrust enforcement against export associations.

S. 1499 (Roth) "To promote and encourage the formation and utilization of export trade associations--Would (1) give FTC sole responsibility for certifying and administering export trade associations and for enforcing guidelines jointly prepared by FTC and Justice, (2) exclude from its coverage patents, licenses, and technology, (3) limit private civil actions for antitrust abuses by associations, and (4) include "services" within the category of items given antitrust immunity.

S. 1663 (Stevenson) "To encourage exports by providing for the licensing of export trading companies by the Secretary of Commerce, and by otherwise facilitating their formation and operation"--Would (1) leave intact the Webb-Pomerene Act, (2) permit Commerce to license export trading companies to operate with antitrust exemption and to monitor their activities, (3) preclude private antitrust action for violations but subject export trading companies to all other antitrust sanctions, (4) provides tax incentives to export companies.

**Status of S. 864, S. 1499, and S. 1663--**Hearings on all three bills were held on September 18, 1979, by the International Finance Subcommittee of the Committee on Banking, Housing, and Urban Affairs.

**Position--**A Deputy Director, Bureau of Competition, testified on September 18, 1979, on all three bills indicating preference for (1) formation and administration of export associations by the Department of Commerce subject to antitrust guidelines promulgated by the antitrust enforcement agencies, (2) careful determination of whether antitrust immunity is essential to the effective operation of export trade associations, with a view to providing only such limited exemption as is necessary, (3) preservation of present antitrust penalties for those who overstep the immunity provided export associations, including liability to private civil actions.

**B. Consumer Credit****Credit Cards**

S. 15 (Levin) prohibiting a credit card issuer from discriminating against any person in any aspect of the issuance or use of a credit card on the basis of the place of residence of that person.

Status--Hearings were held by the Consumer Affairs Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs on June 5, 1979.

Position--Commissioner Clanton (accompanied by L. H. Goldfarb) appeared on June 5, 1979, at the hearing and, without favoring or opposing the bill, pointed out a number of problems involved in any such legislation.

House--H.R. 958 (Brodhead) companion bill--Referred to House Banking (Consumer Affairs)--no action scheduled.

**C. Dispute Resolution****Consultative Role for FTC**

S. 423 (Ford, Kennedy, Danforth, Bayh, and Metzenbaum), the "Dispute Resolution Act," would authorize Federal assistance to the States for 4 fiscal years and create within the Justice Department a center for the exchange of State and local government controversy resolution methods. FTC would have a consultative role.

Status--S. 423 passed the Senate April 5, 1979, and the House on December 12, 1979, with amendments including a reduction of funding from \$75 million to \$45 million. A conference committee will meet to resolve the differences in the Senate and House versions.

H.R. 3719 (Eckhardt and 14 cosponsors), would be administered by Justice through a Resource Center and a National Advisory Board, and FTC would advise the Attorney General and the Resource Center.

**No FTC Participation**

H.R. 2863 (Kastenmeier and 14 cosponsors) would establish a National Advisory Board, would also be administered by the Justice Department, but FTC would have no function.

Status--The House bills have been superseded by S. 423.

**D. Drug Regulation**

**In General**

S. 1045 (Kennedy, by request). This is the Administration's bill and is a comprehensive measure to facilitate the granting, denial, or revocation of licenses for new drug products, to require the disclosure of more information as to drug risks and effectiveness to patients and doctors, and to establish new requirements for the promotion of drugs. It would establish a "monograph" system and would create within HEW a National Center for Clinical Pharmacology.

\* \* \*

S. 1075 (Kennedy, Javits, Randolph, Riegle, Metzenbaum, Eagleton, and Williams (N.J.)) omits some of the more controversial features of S. 1045, particularly the monograph system.

\* \* \*

S. 773 (Nelson) To amend the Federal Food, Drug and Cosmetic Act to provide for a Federal drug compendium which provides reliable, complete, and readily accessible prescribing information; to assure safety and efficacy of drugs through certification of certain drugs other than insulin and antibiotics; to require certain information in drug labeling; and to improve the administration and enforcement of the act as it relates to drugs.

\* \* \*

S. 787 (Nelson) To amend the Public Health Service Act to protect the public against excessively high prices for certain drugs. This bill would establish a mandatory licensing system for drug patents.

Status--Hearings were held on all of the foregoing bills by the Subcommittee on Health and Scientific Research of the Senate Committee on Labor and Human Resources on May 17 and 18, and an amended version of S. 1075 was reported to the full committee. The full committee reported S. 1075 favorably, with amendments, on July 27, 1979; it passed the Senate on September 26, 1979, and is now pending before the Health and Environment Subcommittee of the House Commerce Committee where no action is scheduled until the next session. The other bills, S. 1045, S. 773, and S. 787, have been superseded by S. 1075.

House--H.R. 4258 (Waxman) companion to S. 1045.

Status--Hearings by the Health and Environment Subcommittee (Commerce) will be held at a date to be announced in Second Session at which time S. 1075, H.R. 4258, and related bills will be probably considered together.

Position--The Commission supported drug reform legislation similar to S. 1045.

#### E. Regulatory Reform

##### 1. Cost-Benefit and Miscellaneous Bills

S. 755 (Ribicoff) "Regulatory Reform Act of 1979." This is the Administration bill (message to Congress March 26, 1979). Provisions--(1) economic analysis explaining need for proposed rules, alternatives, and their relative costs, (2) semiannual agency agenda of rulemaking activities, (3) deadlines for completion of rules or for each major phase, (4) agency evaluation of each major (having \$100 million impact) rule every 10 years, (5) oversight office in each agency to police compliance with deadlines and bill's requirements, (6) elective informal (two-phase) adjudication procedures, (7) elective agency intermediate boards to review ALJ decisions, (8) 7-year terms for ALJ's subject to ACUS review for reappointment, and (9) subsidies for small business and consumer participation in rulemaking.

Status--Referred jointly to Senate Judiciary and Governmental Affairs Committees. Judiciary will mark up S. 2147 (sponsored by Senators Culver, Laxalt, Kennedy, Thurmond, Leahy, Mathias, Metzenbaum; Hatch, and Biden), a new composite reform bill which supersedes S. 755. Governmental Affairs will mark up S. 755 on January 23.

Position--Chairman indicated Commission support in testimony before Judiciary Committee on May 15, 1979. The General Counsel, testified in favor of the companion (H.R. 3263) on November 16, 1979.

Companion--H.R. 3263 (Rodino and Davidson)--Referred to the Administrative Law Subcommittee (Judiciary); hearings have been held and will resume early in the Second Session.

\* \* \*

S. 382 (Kennedy and six others) "Competition Improvements Act of 1979" would require that regulations (a) minimize anticompetitive effects, (b) are necessary to achieve a major statutory purpose, (c) achieve public benefits which outweigh anticompetitive effects, and (d) are based on the least anticompetitive of the available alternatives.

Position and Status--At hearings before the Senate Judiciary Committee on May 15, 1979, the Chairman supported this bill but submitted a number of clarifying amendments. No markup has been scheduled.

\* \* \*

S. 262 (Ribicoff, Percy, and 15 others) "Reform of Federal Regulations Act of 1979." Similar to the Administration bill (S. 755) except (1) provides 5-year instead of 10-year review of rules, (2) requires less inclusive "major rule" category for review, and (3) permits present ALJ's to retain tenure but subjects new ALJ's to 10-year evaluations.

Status--Referred jointly to Senate Governmental Affairs and Judiciary Committees. The former will mark up S. 262 and other reform bills on January 23. Judiciary will mark up S. 2147, a new bill which supersedes S. 104, 262, 299, 755, and 1291, early in the Second Session.

Position--In testimony before the Senate Governmental Affairs Committee on April 24, 1979, the Chairman indicated the Commission's support.

\* \* \*

S. 299 (Culver and eight others) "Regulatory Flexibility Act." Provisions--(1) proposed rules to be submitted for public comment on means for reducing their recordkeeping and reporting requirements, (2) final rules to take into account alternatives submitted by the public, (3) subject to rulemaking procedure agency recordkeeping or reporting requirements applicable to more than nine persons, and (4) periodic review by each agency of its outstanding rules.

Status--Judiciary will mark up S. 2147, which supersedes this and other reform bills, early in the Second Session. Governmental Affairs will mark up S. 299 on January 23.

Position--By letter of March 30, 1979, to OMB, the Commission supported the bill with the exception of section 4 (subjecting information gathering activities by agencies to rulemaking requirements).

Companion--H.R. 1971 (Kastenmeier and two others).

\* \* \*

S. 1291 (Kennedy, Metzenbaum, Ribicoff) "Administrative Practice and Regulatory Control Act of 1979." Provisions--(1) requires for rules having an economic impact of \$100 million or more (a) explanation in notice of rulemaking of reporting and recordkeeping requirements and a solicitation of recommendations for alternative approaches, (b) inclusion in final rules of analysis of alternative recommendations not adopted, and (c) agency reports every 5 years evaluating the effectiveness of the rule, (2) provides for financial assistance to promote public participation, (3) requires procompetitive standard for regulations affecting the free operation of the market, (4) requires programmed 10-year review of effectiveness and continued need for regulatory agency regulations by President (assisted by advisory board) with legislative procedure for eliminating

regulatory deadwood, (5) provides enhanced responsibility for ACUS to monitor Federal regulatory procedures, and (6) consolidates in ACUS responsibilities now shared by OMB and the Comptroller General under the Federal Reports Act.

Status--Markup sessions by the Senate Judiciary will be held on S. 2147, a composite reform bill which supersedes S. 1291, early in the Second Session. Governmental Affairs will mark up S. 1291 on January 23.

Position--A Commission report on this bill was submitted to the Senate Judiciary Committee on September 11, 1979, which endorses the bill and recommends several amendments to prevent respondent abuse of certain of its provisions.

\* \* \*

S. 2147 (Culver, Laxalt, Kennedy, Thurmond, Leahy, Mathias, Metzenbaum, Hatch, and Biden)--Regulatory Flexibility and Administrative Reform Act of 1979 would (1) create a Regulatory Policy Board which would (a) prepare a semiannual consolidated calendar of scheduled agency rulemaking activities, (b) identify overlapping areas of regulation and recommend corrective action, (c) monitor agency compliance with the regulatory control requirements of the bill, (d) select for economic review initial regulatory analyses of proposed and promulgated rules, (e) consult with Federal and State agencies in devising model rulemaking procedures, and (f) prepare classified index of agency rules, (2) require individual agencies to prepare semiannual rulemaking agenda, (3) establish agency rulemaking completion deadlines, (4) require initial and final regulatory impact analyses, (5) provide for flexible regulatory analysis of proposed major rules to alleviate their impact of small business and local government, (6) establish procompetitive rulemaking standards, (7) establish two-stage "hybrid" rulemaking procedures and expedited formal hearings in decisionmaking, (8) create uniform agency subpoena procedures and enforcement penalties, (9) revise authority for the selection, assignment, and reappointment of ALJ's, (10) create a Presidential committee to evaluate the performance and continued need for individual Federal regulatory agencies in accordance with a prescribed schedule and to make implementing legislative recommendations to Congress, and (11) provide expedited procedures for Congressional consideration of the Presidential committee's recommendations.

Status--This bill has superseded the regulatory reform bills under consideration by the Senate Judiciary Committee so far as that Committee is concerned and will be marked up early in the Second Session.

## 2. "Sunset" Bills

S. 2 (Muskie and 62 others) "Sunset Act of 1979." Provisions--(1) requires all agencies not exempted to undergo sunset review

on fixed schedule every 10 years (FTC review no later than September 1987), (2) 10-year authorization limit for all programs, (3) bars expenditure of funds for programs not reauthorized during applicable 10-year cycle, (4) in-depth review by committees having legislative jurisdiction of specially selected programs, (5) Presidential report to Congress, pursuant to 10-year cycle, on regulatory impact of 16 regulatory agencies, with legislative recommendations for reform, continuation, consolidation, or elimination, (6) Presidential report rating (with relative rank) the effectiveness of each Federal program, and (7) Presidential report, with legislative recommendations to each Congress, identifying program duplication or conflicts.

Status--Mark up by the Governmental Affairs Committee, with other sunset bills, is planned for February or March.

Position--The Commission has not reported or testified on S. 2 but has objected to many features of similar bills in previous Congresses.

\* \* \*

H.R. 2 (Blanchard and 160 others) "Sunset Act of 1979." Virtually identical to S. 2 except for an additional title 7 requiring sunset procedures for any law which allows a special tax exclusion, exemption, or deduction, or provides a special tax credit, preferential rate, or deferred liability.

Status--Seven joint hearings have been held by the Legislative Process and Rules Subcommittees of the Rules Committee but no markup is scheduled; these subcommittees are contemplating a clean bill as a substitute for H.R. 2 and H.R. 65. Also pending, in the Legislation and National Security Subcommittee of the House Government Operations Committee, where no action will be taken this session.

Position--The Commission has not reported or testified but has objected to many features of similar bills in previous Congresses.

H.R. 2364 (Anderson (Ill.) and 40 others) "Regulatory Reform Act of 1979." Provisions--(1) Places 33 regulatory agencies and regulatory components of executive agencies in four, 2-year categories for Presidential review to be completed by 1981, 1983, 1985, and 1987, and every 10 years thereafter, (2) requires Presidential review and reports on such agencies to Congress containing recommendations for (a) modification, transfer, or elimination of functions, (b) organizational and procedural improvements, (c) merger, modification, or abolition of agencies or regulations, and (d) increasing competition, (2) gives cognizant Congressional committees responsibility to make the foregoing report and recommendations if the President fails to do so, (3) requires the Comptroller General and the Congressional Budget

Office to assess such reports, (4) requires cognizant Congressional committees to make reports and legislative recommendations on the reports submitted by the President, and (5) if no reform legislation is enacted by Congress by August 1 of the year following the submission of each plan by the President, the regulations of the agencies affected would be unenforceable and the agencies involved would be terminated by December 1 of the following year.

Status--Referred jointly to the Committees on Government Operations and Rules. Hearings held jointly by the Subcommittees on Rules and Legislative Process of the House Rules Committee on June 20, 1979, but no further action is scheduled.

Position--The Commission has not reported or testified but has opposed similar legislation in the 95th Congress.

\* \* \*

H.R. 2495 (Lloyd and 59 others) "Regulatory Agency Abolition Act." Provisions--(1) would abolish the Consumer Product Safety Commission (CPSC), Environmental Protection Agency (EPA), Federal Communications Commission (FCC), Federal Maritime Commission (FMC), Federal Trade Commission (FTC), Federal Drug Administration (FDA), Interstate Commerce Commission (ICC), Nuclear Regulatory Commission (NRC), and Securities and Exchange Commission (SEC) 3 years after enactment unless continuation of any such agency is recommended by the President and the recommendation is not disapproved by Congress by concurrent resolution, and (2) would transfer any function of a terminated agency determined by the President to be essential to public health, safety, or welfare to some other agency pursuant to a reorganization plan-type procedure.

Status--Referred jointly to House Committees on Government Operations and Rules. No action scheduled by either committee.

Position--The Commission has not reported or testified but has never supported the sunset concept.

\* \* \*

H.R. 5858 (Long and 23 others) "To establish as part of the Rules of the House of Representatives and the Senate a procedure for the periodic Congressional review of Federal programs and tax expenditures and to improve legislative oversight of Federal activities and regulatory programs."

Status--The Rules Committee has held 2 days of hearings but will not decide on the disposition of this bill until after February 1.

### 3. "Sunrise" Bills

H.R. 65 (Derrick and 41 others) "Legislative Oversight Act of 1979." Provisions--(1) Requires bills authorizing or reauthorizing Federal programs (a) to specify for each program its objectives and planned annual goals, and (b) to require annual reports to Congress, indicating for each program its costs and accomplishments and the comparative costs of activities in each program with other governmental and nongovernmental programs, (2) requires committee reports accompanying such bills to set out (a) the social and economic impacts of each program, (b) the expected amount and duration of Federal funding, (c) conflicting or potentially conflicting programs, and (d) for reauthorization bills, the achievements of such programs, (3) the Comptroller General to prepare a catalogue of interrelated Federal activities for use of agencies and Congress in carrying out the bill, and (4) prohibits legislative authorizations of more than 5 years' duration.

Status--Referred to House Committees on Governmental Affairs (Legislation and National Security Subcommittee) and Rules (Legislative Process Subcommittee). No action scheduled by former this session; seven joint hearings by the Rules and Legislative Subcommittees of the latter have been held, but no markup is scheduled. A clean bill combining H.R. 65 and H.R. 2 is under consideration by the Subcommittees but has not been formalized.

Companion and Identical Bills--S. 1304 (Baucus and Tsongas); H.R. 1939 (Fary); H.R. 2378 (Duncan).

Position--Commission report to House Committee on Rules and to OMB of May 9, 1979, outlines problem areas of the bill and expresses a preference for improved regulation through zero-based budgeting and increased public participation in regulatory process.

### 4. Procedural Bills

S. 390 (Kennedy and 21 others) "Antitrust Procedural Improvement Act of 1979." Provisions--(a) authorizes Justice Department to issue CID's for documents produced in private litigation, even if covered by a protective order, (b) permits Justice to utilize outside contractors to process materials produced by Civil Investigative Demands (CID's), (c) makes attorneys liable for excess expenses and attorney fees necessitated by dilatory actions, (d) allows courts to award interest or actual damages awarded from date of service of complaint if found "just in the circumstances," (e) clarifies the merger jurisdiction provisions of the Clayton Act, (f) authorizes the same defendant decided in a Government case to be res adjudicata, and (g) defines the liability of agents of the Department of Justice for unauthorized disclosures.

Status--Passed by the Senate July 20, 1979, and referred to the House Judiciary Committee (Subcommittee on Monopolies).

To prevent members from voting against a composite S.390-type bill in its entirety because of an objection to only a part, the House committee is considering six separate bills which in total parallel S. 390. Hearings on the six-bill package (H.R. 3271 and H.R. 4046 through H.R. 4050) were held, and all except H.R. 4047 (penalizing attorneys for dilatory actions) have been reported to the full committee in the form of a clean bill (H.R. 5949) where markup is expected early in the Second Session.

\* \* \*

H.R. 3570 (Horton, Brooks, Steed, Preyer) "Paperwork and Redtape Reduction Act of 1979." Provisions--Establishes in OMB an Administrator for Federal Information Management Policy to oversee information collection by Federal agencies involving forms to be sent to more than nine persons, and (2) eliminates GAO as clearinghouse for independent regulatory agencies, centralizing control in OMB.

Status--Referred to House Government Operations Committee (Subcommittee on Legislation and National Security) which plans hearings in February on an as yet unprinted bill which will supersede H.R. 3570.

Companion--S. 1411 (Chiles, Bentzen, Danforth). Senate Governmental Affairs Committee may begin markup early in the Second Session.

Position--A Commission report on H.R. 3570, opposing enactment unless extensively amended, was submitted to the House Committee on Government Operations on September 19, 1979.

##### 5. Legislative Veto

S. 104 (Schmitt and 14 others) "Regulatory Reduction and Congressional Control Act." Provisions--(1) explanation of proposed rules with comprehensive economic analysis to accompany notice of rulemaking, and (2) veto of proposed rule by one House unless the veto is disapproved by the other House (popularly the "one-and-a-half-House veto").

Status--The Administrative Practices Subcommittee (Judiciary) held hearings on five reform bills including S. 104 and substituted a new bill, S. 2147, which does not contain a legislative veto. S. 2147 will be marked up by the full committee early in the Second Session.

Position--The Commission has consistently opposed legislative veto proposals but has not commented on S. 104.

\* \* \*

S. 193 (Tower, Nunn, Schmitt, Morgan) "Federal Trade Commission Regulatory Review Act." Provisions--(1) all proposed rules by the FTC would be submitted to Congress, and (2) any proposed rule would not become effective if (a) both Houses adopted a concurrent resolution of disapproval, or (b) either House adopts a concurrent resolution of disapproval which is not disapproved by the other House within 30 days (one-and-a-half House veto).

Status--Referred to Senate Commerce (Consumer Subcommittee). NO action scheduled.

Position--The Commission has not reported or testified on this bill but has consistently opposed similar proposals.

H.R. 1776 (Levitas and 118 others) "Administrative Rulemaking Reform Act." Provisions--(1) proposed Federal rules to be reported to Congress, (2) such proposed rules not to become effective if a resolution disapproving the proposed rule is passed by either House and the resolution is not disapproved by the other, and (3) authority for either House to review rules which have been adopted and refer them to the issuing agency for reconsideration and repromulgation.

Status--Referred jointly to the Committees on the Judiciary (Administration Law and Governmental Relations) and Rules (Rules of the House). The former has held hearings on some 65 regulatory reform bills, including H.R. 1776, and further hearings are scheduled. The latter has held hearings and may hold two further hearings on H.R. 1776 at a date to be announced.

Companion--S. 410 (Durkin).

Position--The Commission has not reported or testified on these bills but has consistently opposed the legislative veto concept.

Note: There are many other House and Senate Congressional veto bills varying in form and coverage. See also H.R. 2313 which contains a Congressional veto provision.

#### F. Public Participation

H.R. 3333 (Van Deerlin, Collins (Texas), and Brodyhill) "Communications Act of 1979." Section 244 of this bill has public participation funding provisions similar to those in title II of the Magnuson-Moss Amendments to PTC Act.

Status--Hearings were held on June 13 by the Communication Subcommittee of the House Commerce Committee. The Subcommittee indicates that "this bill is dead."

Position--An Assistant General Counsel, testified in favor of section 244 of H.R. 3333 on June 13, 1979.

Note: On July 20, 1979, the Chairman testified on "Public Participation" at a hearing by the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee and strongly endorsed the public participation concept. This subcommittee will meet to consider a committee print on public participation in rulemaking on January 23. The Chairman and a Commissioner also supported the Commission's public participation program in testimony before the Consumer Subcommittee of the Senate Commerce Committee on May 2, 1979, on S. 1020, the FTC Authorization Bill.

#### G. Warranties

##### Automobile

H.R. 1005 (Eckhardt) "Automobile Warranty and Repair Act." Provisions--(1) if warranty on a new car is offered, it must be a "full" warranty, (2) permits owner to retain possession during resolution of dispute as to its "lemon" status, (3) mandates attorney fees to successful plaintiffs, and (4) eliminates 100% plaintiff requirement for automobile class action suits.

Status--The Consumer Subcommittee of the House Commerce Committee has held 6 days of hearings. Markup by the full committee will be on a date to be announced.

Position--The Commission sent a favorable report, suggesting several clarifying amendments, to the House Commerce Committee on April 27, 1979. The Chairman testified in favor of the bill on July 12, 1979.

#### H. Truth in Lending

##### Simplification and Enforcement

S. 108 (Proxmire and Stewart) "Truth in Lending Simplification and Reform Act." Provisions (as passed by the Senate May 1, 1979)--(1) Simplifies disclosures to borrowers' requirements of creditors by reducing itemization in favor of "totals," (2) provides compliance tolerance by authorizing the use of model forms and requiring less precision in stating certain percentage rates, (3) eliminates creditor civil liability for purely technical violations and clarified "bona fide error" defenses, (4) strengthens provisions for enforcing refunds for charges which have been understated in disclosure statements to borrowers, and (5) provides for a pilot project by the Federal Reserve Board to determine the utility of published "shoppers' guides to credit" in major metropolitan areas.

Status--Passed Senate May 1, 1979, and was referred to the House Committee on Banking (Consumer Subcommittee) May 3, 1979. No action is scheduled at present.

Position--By report to the Senate Banking Committee of February 23, 1979, the Commission recommended a number of amendments to S. 108 which had been presented to the committee during its hearing of similar legislation in the last Congress. Most of these recommendations, which are of major importance to the Commission, were not adopted by the committee.

Companion--H.R. 4270 (Hubbard). Referred to Committee on Banking (Consumer Subcommittee). No action scheduled at present.

#### I. FTC Authorization

##### Authorization and Procedural Changes

H.R. 2313 (Scheuer) "Federal Trade Commission Improvements Act of 1979." Provisions (as passed by the House November 27, 1979)--(1) authorizes appropriations of not to exceed \$75, \$80, and \$85 million, respectively, for FY's 1980, 1981, and 1982 for Commission operations, (2) requires a detailed regulatory and economic analysis of proposed and final rules and of alternatives, (3) requires semiannual publication of rulemaking agenda for the forthcoming 12 months, (4) requires the Commission to fix completion deadlines for rulemaking and adjudications, (5) requires the Commission to review and determine the efficacy of rules already issued, (6) provides one-and-a-half House legislative veto for proposed rules, (7) requires the Library of Congress to report by September 1982 on the impact of the legislative veto, and provides for expediting judicial review of its constitutionality, (8) extends the "bank exemption" in the FTC act to savings and loan institutions (this is now superseded by P.L. 96-37), (9) provides a public participation fund limitation of \$75,000 to any person for a single rulemaking and for any year and reduces the \$1 million annual authorization for the program to \$750,000, (10) prohibits the use of funds for Patent Office petitions for trademark cancellation on "generic" grounds ("Formica Amendment"), (11) prohibits the use of funds for the promulgation of a final rule on funeral industry practices, and (12) prohibits the use of FY 1980-1982 funds for the study of agricultural cooperatives or market orders.

Status--Passed the House on November 27, 1979.

Position--The Commission has consistently opposed legislative vetoes, curtailment of its authority to police trademarks, limitation on its public participation program, and overly elaborate cost-benefit evaluations.

\* \* \*

S. 1020 (Ford and Danforth) To authorize appropriations for the Federal Trade Commission. Provision--Authorizes FTC appropriations of not to exceed \$72.5, \$78, and \$83 millions, respectively, for FY's 1980, 1981, and 1982.

Status--Reported by the Senate Commerce Committee to the Senate on May 15, 1979, without amendment. S. 1020 has been superseded by S. 1991 and FTC believes it will not be considered further by the Senate.

\* \* \*

S. 1991 (Ford) "To amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorization for appropriations for the Federal Trade Commission and for other purposes." As reported by the Senate Commerce Committee on December 14, 1979, it would--(a) require the Commission to reopen section 5 orders on the basis of changed circumstances, (b) tighten restrictions on commercial and financial information disclosures, (c) provide permanent protection of confidentiality of LOB data, (d) restrict authority to investigate the "business of insurance," (e) limit criminal sanctions to enforce subpoenas, (f) eliminate "unfairness" as a basis for rulemaking involving commercial advertising, (g) preclude rulemaking dealing with standards and certification, (h) require prevalence of unlawfulness to be a basis for proposing rules, (i) require public notice of rulemaking to include proposed rule and alternatives, (j) provide statutory basis for independence of presiding officers in rulemaking proceedings, (k) limit to \$50,000 the amount granted any group for a proceeding or for a year and restricts authorization for the public participation program to \$750,000 annually, (l) require meetings of rulemaking staff or outside parties to be of record after commencement of rulemaking, (m) impose CIDA-type criteria and procedures for Commission subpoenas, (n) provide procedures and safeguards for the confidentiality of proprietary business data, (o) extend the applicability of the bill to rules having a major economic effect, (p) require the publication of agenda of future rulemaking activities, (q) require cost-benefit analyses of rules at the initiation and publication of rules, (r) define the scope of judicial review of the regulatory analysis required in rulemaking, (s) provide criteria for the award of attorney fees and other expenses incurred by prevailing litigants in Commission proceedings, (t) authorize \$70 million and \$75 million Senate Committee (Consumer Subcommittee) semiannual oversight hearings of Commission activities, and (v) limit the scope of the Commission's used car rulemaking authority.

Status--Reported by the Senate Commerce Committee December 14, 1979, and floor action is probable early in the Second Session.

Position--By letter of November 13, 1979, to the Consumer Subcommittee, the Commission indicated

opposition or needed amendments to (c), (f), (g), (i), (l), (m), (n), (s), and (v) above.

\* \* \*

J. Attorney Fees for Prevailing Defendants

In General

S. 265 (Domenici, Nelson, DeConcini) "Equal Access to Justice Act." Provisions (as passed by Senate)--(1) authorizes the award by Government agencies of attorney fees and costs to prevailing defendants in Government litigation who have a net worth of less than \$1 million (individuals) or \$5 million (unincorporated single proprietors, partnerships, associations, and corporations), (2) court review of award, or denial of award, by agencies on petition of dissatisfied defendants, (3) authorizes agencies to deny or limit awards when justified by the circumstances of the case or by dilatory action by defendants, (4) requires ACUS to monitor awards and report to Congress at expiration of the bill (3 years after enactment), and (5) provides for funding from the budgets of the agencies concerned.

Status--Passed Senate on July 31, 1979. The Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Judiciary Committee plans to hold hearings but the date has not been fixed.

Position--The Commission was not requested to report on this bill but has consistently endorsed the Justice Department's opposition to this bill and its predecessors in the 95th Congress.

K. Contribution Liability for Price-Fixing

In General

S. 1468 (Bayh) "To provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act." The bill's purpose is to allocate responsibility for damages among participants in price-fixing agreements in accordance with the benefits received by each participant.

Status--Reported by the Senate Judiciary Committee on November 27, 1979.

Position--The Commission has not reported, but the Department of Justice testified in opposition.

L. Condominiums

S. 612 (Stone and Chiles) "Condominium Act of 1979." Would establish standards to govern the sales of condominium housing and correct current abuses in the industry.

Status--Hearing held June 28, 1979, by the Housing and Urban Affairs Subcommittee of the Senate Committee on Banking. Further action is not scheduled at this time.

Position--The Commission sent a favorable report on the bill to the House Banking, Housing and Urban Affairs Committee recommending amendments to strengthen new construction and repair warranties and a number of technical revisions.

M. Trademarks

Generic Marks

H.R. 3685 (Maguire) To amend the Lanham Act to provide that the Federal Trade Commission shall not have the authority to apply for the cancellation of a registered trademark under such act solely on the ground that the trademark has become the common descriptive name of an article or substance.

Status--Referred to the Judiciary (Courts, Civil Liberties, and the Administration of Justice Subcommittee). Hearings were held on October 17 and 18, 1979. Further action has not been scheduled.

Position--Director, Bureau of Competition, testified in opposition to the bill on October 17, 1979.

N. Insurance

Nondiscrimination

H.R. 100 (Dingell) To prohibit discrimination in insurance on the basis of race, color, religion, sex, or national origin--would prohibit differentiation on the basis of these five factors in the acceptance of applications, premium charges, or benefit payments for life, casualty, theft, retirement, liability, health, disability annuity, and pension contracts. Enforcement would be the responsibility of States having similar statutes with the ultimate burden on the FTC after failure of relief at the State level. All contracts outstanding on the effective date would be reformed to comply with this bill.

Status--Hearings by the Consumer Subcommittee of the House Commerce Committee were scheduled for September but were postponed to a time not yet announced.

Position--A staff report is in preparation.

**O. Priority Energy Projects ("Fast Track")**

**Energy Mobilization Board**

S. 1308 (Jackson and 27 cosponsors), as passed by the Senate October 4, 1979--would create a three-member Energy Mobilization Board as an executive agency with authority to designate and to expedite the processing by Federal and non-Federal agencies of nonnuclear energy projects (priority energy projects), when in the national interest, by setting completion timetables, requiring expedited decisions, and consolidating environmental impact statements; the board could waive laws enacted after the beginning of construction of a project. It could make decisions or act in lieu of any State or Federal agency or seek a court order requiring an agency to meet deadlines when such agency fails to meet a priority energy project deadline. The board would have "final and exclusive decisionmaking authority on all matters within the jurisdiction of the board." Expedited judicial review of the board's completion schedule would be authorized.

H.R. 4985 (Udall and 30 cosponsors)--Generally similar to S. 1308 except (a) only 12 priority energy projects could be designated in any year, (b) limited judicial review of the designation of priority energy projects is included, (c) a 9-month completion deadline for the entire governmental review is specified, (d) requires Presidential approval of the board's waiver of agency deadlines and procedures, (e) enforcement of deadlines for Federal agencies would be exercisable only by the President, and tardiness by State agencies would be reported to appropriate governors.

Dingell amendment to H.R. 4985--Similar to S. 1308 except (a) the board's completion schedule would not be reviewable, (b) waivers of Federal and State deadlines and procedures would require Presidential approval and would be subject to Congressional veto, (c) substantive as well as procedural Federal or State requirements could be waived by the board, (d) recourse to courts to enforce deadlines would not be required, and (e) no limit would be placed on the number of priority-energy projects which could be designated.

Status of the foregoing--S. 1308 passed the Senate on October 4, 1979. H.R. 4985 (Udall version), was reported by the House Committee on Interior and Insular Affairs on August 2, 1979. H.R. 4985 (Dingell version) was reported by the House Commerce Committee on September 21, 1979. The House passed the Dingell version on November 1 with amendments requiring the concurrence of the President and both Houses for waivers by the board of Federal laws and exempted State and local law from waivers. The board would be authorized to act in the place of any Federal or State agency which fails to act within the deadlines prescribed by the board. S. 1308 was amended by the House by substituting the language of the House bill.

Differences to be resolved by conference of the two Houses had not been resolved at the close of the First Session.

Position--While the Commission has not been called upon to take a position on the "fast track" bills, the Office of Policy Planning has reviewed these proposals and is satisfied that the waiver provisions of each bill do not jeopardize enforcement of the antitrust laws.

\* \* \* \*

**SMALL BUSINESS ADMINISTRATION**

**BUSINESS LOAN AND INVESTMENT FUND**

(H. Doc. 96-299 of April 16, 1980 included a proposal to rescind \$19,000,000 from the Business Loan and Investment Fund. A copy of the rescission proposal follows:)

Rescission Proposal No.: R80-56

**PROPOSED RESCISSION OF BUDGET AUTHORITY**  
Report Pursuant to Section 1012 of P.L. 93-344

Agency	Small Business Administration	
Bureau		
Appropriation title & symbol		
Business Loan and Investment Fund		
73X4154		
OMB identification code:		
73-4154-0-3-376		
Grant program	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Type of account or fund:		
<input type="checkbox"/> Annual		
<input type="checkbox"/> Multiple-year _____	(expiration date)	
<input checked="" type="checkbox"/> No-year		
New budget authority (P.L. 96-58)	\$ 565,000,000	
Other budgetary resources	\$ 451,780,790	
Total budgetary resources	1,016,780,790	
Amount proposed for rescission	\$ 19,000,000	
Legal authority (in addition to sec. 1012):		
<input type="checkbox"/> Antideficiency Act		
<input type="checkbox"/> Other _____		
Type of budget authority:		
<input checked="" type="checkbox"/> Appropriation		
<input type="checkbox"/> Contract authority		
<input type="checkbox"/> Other _____		

**Justification:** The Departments of State, Justice, Commerce, the Judiciary, and Related Agencies Appropriation Act 1980 (P.L. 96-58) provided \$565,000,000 as a capital appropriation for the business loan and investment fund. This amount was \$19,000,000 in excess of the President's request of \$546,000,000. This increment to the President's budget request is not needed to provide an adequate funding level for this program. Therefore, the President is requesting that it be rescinded in order to help achieve the overriding goal of reducing Federal outlays and contributing toward achievement of a balanced budget in 1981.

**Estimated Effects:** The impact of this reduction will be to reduce SBA's direct business loan activity under its section 7(a) program by slightly less than 10%.

**Outlay Effect:** (in millions and tenths)

1980 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1980	1981	1982	1983
\$464.0	\$469.0	\$19.0	\$4.0	---	---

**TITLE V - RELATED AGENCIES**

**Small Business Administration**

**Business Loan and Investment Fund**

Of the funds appropriated under this head in the  
Departments of State, Justice, and Commerce, the  
Judiciary, and Related Agencies Appropriation Act,  
1980, \$19,000,000 are rescinded.

**DISASTER LOAN FUND**

(A 1980 supplemental request of \$420,000,000 for the Disaster Loan Fund and \$7,000,000 for loan processing funds was proposed in H. Doc. 96-291 of March 31, 1980. The justifications for this request follow:)

PROPOSED LANGUAGE  
SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

For additional capital for the "Disaster Loan Fund," \$420,000,000, to remain available without fiscal year limitation.

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses," \$7,000,000.

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EXPLANATION OF LANGUAGE

This request will provide the funds necessary to assist the victims of storms, flooding and droughts in the Southeast, Southwest and West Coast. In addition funds will be required to provide the financial assistance to victims of nonphysical disaster declarations who have suffered economic losses.

The request also provides \$7 million for the cost of salaries and related expenses required in the processing of loan applications associated with the above program levels.

SMALL BUSINESS ADMINISTRATION  
DISASTER LOAN FUND  
JUSTIFICATION FOR SUPPLEMENTAL APPROPRIATION FY 1980

This supplemental request for \$420 million is required to provide financial assistance for the remainder of FY 1980 to the disaster victims who have suffered damages arising from various storms, floods, and economic injury.

Current estimates of disaster approvals for FY 1980 indicate that the demand for these loans will approximate 59,000 loans for \$1.1 billion. As of the end of February, 31,934 loans for \$470 million have been approved of which 464 loans for \$31 million were nonphysical disaster loans (see Table I). We currently have 15,900 applications on hand and in process for a total value of \$360 million. In addition, we expect another 7,200 applications for \$173 million from existing disasters and 4,270 applications for \$57 million to provide financial assistance to victims of future disasters which are anticipated to occur during the remainder of the year.

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TABLE I

## SMALL BUSINESS ADMINISTRATION

## Analysis of Disaster Loan Fund Requirements

FY 1980

(\$ millions)

Physical Disaster Loans:	Total Requirements		Nonphysical Disaster		Physical Disasters			
	Number	Amount	Number	Amount	Home	Amount	Business	Amount
Approved thru February Estimate for existing disasters:	31,934	\$470	464	\$31	24,875	\$150	6,595	\$289
Loans in process to be accepted	15,900	360	500	34	11,400	105	4,000	221
	<u>7,200</u>	<u>173</u>	<u>200</u>	<u>15</u>	<u>4,000</u>	<u>24</u>	<u>3,000</u>	<u>134</u>
Total existing disasters	55,034	1,003	1,164	80	40,275	279	13,595	644
Estimated value of future disasters	<u>4,270</u>	<u>57</u>	<u>-</u>	<u>-</u>	<u>3,500</u>	<u>21</u>	<u>770</u>	<u>36</u>
Total disaster loans requirements	<u>59,304</u>	<u>1,060</u>	<u>1,164</u>	<u>80</u>	<u>43,775</u>	<u>300</u>	<u>14,365</u>	<u>680</u>

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TABLE II

## SMALL BUSINESS ADMINISTRATION

Disaster Loan Fund Requirements  
FY 1980(\$ millions)

Balance of fund start of year:	\$356
Funds becoming available:	
Appropriation	\$44
Loan repayments (net)	468
Interest income	171
Cancellations	50
Other income	5
	<u>738</u>
Total funds becoming available	1,094
Charges against the fund:	
Loan approvals (see Table II)	
Physical disasters	980
Nonphysical disasters	80
Interest expense to Treasury	<u>438</u>
Other expenses	13
Unobligated balance end of year	<u>3</u>
Total charges against the fund	<u>1,514</u>
Additional requirement for budget authority	<u>420</u>

SMALL BUSINESS ADMINISTRATION  
DISASTER LOAN FUND

Program and Financing (in thousands of dollars)

73-4153-1-3-433	Administrative commitments				Cost and obligations			
	1979 Actual	Presently Available	Revised Estimate	Proposed Supplemental	1979 Actual	Presently Available	Revised Estimate	Proposed Supplemental
<u>Program by activities:</u>								
Capital Outlay:								
Physical disaster loans.....	1,375,192	550,000	980,000	+430,000	1,220,257	735,000	1,051,000	+316,000
Nonphysical disaster loans..	33,845	60,000	80,000	+20,000	29,286	40,000	60,000	+20,000
Total disaster loans.....	<u>1,409,037</u>	<u>610,000</u>	<u>1,060,000</u>	<u>+450,000</u>	<u>1,249,543</u>	<u>775,000</u>	<u>1,111,000</u>	<u>+336,000</u>
Administrative commitments:								
Start of period.....	351,595	472,460	472,460	—	—	—	—	—
End of period.....	<u>-472,460</u>	<u>-332,460</u>	<u>-332,460</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>	<u>—</u>
Change in selected resources (undisbursed loans).....	—	—	—	—	-48,004	-65,000	39,000	+104,000
Adjustment in selected resources (loan obligations).....	—	—	—	—	86,633	40,000	50,000	+10,000
Total capital outlays.....	<u>1,286,172</u>	<u>750,000</u>	<u>1,200,000</u>	<u>+450,000</u>	<u>1,286,172</u>	<u>750,000</u>	<u>1,200,000</u>	<u>+450,000</u>

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SMALL BUSINESS ADMINISTRATION  
DISASTER LOAN FUND

Program and Financing (in thousands of dollars) (continued)

		1979 Actual	Presently Available	Revised Estimate	Proposed Supplemental
7-153-153-453					
	<u>Appropriated activities:</u> (continued)				
	Operating costs, funded:				
	(a) Interest expense to Treasury.....	338,581	400,000	438,000	+38,000
	(b) Interest expenses on participation certificates.....	3,034	3,000	3,000	—
	(c) Other: Costs and expenses.....	3,013	5,000	10,000	+5,000
	Total operating costs, funded.....	344,626	408,000	451,000	+43,000
16.00	Total obligations.....	1,632,800	1,158,000	1,651,000	+493,000
	<u>Financing:</u>				
11.00	Offsetting collections from:				
	Federal funds: Investment income from participation sales fund.....	-2,159	-2,300	-2,300	—
	Nonfederal sources:				
	Loan repayments:				
	Physical disaster loans.....	-339,832	-420,000	-440,000	-20,000
	Nonphysical disaster loans.....	-27,354	-26,000	-28,000	-2,000
	Sale of acquired collateral.....	-737	-800	-800	—
	Repayments on judgments and notes receivable.....	-1,176	-1,200	-1,200	—
	Revenue.....	-134,440	-140,000	-176,000	-36,000
17.00	Recovery of prior period obligations.....	-80,633	-40,000	-50,000	-10,000
21.50	Unadjusted balance, start of period:				
	Reserves.....	-351,595	-472,460	-472,460	—
	Unreserves.....	-285,635	-355,511	-355,511	—

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**SMALL BUSINESS ADMINISTRATION  
DISASTER LOAN FUND**

Program and Financing (in thousands of dollars) (continued)

		FY 1980			
		1979 Actual	Presently Available	Revised Estimate	Proposed Supplemental
73-4153-1-3-453					
<u>Program by activities:</u> (continued)					
<u>Financing:</u> (continued)					
23.98	Unobligated balance transferred to participation sales fund (principal collection from pooled obligations).....	4,054	3,600	3,600	——
24.98	Unobligated balance, end of period: Reserve.....	472,460	332,460	332,460	——
	Unreserved.....	355,511	8,211	3,211	5,000
	Budget Authority.....	1,235,264	44,000	464,000	420,000
41.00	 <u>Budget authority:</u> Current: Appropriation (definite).....	1,248,000	60,000	60,000	——
41.00	Transfer to other accounts.....	-13,000	-16,650	-16,650	——
		1,235,000	43,350	43,350	——
60.00	Proposed supplemental for additional capital (definite)./. ....	——	——	420,000	420,000
60.00	Permanent: Appropriation (indefinite).....	264	650	650	——

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SMALL BUSINESS ADMINISTRATION  
DISASTER LOAN FUND

Program and Financing (in thousands of dollars) (continued)

	1979 Actual	FY 1980		
		Presently Available	Revised Estimate	Proposed Supplemental
73-4153-1-3-453				
Relation of obligations to outlays:				
Obligations incurred, net.....	1,040,469	527,700	952,700	425,000
Unobligated balance, start of period.....	264,379	347,510	347,510	—
Unobligated balance, end of period.....	<u>-347,510</u>	<u>-249,210</u>	<u>-338,210</u>	<u>-89,000</u>
Outlays.....	957,338	626,000	962,000	336,000

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## DISASTER LOAN FUND

Object Classification (in thousands of dollars)

		FY 1960	1979 Actual	Presently Available	Revised Estimate	Proposed Supplemental
73-4153-1-3-453						
23.00 Other services.....	3,613	5,000	10,000	+5,000		
55.00 Investment and loans.....	1,288,172	750,000	1,200,000	+450,000		
43.00 Interest expense.....	341,615	403,000	441,000	+38,000		
99.00 Total.....	1,632,600	1,158,000	1,651,000	+493,000		

STANDARD FORM 904  
May 1959, Bureau of the Budget  
Circular No. A-11, Revised.  
304-103

## SMALL BUSINESS ADMINISTRATION

## OBJECT CLASSIFICATION (in thousands of dollars)

Identification code	19 50 actual	19 50 estimate	19 50 estimate
<b>Personnel compensation:</b>			
11.1 Permanent positions.....			
11.3 Positions other than permanent.....	10,256,000	14,630,000	4,374,000
11.5 Other personnel compensation.....	2,351,000	2,853,000	502,000
11.8 Special personal services payments.....	-----	-----	-----
Total personnel compensation.....	12,607,000	17,483,000	4,876,000
<b>Personnel benefits:</b>			
12.1 Civilian.....	788,000	1,089,000	301,000
13.0 Benefits for former personnel.....	124,000	210,000	86,000
21.0 Travel and transportation of persons.....	2,260,000	3,336,000	1,076,000
22.0 Transportation of things.....	14,000	23,000	9,000
23.0 Rent, communications, and utilities.....	670,000	962,000	292,000
24.0 Printing and reproduction.....	61,000	110,000	49,000
25.0 Other services.....	748,000	943,000	195,000
26.0 Supplies and materials.....	145,000	213,000	68,000
31.0 Equipment.....	133,000	181,000	48,000
32.0 Lands and structures.....			
33.0 Investments and loans.....			
41.0 Grants, subsidies, and contributions.....			
42.0 Insurance claims and indemnities.....			
43.0 Interest and dividends.....			
44.0 Refunds.....			
99.0 Total obligations.....	17,550,000	24,550,000	7,000,000

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DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

COASTAL ENERGY IMPACT FUND

Obligations under the Coastal Energy Impact Fund for payments pursuant to subsections 308 (c), (d), and (f) of the Coastal Zone Management Act of 1972, as amended, shall not exceed \$82,590,000.

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NOAA-3

Summary of Requirements  
(dollar amounts in thousands)

Appropriation: Coastal energy impact fund

	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
<u>Comparison by activities:</u>						
Planning grants.....	...	...	...	...	...	...
OCS state participation grants.....	...	(\$3,981)	...	(\$3,981)	...	(...)
Environmental grants.....	...	(3,000)	...	(3,000)	...	(...)
Loans, guarantees, and repayment assistance.....	...	(1,943)	...	(1,943)	...	(...)
Program management.....	13	(68,699)	13	(18,699)	...	(-\$50,000)
Total requirements.....	13	(545)	13	(545)	...	(...)
Financing from prior year balances.....		(78,168)		(28,168)		(-50,000)

Note. - Dollar amounts in parenthesis represent obligations.

Justification for Proposed Supplemental

Activity: Coastal zone management  
Subactivity: Coastal energy impact fund

<u>Comparison by activities:</u>	(dollar amounts in thousands)					
	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Coastal energy impact fund						
Planning grants.....	...	...	...	(\$3,981)	...	...
OCS State participation grants.....	...	...	...	(3,000)	...	...
Environmental grants.....	...	...	...	(1,943)	...	...
Loans, guarantees, and repayment assistance.....	...	...	...	(68,699)	...	...
Program management.....	13	...	13	(545)	...	...
Total requirements.....	13	...	13	(78,168)	...	...
Loans, guarantees, and repayment assistance.....	...	(68,699)	...	(18,699)	...	(-50,000)

NOAA requests a decrease of \$50,000,000 (object class 33.0) in prior year appropriated funds to reflect NOAA's proposed FY 1980 rescission in the Coastal Energy Impact Fund (CEIF) Loan and Loan Guarantee program. In addition to the rescission, the balance of the CEIF account, \$54,921,855, has been proposed for deferral until FY 1981. The impact of this proposed rescission in conjunction with the proposed deferral is to postpone any additional awards in the CEIF Loan and Loan Guarantee program.

The CEIF Loan and Loan Guarantee Program was instituted to meet the needs of many coastal States and communities whose public structures and services were anticipated to become severely taxed from dramatic and new energy related population growths. Offshore energy exploration activities have proceeded slowly and have been largely self-contained, thereby placing little additional burden on coastal government.

Instead, impacts from coastal and offshore energy development activities have been restricted to only certain areas, most notably the Gulf region and Alaska, where a large portion of the impacts were attributable to prior year energy activities. From the inception of the program to the present, approximately \$106.6 million of loans have been awarded, all of which have supported projects in the Gulf region and in Alaska. These awards have, in the main, addressed the principal impact requirements for the two areas. In the case of frontier areas experiencing new development actions, it is anticipated that any impacts will be minimal and, if necessary, can be absorbed within existing local governmental resources, or through private commercial means and other coastal related energy impact assistance programs.

Summary of Requirements by Object Class  
(dollar amounts in thousands)

Appropriation: Coastal energy impact fund

<u>Object class</u>	1980 <u>Presently Available</u>			1980 <u>Revised Estimate</u>			1980 <u>Proposed Supplemental</u>		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
<b>11 Personnel compensation:</b>									
11.1 Permanent positions..	13	13	\$330	13	13	\$330	...	...	...
11.3 Positions other than permanent.....	...	...	2	...	...	2	...	...	...
11.5 Other personnel compensation.....			8			8			...
Total.....	<u>13</u>	<u>13</u>	<u>340</u>	<u>13</u>	<u>13</u>	<u>340</u>	<u>...</u>	<u>...</u>	<u>...</u>
<b>Other objects:</b>									
12 Personnel benefits...			35			35			...
21 Travel and transportation of persons..			49			49			...
22 Transportation of things.....			2			2			...
23.1 Standard level user charges.....			13			13			...
24 Printing and reproduction.....			20			20			...
25 Other services.....			67			67			...
26 Supplies and materials.....			5			5			...
31 Equipment.....			14			14			...
33 Investment and loans.			68,699			18,699			-\$50,000
41 Grants, subsidies, and contributions..			<u>8,924</u>			<u>8,924</u>			...
Total requirements.			<u>78,168</u>			<u>28,168</u>			<u>-50,000</u>

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Justification by Object Class  
(dollar amounts in thousands)

<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
11.1 <u>Permanent positions</u> General schedule...	13	13	\$330	...	...	\$330	...	...	...
11.3 <u>Positions other than permanent</u> General schedule...	...	...	2	...	...	2	...	...	...
11.5 <u>Other personnel compensation</u> Overtime.....			8			8			...
12.1 <u>Personnel benefits:</u> Civil Service retirement.....			27			27			...
Health Insurance...			6			6			...
Life Insurance.....			2			2			...
Total, personnel benefits.....			35			35			...
2.10 <u>Travel and transpor- tation of persons</u> Per diem.....			5			5			...
Air fare.....			30			30			...
Other common carrier.....			4			4			...
Privately-owned vehicles.....			1			1			...
GSA vehicles.....			1			1			...
Other.....			8			8			...
Total, travel and transportation of persons.....			49			49			...

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<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
22.0 <u>Transportation of things</u>									
Other.....			\$2			\$2			...
23.1 <u>Standard level user charges</u> .....			13			13			...
24.0 <u>Printing and reproduction</u> .....			20			20			...
25.0 <u>Other services</u>									
Centralized Departmental services.....			2			2			...
Other Federal agencies.....			4			4			...
All other.....			<u>61</u>			<u>61</u>			...
Total, other services.....			67			67			...
26.0 <u>Supplies and materials</u>									
General office supplies.....			1			1			...
Other.....			<u>4</u>			<u>4</u>			...
Total, supplies and materials..			5			5			...
31.0 <u>Equipment</u>									
Non-capitalized....			14			14			...
33.0 <u>Investments and loans</u>			68,699			18,699			-\$50,000
41.0 <u>Grants, subsidies and contributions..</u>			8,924			8,924			...

NOAA-9

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STANDARD FORM 300  
 (GPO 1964, Part 1, of the Budget  
 Circular No. A-11, Revised  
 500-101)

DEPARTMENT OF COMMERCE  
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
 COASTAL ENERGY IMPACT FUND

Program and Financing (in thousands of dollars)

NOAA  
 COASTAL ENERGY IMPACT FUND

Identification code 13-4315-0-3-452	\$ 80 0000	\$ 80 0000	\$ 80 0000
<u>Program by activities:</u>	<u>Presently Available</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
Capital investment funded: Loans and guarantees.....	25,500	18,699	-6,801
Operating costs, funded			
1. Planning grants.....	5,371	5,371	...
2. OCS State participation grants	1,350	1,350	...
3. Environmental grants.....	2,650	2,650	...
4. Program management.....	515	515	...
Total operating costs, funded...	10,086	10,086	...
Total program costs, funded.....	35,586	28,785	-6,801
Changes in selected resources (loans, grants, undelivered orders).....	42,582	-617	-43,199
10.00 Total obligations.....	78,168	28,168	-50,000
<u>Financing:</u>			
14.00 Offsetting collection from:			
Non-federal sources:			
Interest income.....	-375	-375	...
Loan repayments.....	-125	-125	...
21.98 Unobligated balance available, start of year:			
Fund balance.....	-132,590	-132,590	...
24.98 Unobligated balance available, end of period:			
Fund balance.....	54,922	54,922	...
40.00 <u>Budget Authority</u> (appropriation).....	...	-50,000	-50,000

STANDARD FORM 300  
 July 1964, Bureau of the Budget  
 Circular No. A-11, Revised.  
 GPO 161

DEPARTMENT OF COMMERCE  
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
 COASTAL ENERGY IMPACT FUND

NOAA-11

Program and Financing (in thousands of dollars) (cont'd)

Identification code 13-4315-0-3-452	in 80 current	in 80 revised	in 80 supplemental
Relation of obligations to outlays:	Presently <u>Available</u>	Revised <u>Estimate</u>	Proposed <u>Supplemental</u>
71.00 Obligations, incurred, net.....	77,668	27,668	-50,000
72.98 Obligated balance, start of period.....	86,254	86,254	...
74.98 Obligated balance, end of period.....	-129,879	-82,879	-47,000
90.00 Outlays.....	34,043	31,043	-3,000

STANDARD FORM 300  
 DEPARTMENT OF COMMERCE  
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
 COASTAL ENERGY IMPACT FUND

A-11-37A

## Revenue and Expense (in thousands of dollars)

NOV-12

Identification code	<u># 80</u>	<u># 80</u>	<u># 80</u>
	<u>Presently Available</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
Operating loss:			
Revenue.....	500	500	...
Expense.....	-10,086	-10,086	...
Net operating loss.....	-9,586	-9,586	...

DEPARTMENT OF COMMERCE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
COASTAL ENERGY IMPACT FUND

NOAA-13

Financial Condition (in thousands of dollars)

	<u>1980 Presently Available</u>	<u>1980 Revised Estimate</u>	<u>1980 Proposed Supplemental</u>
<b>Assets:</b>			
Fund balance with the Treasury.....	184,801	137,801	-47,000
Advances made.....	...	...	...
Loans receivable (net).....	33,684	26,883	-6,801
Total assets.....	<u>218,485</u>	<u>164,684</u>	<u>-53,801</u>
<b>Liabilities:</b>			
Accounts payable (grants)....	<u>5,408</u>	<u>1,607</u>	<u>3,801</u>
<b>Government equity:</b>			
Unexpended balances:			
Unobligated balance.....	54,922	54,922	...
Undelivered orders.....	124,471	81,272	-43,199
Invested capital.....	33,684	26,883	-6,801
Total government equity.....	<u>213,077</u>	<u>163,077</u>	<u>-50,000</u>
<b>Analysis of change in government equity:</b>			
Paid in capital:			
Opening balance.....	229,992	229,992	...
Transactions:			
Appropriation rescission.	...	-50,000	-50,000
Closing balance.....	<u>229,992</u>	<u>179,992</u>	<u>-50,000</u>
Retained earnings:			
Opening balance.....	-7,329	-7,329	...
Transactions:			
Net operating loss.....	-9,586	-9,586	...
Closing balance.....	<u>-16,915</u>	<u>-16,915</u>	<u>...</u>
Total government equity.....	<u>213,077</u>	<u>163,077</u>	<u>-50,000</u>

Rescission Proposal No: \_\_\_\_\_

## PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

ICY Department of Commerce Bureau National Oceanic and Atmospheric Administration Appropriation title & symbol	New budget authority (P.L. _____)      \$ _____._____ Other budgetary resources      133,089,657 Total budgetary resources      133,089,657
Coastal Energy Impact Fund 13x4315	Amount proposed for rescission      \$ 50,000,000
OIG identification code: 13-4315-0-3-452	Legal authority (in addition to sec. 1012): <input type="checkbox"/> Antideficiency Act <input type="checkbox"/> Other _____
Grant program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other _____
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year _____ (expiration date) <input checked="" type="checkbox"/> No-year	

stification: The Coastal Energy Impact Fund (CEIF) appropriation provides Federal financial assistance to meet the needs of coastal states and local communities impacted by Outer Continental Shelf (OCS) and coastal energy development activities. This proposed rescission specifically impacts the CEIF Loan and Loan Guarantee Program which was instituted in 1977 to meet the needs of many coastal states and communities whose public structures and services were anticipated to become severely taxed from dramatic and new energy related population growths. This rescission is proposed as part of the Administration's effort to reduce the inflationary impact of Federal spending on the general economy and to provide for a balanced budget in fiscal year 1981. While it is recognized that this program does provide useful benefits to selected coastal states and communities, it has been determined that the subject reduction can be made without adversely effecting the economic, social and environmental status of the impacted areas. The benefits provided by the Loan and Loan Guarantee Program must be foregone to combat the national inflationary problem. The major factors influencing this proposed action are that construction and consequent procurement of goods and services are two significant items fueling inflation. Therefore, this proposed reduction in the Loan and Loan Guarantee Program for construction and associated activities are vital to the effort to control the problem of inflation.

ffects: The impact of this rescission is to postpone beyond March 31, 1980, any additional awards in FY 1980 for the CEIF Loan and Loan Guarantee Program. Offshore energy exploration activities have proceeded slowly and have been largely self-contained, thereby placing little additional burden on coastal governments. Instead, impacts from coastal and offshore energy development activities became restricted to only several areas, most notably the Gulf region and Alaska, where a large portion of the impacts were attributable to prior year energy activities. Since the inception of the program through the present, approximately \$106.6 million of loans have been awarded, all of which have supported projects in the Gulf region and in Alaska. These awards have, in the main, addressed the principal impact requirements for the two areas. In the case of frontier areas experiencing new development actions, it is anticipated that any impacts will be minimal and, if necessary, can be absorbed within existing local governmental resources, or through private commercial means and other CEIF programs.

Outlay Effects: (In millions and tenths)

<u>1980 Outlay Estimate</u>		<u>Outlay Savings</u>			
<u>Without Rescission</u>	<u>With Rescission</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
34.0	31.0	3.0	18.0	20.0	9.0

WEDNESDAY, MARCH 12, 1980.

PATENT AND TRADEMARK OFFICE

WITNESSES

SIDNEY A. DIAMOND, COMMISSIONER OF PATENTS AND TRADEMARKS

FRANCIS W. WOLEK, DEPUTY ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

LUTRELLE F. PARKER, DEPUTY COMMISSIONER OF PATENTS AND TRADEMARKS

BENE D. TEGTMAYER, ASSISTANT COMMISSIONER FOR PATENTS  
CHARLES H. JENNINGS, DIRECTOR OF PLANNING, BUDGET AND EVALUATION

HOWARD NEVISER, BUDGET OFFICER TO THE ASSISTANT SECRETARY FOR SCIENCE AND TECHNOLOGY

ELSA A. PORTER, ASSISTANT SECRETARY FOR ADMINISTRATION

CLIFFORD J. PARKER, DIRECTOR, OFFICE OF BUDGET AND PROGRAM EVALUATION

Mr. HIGHTOWER (presiding). The fiscal year 1980 supplemental request for the Patent and Trademark Office is \$1,671,000. We will insert the justification materials in the record at this point.

[The justification materials follow:]

DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

Salaries and Expenses  
Supplemental Budget Request  
Fiscal Year 1980

Summary

<u>Funding</u>		<u>Employment</u>	<u>Permanent Positions</u>	<u>Average Total Employment</u>
Presently available.....	\$99,672,000	Presently available.....	2,734	2,792
Revised estimate.....	101,343,000	Revised estimate.....	2,734	2,792
Proposed supplemental.....	1,671,000	Proposed supplemental.....	...	...

STATEMENT OF PURPOSE AND NEED

A supplemental appropriation of \$1,671,000 is required in addition to the FY 1980 appropriation, to fund the printing of 62,000 patents and 30,000 trademarks in FY 1980. Price increases affecting 1980 have raised the unit cost of patents from the budgeted amount of \$163 to \$197 and of trademarks from \$16 to \$19. Similar price increases in FY 1979, together with the reprogramming of funds to cover patent examiner costs, reduced the number of patents and trademarks which could be printed, leaving backlog of each to be printed off in FY 1980. The requested supplemental appropriation is intended to cover both the increased unit costs and the printing off of part of the backlog of cases.

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DEPARTMENT OF COMMERCE

PATENT AND TRADEMARK OFFICE

Salaries and Expenses

Supplemental Estimate, Fiscal Year 1980

For an additional amount for "Salaries and expenses", \$1,671,000.

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**Summary of Requirements**  
(dollar amounts in thousands)

**Appropriation: Salaries and expenses  
Patent and Trademark Office**

	1980		1980		1980	
	Presently Available Per. Pos.	Amount	Revised Estimate Per. Pos.	Amount	Proposed Supplemental Per. Pos.	Amount
<b>Comparison by activities:</b>						
<b>Examination of patent applications:</b>						
Examination:						
Professional staff.....	1,025	\$42,019	1,025	\$42,019	...	...
Quality review staff.....	14	558	14	558	...	...
Clerical staff.....	423	6,416	423	6,416	...	...
Appeals.....	54	1,382	54	1,982	...	...
Interferences.....	19	711	19	711	...	...
Subtotal.....	<u>1,535</u>	<u>51,686</u>	<u>1,535</u>	<u>51,686</u>	...	...
<b>Examination of trademark application:</b>						
Examination.....	159	4,282	159	4,282	...	...
Trial and appeal.....	19	569	19	569	...	...
Subtotal.....	<u>178</u>	<u>4,851</u>	<u>178</u>	<u>4,851</u>	...	...
<b>Patent and trademark printing:</b>						
Patent printing.....	...	11,576	...	13,154	...	\$1,578
Trademark printing.....	...	538	...	631	...	93
Publication services.....	92	2,061	92	2,061	...	...
Subtotal.....	<u>92</u>	<u>14,175</u>	<u>92</u>	<u>15,846</u>	...	<u>1,671</u>
Data and document retrieval systems.....	371	11,922	371	11,922	...	...

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	1980 Presently Available		1980 Revised Estimate		1980 Proposed Supplemental	
	Per. Pos.	Amount	Per. Pos.	Amount	Per. Pos.	Amount
<b>Comparison by activities:</b>						
Patent and trademark services:						
Customer services.....	152	\$4,071	152	\$4,071	...	...
Assignments.....	25	606	25	606	...	...
Drafting.....	12	284	12	284	...	...
Search room.....	27	1,343	27	1,343	...	...
Subtotal.....	216	6,304	216	6,304	...	...
Administrative support operations:						
Commissioner.....	23	889	23	889	...	...
Solicitor.....	23	924	23	924	...	...
Legislation & International Affairs.....	17	683	17	683	...	...
Management Planning.....	38	1,301	38	1,301	...	...
Administrative Services.....	156	3,812	156	3,812	...	...
Automatic Data Processing.....	85	3,125	85	3,125	...	...
Subtotal.....	342	10,734	342	10,734	...	...
Total requirements.....	2,734	99,672	2,734	101,343	...	1,671

Justification for Proposed Supplemental

**Activity: Patent and Trademark Printing**

(dollar amounts in thousands)

	1980		1980		Proposed	
	Presently Available Perm. Pos.	Amount	Revised Estimate Perm. Pos.	Amount	Supplemental Perm. Pos.	Amount
<b>Patent and Trademark Printing:</b>						
Patent printing.....	...	\$11,576	...	\$13,154	...	\$1,578
Trademark printing.....	...	538	...	631	...	93
Publication services.....	92	2,061	92	2,061	...	...
Total requirements.....	92	14,175	92	15,846	...	1,671
Patent printing.....	...	\$11,576	...	\$13,154	...	\$1,578

Additional funding for the printing of patents will be required in FY 1980 in order to insure that inventories of unprinted allowed applications are minimized, so that application pendency is not unduly increased. An increase for Patent Printing which was approved in the FY 1980 appropriation in the amount of \$2,038,000 will fund most of the increased unit price for printing which will be experienced in FY 1980 due to renegotiation of the keyboarding (for computer typesetting) contract and to cost-of-living provisions in other printing contracts. Additional funds are needed to cover the full impact of the increased costs, as well as to accommodate for the printing of applications resulting from examiner production. Also, additional funds are needed to cover the cost of keyboarding 7,000 and printing 14,000 allowed applications which could not be printed in FY 1979 due to printing price increases associated with the reprogramming of funds to cover patent examiner salaries and the extension of a terminated contracted for keyboarding. At this time, funding is being requested to keyboard an additional 9,000 and print an additional 4,000 applications over that number which could be printed with current anticipated funding. A total of 65,000 will be keyboarded and 62,000 will be printed in FY 1980. These volumes reflect a workload increase of 15% in the latter part of FY 1980. It is unlikely that the keyboarding and printing contractors could accommodate any larger increase with the short advance notice that would be necessitated following approval of a supplemental request. Therefore, a backlog of 2,000 applications for keyboarding and 12,000 for printing will be carried over into FY 1981. The amount requested as a supplemental appropriation for patent printing in FY 1980 is \$1,578,000. The object class is 24.0, printing and reproduction.

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Computation of the amount required as a supplemental appropriation is as follows:

Total volume available for printing in FY 1980:

	To be Keyboarded	To be Typeset and Printed
-Excess from 1979.....	7,000	14,000
-Fee paid in 1980.....	60,000	60,000
Totals.....	67,000	74,000
Volume which can be processed in FY 1980*......	65,000	62,000
Times unit price.....	x \$125	x \$72
	\$8,125,000	\$4,764,000
Plus sub data bases.....		8,125,000
Total FY 1980 patent printing cost.....		565,000
Approved FY 1980 appropriation for patent (including Congressional increase of \$2,038,000).....		\$13,134,000
Amount requested as a supplemental appropriation.....		\$11,376,000
		\$ 1,578,000

If the requested funding is not provided, at the end of the FY 1980 an additional 9,000 applications will remain unkeyboarded and an additional 4,000 unprinted, as compared with the number funded for processing within the appropriation. This delay in the dissemination of patented technology would adversely affect the public, as well as the efficiency of operations in the PTO.

Since patent protection extends from the date of issue (printing), a delay in patent printing prevents the patentees from stopping infringers at an earlier date and delays notice to potential infringers of impending patent rights. It also delays the termination date of patent rights and the entry of new technology into the public domain. With the delay of investment in the new patent technology, some other country's industry may be able to secure the major markets in that field. Disclosure of new technology for others to build upon is also delayed. Application pendency is directly increased as the delay in printing increases.

The availability of patent disclosure in the examining process is dependent on its date of issue. A patent which has not been granted, i.e., printed, cannot be cited as a prior art reference. Delayed printing of a patent may cause a lower quality search or delayed action on another application. In addition, there would be storage problems with large numbers of applications awaiting issue, and a substantial increase in the number of petitions for special handling to have the patent issue earlier than would otherwise be the case.

\*If funds are available for obligation by March 1, 1980. Printing of the remaining 12,000 patents and keyboarding of the remaining 2,000 applications will have to be deferred until FY 1981, due to physical limitations on the volume of work the contractors can handle in 1980.

	1980 Presently Available	1980 Revised Estimate	1980 Proposed Supplemental
	Per. Pos.	Per. Pos.	Per. Pos.
	Amount	Amount	Amount
Trademark printing.....	... \$538	... \$631	... \$93

Additional funding for the printing of trademarks will be required in FY 1980 in order to insure that inventories of unprinted applications are minimized, so that application pendency is not unduly increased. Cases available for publishing for opposition purposes and for printing as trademark registrations will exceed the funding available to process them, due both to increased output on the part of trademark examiners and to increases in unit price, reflected in a recently negotiated printing contract, above the prices estimated for the FY 1980 budget. This request is for funding to cover the cost of printing 5,567 more trademarks than funds available in 1980 will print. Funding is not being sought at this time for the printing of an additional 7,000 trademarks that will be available in 1980 (including some which were deferred from 1979), due to limitations on the volume of work that can be handled by the contractor. The amount requested as a supplemental appropriation for trademark printing in FY 1980 is \$93,000. The object class of the entire amount is 24.0 printing and reproduction.

Computation of the amount required as a supplemental appropriation is as follows:

Total volume available for printing in FY 1980:

	<u>Published for Opposition</u>	<u>Printing of Registrations</u>
-Excess from 1979.....	4,000	7,000
-Examined in 1980.....	33,000	30,000
Totals.....	37,000	37,000
Volume which can be processed in FY 1980*.....	30,000	30,000
Times unit price.....	x \$ 7.56	x \$11.38
	\$227,000	\$341,000
Plus fixed costs (including 1979 index deferred into 1980)...		227,000
Total trademark printing cost.....		\$631,000
Approved FY 1980 appropriation for trademark printing (including Congressional increase of \$72,000).....		\$538,000
Amount requested as a supplemental appropriation.....		\$ 93,000

If the requested funding is not provided, an additional 5,567 trademarks will remain unprinted at the end of FY 1980. This will increase pendency to disposal by one half month and tend to delay the marketing of new products. Timely publication of the mark for opposition in the Trademark Official Gazette is critically important to the trademark registration process. The longer the delay, the greater the probability becomes that the public will be unable to distinguish one merchant's goods from those of another and ascertain the quality of goods, because of the marketing of products bearing identical or highly similar marks. From the seller's perspective, timely publication serves as protection against deliberate or inadvertent infringement of the mark and avoids difficulties in advertising -- the medium used to create and maintain a demand for the product.

Once the registration certificate is ready for issue, the timely printing of the mark is important for the reason that the owner must actually have been issued the registration certificate before the benefits bestowed by federal registration can be legally asserted and rights against prospective infringers enforced.

\*If funds are available for obligation by March 1, 1980. Printing of the remaining 7,000 trademarks will have to be deferred until 1981, due to physical limitations on the volume of work contractors can handle in 1980.

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FY 1980 SUPPLEMENTAL REQUEST  
SUMMARY OF WORKLOAD AND PERFORMANCE DATA

	1980 Congressional Submission 8/	1980 Revised Estimate Without Supplemental	1980 Capability With Supplemental	Change From 1980 Revised Estimate
<u>Regular patent applications (excluding designs)</u>				
<u>Examination</u>				
Prior year applications pending examination.....	146,166	139,284 3/	139,284 3/	...
Applications received.....	<u>+103,500</u>	<u>102,500 4/</u>	<u>+102,500</u>	...
Subtotal: Patents available for exam.....	249,666	241,784	241,784	...
Applications allowed.....	-59,500	-61,600	-61,600	...
Abandoned.....	-29,200	-30,300	-30,300	...
Applications allowed or aband....	-88,700	-91,900 5/	-91,900 5/	...
Total applications pending examinations at end of period 2/.....	160,966	149,884	149,884	...
<u>Post examination</u>				
Prior year allowances pending issue start of period 1/.....	35,488	45,317 6/	45,317	...
Current year allowances (less forfeitures).....	<u>+58,100</u>	<u>+59,752</u>	<u>+59,752</u>	...
Subtotal: Allowances available for print...	93,588	105,069	105,069	...
Patent grants printed.....	-57,700	-58,000 7/	-62,000	-4,000
Total: Allowances pending issue as of EOP..	35,088	47,069	43,069	-4,000
Total: pending as of end of period 1/.....	196,854	196,953	192,953	-4,000
Pendency in Office, excluding appeals and Inter- ference applications (in months).....	22.3	21.5	21.0	-.5
Total pendency in Office all appli.(in months)1/.	22.8	22.0	21.5	-.5

Footnotes on following page

1/ Includes appeal and interference applications.

2/ Number awaiting payment of fees or in issue process.

3/ Reflects a lower receipt level (100,000) for FY 1979, increases production resulting from approved FY 1979 reprogramming, and a changed model used to estimate FY 1979 disposals (estimated at 98,000 in FY 1979) and first actions (estimated at 98,000 in FY 1979).

4/ Estimated receipts as revised on the basis of more current information.

5/ These additional disposals result from a lowered FY 1980 estimate of applications filed and workload under PCT and from changes made in the model used to estimate the number of disposals (91,900 in FY 1980) and the number of first actions (86,500 in FY 1980).

6/ Reflects FY 1979, reprogramming, printing cost increases in FY 1979 and a revised FY 1979 estimate for examiner disposals.

7/ Due to contract requirements to print 58,000 patents in FY 1980 and to hold unit costs to the contract levels, the Office plans to change the mix (chemical, electrical, mechanical) of patents to be printed to a lower unit cost mix (fewer chemical patents) if a supplemental appropriation for FY 1980 is not approved. For unit cost analysis purposes, we will only be printing an equivalent of 55,900 patents at the normal mix.

8/ Without Congressional increase of \$2,038,000.

Summary of Requirements by Object Class  
(Dollar amounts in thousands)

Appropriation: Salaries and expenses

<u>Object class</u>	1980			1980			1980		
	<u>Presently Available</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Revised Estimate</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Proposed</u>
<b>11 Personnel compensation:</b>									
11.1 Permanent positions.....	2,734	2,579	\$63,123		2,734	2,579	\$63,123	...	...
11.3 Positions other than permanent.....	160	133	1,441		160	133	1,441	...	...
11.5 Other personnel compensation.....	...	80	1,396		...	80	1,396	...	...
Total.....	2,894	2,792	65,960		2,894	2,792	65,960	...	...
<b>12 Other objects:</b>									
12.1 Personnel benefits.....				6,297			6,297		...
21 Travel and transportation of persons....				173			173		...
22 Transportation of things.....				68			68		...
23 Rent, communications and utilities:									
23.1 Standard level user charges.....				6,809			6,809		...
23.2 Communications, utilities & other rent..				2,631			2,631		...
24 Printing and reproduction.....				12,785			14,456		1,671
25 Other services.....				2,872			2,872		...
26 Supplies and materials.....				1,378			1,378		...
31 Equipment.....				493			493		...
41 Grants, subsidies, and contributions....				206			206		...
Total requirements.....				99,672			101,343		1,671

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Justification by Object Class  
(Dollar amounts in thousands)

<u>Object class</u>	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
<b>11.1 Permanent positions</b>									
General schedule.....	2,620	2,470	\$59,426	2,620	2,470	\$59,426	...	...	...
Wage Board.....	57	53	975	57	53	975	...	...	...
Executive Level.....	1	1	48	1	1	48	...	...	...
PL 82-593, Examiner of patent appeals.....	15	15	712	15	15	712	...	...	...
PL 85-933, Designated examiner.....	14	13	680	14	13	680	...	...	...
Senior Executive Service.....	27	27	1,282	27	27	1,282	...	...	...
Total, permanent positions.....	2,734	2,579	63,123	2,734	2,579	63,123	...	...	...
<b>11.3 Positions other than permanent</b>									
General schedule.....	139	121	1,319	139	121	1,319	...	...	...
Experts and consultants.....	3	1	25	3	1	25	...	...	...
Wage Board.....	8	3	29	8	3	29	...	...	...
Hourly.....	10	8	68	10	8	68	...	...	...
Total, positions other than permanent.....	160	133	1,441	160	133	1,441	...	...	...
<b>11.5 Other personnel compensation</b>									
Overtime.....	80		1,146	80		1,146	...		...
Other.....	...		250	...		250	...		...
Total, other personnel compensation.....	80		1,396	80		1,396	...		...

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	1980			1980			1980		
	Presently Available			Revised Estimate			Proposed Supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
<b>12.1 Personnel benefits</b>									
Civil Service Retirement.....			\$4,580			\$4,580			...
Federal Insurance Contributions (FICA)....			55			55			...
Health insurance.....			1,329			1,329			...
Life insurance.....			250			250			...
Employees Compensation Fund.....			83			83			...
Total, personnel benefits.....			<u>6,297</u>			<u>6,297</u>			...
<b>21.0 Travel and transportation of persons</b>									
Per diem.....			72			72			...
Air fare.....			72			72			...
Other common carrier.....			17			17			...
Privately-owned automobiles.....			8			8			...
GSA vehicles.....			<u>4</u>			<u>4</u>			...
Total, travel and transportation of persons.....			173			173			...
<b>22.0 Transportation of things</b>									
Parcel post.....			56			56			...
Other.....			<u>12</u>			<u>12</u>			...
Total, transportation of things.....			<u>68</u>			<u>68</u>			...

	1980 Presently Available			1980 Revised Estimate			1980 Proposed Supplemental		
	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount	Pos.	Av. No.	Amount
23.1 <u>Standard level user charges.....</u>			\$6,809				\$6,809		...
23.2 <u>Communications, utilities and other rent</u>									
Federal Telecommunications system.....			215				215		...
Other telephone, telegraph and teletype.....			680				680		...
Postal services by USPS.....			370				370		...
Other space rental.....			46				46		...
Utilities services.....			60				60		...
Rental of automatic data processing equipment...			508				508		...
Rental of office copying equipment.....			483				483		...
Other equipment rental.....			269				269		...
Total, other rent, communications, & utilities.			2,631				2,631		...
24.0 <u>Printing and reproduction</u>									
Publications.....			128				128		...
Envelopes.....			37				37		...
Patent printing.....			11,576				13,154		1,578
Trademark printing.....			538				631		93
Administrative printing.....			190				190		...
Binding operations.....			15				15		...
Internal use forms.....			291				291		...
Briefs.....			10				10		...
Total, printing and reproduction.....			12,785				14,456		1,671

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	1980 <u>Presently Available</u>			1980 <u>Revised Estimate</u>			1980 <u>Proposed Supplemental</u>		
	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>	<u>Pos.</u>	<u>Av. No.</u>	<u>Amount</u>
25.0 <u>Other Services</u>									
<u>Training:</u>									
University.....		\$ 39			\$ 39				...
Office of Personnel Management.....		25			25				...
Other.....		135			135				...
<u>Maintenance of equipment:</u>					286				...
GSA alterations and repairs.....		80			80				...
Centralized Departmental services.....		768			768				...
Other Commerce Agencies.....		46			46				...
GSA guard service.....		141			141				...
Other contracts.....		1,352			1,352				...
Total, other services.....		2,872			2,872				...
26.0 <u>Supplies and Materials</u>									
ADP supplies.....		89			89				...
Envelopes.....		40			40				...
Paper for office copying equipment.....		230			230				...
Books and periodicals,.....		426			426				...
Other.....		593			593				...
Total, supplies and materials.....		1,378			1,378				...
31.0 <u>Equipment</u>									
ADP equipment.....		87			87				...
Office machines and equipment.....		136			136				...
Furniture.....		46			46				...
Other.....		224			224				...
Total, equipment.....		493			493				...
41.0    Grants, subsidies and contributions.....		206			206				...

419

STANDARD FORM 300  
 GPO 1964, Bureau of the Budget  
 Circular No. A-12, Revised  
 200-101

DEPARTMENT OF COMMERCE  
 PATENT AND TRADEMARK OFFICE  
 SALARIES AND EXPENSES

12  
 12-1  
 12-1  
 12-1

Program and Financing (in thousands of dollars)

Identification code		\$ 80 actual	\$ 80 estimate	\$ 80 estimate
	<u>Program by activities:</u>	<u>Presently Available</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
	Direct program			
1.	Examination of patent applications.....	51,686	51,686	...
2.	Examination of trademark applications.....	4,851	4,851	...
3.	Patent and trademark printing.....	14,173	15,846	1,671
4.	Data and document retrieval systems.....	11,922	11,922	...
5.	Patent and trademark services.....	6,304	6,304	...
6.	Administrative support operations.	10,734	10,734	...
	Total direct program.....	99,672	101,343	1,671
	Reimbursable program.....	100	100	...
	Total program costs, funded 1/.....	99,772	101,443	1,671
	Changes in selected resources (undelivered orders).....	...	...	...
10.00	Total.....	99,772	101,443	1,671
<u>Financing:</u>				
11.00	Offsetting collections from: Federal funds.....	-100	-100	...
25.00	Unobligated balance lapsing.....	...	...	...
	Budget authority.....	99,672	101,343	1,671

STANDARD FORM 300  
 (5010-106) DEPARTMENT OF COMMERCE  
 DEPARTMENT OF COMMERCE  
 GEN. REG. NO. 101, 1958  
 6-65-60

DEPARTMENT OF COMMERCE  
 PATENT AND TRADEMARK OFFICE  
 SALARIES AND EXPENSES

16  
 P-1  
 P-2

Program and Financing (in thousands of dollars)

Identification code		<u>1960</u>	<u>1960</u>	<u>1960</u>
	13-1006-1-1-376			
Relation of obligations to outlays:		<u>Presently Available</u>	<u>Revised Estimate</u>	<u>Proposed Supplemental</u>
71.00 Obligations incurred, net...	99,672	101,343	1,691	
72.40 Obligated balance, start of year.....	10,893	10,893	...	
74.40 Obligated balance, end of year.....	-13,163	-13,234	-71	
90.00 Outlays.....	97,402	99,002	1,600	

1/ Includes capital investment for 1960, \$493 thousands.

STANDARD FORM 304  
May 1949, Bureau of the Budget  
Circular No. A-11, Revised  
304-103

DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
SALARIES AND EXPENSES

PART 17

OBJECT CLASSIFICATION (in thousands of dollars)

Identification code	13-1006-1-1-376	1980 actual	1980 estimate	1980 estimate
		Presently Available	Revised Estimate	Proposed Supplemental
Direct obligations:				
Personnel compensation:				
11.1 Permanent positions.....	63,123	63,123		...
11.3 Positions other than permanent.....	1,441	1,441		...
11.5 Other personnel compensation.....	1,396	1,396		...
14.6 Special personnel services payments.....				
Total personnel compensation.....	65,960	65,960		...
Personnel benefits:				
12.1 Civilian.....	6,297	6,297		...
14.3 Benefits for former personnel.....				
21.0 Travel and transportation of persons.....	173	173		...
22.0 Transportation of things.....	68	68		...
23.0 Business expenses and utilities.....				
23.1 Standard level user charges--	6,809	6,809		...
23.2 Communications, utilities and other rent--	2,631	2,631		...
24.0 Printing and reproduction.....	12,785	14,456	1,671	
25.0 Other services.....	2,872	2,872		...
26.0 Supplies and materials.....	1,378	1,378		...
31.0 Equipment.....	493	493		...
32.0 Lands and structures.....				
33.0 Investments and loans.....				
41.0 Grants, subsidies, and contributions.....	206	206		...
42.0 Insurance claims and indemnities.....				
43.0 Interest and dividends.....				
44.0 Refunds.....				
Total direct obligations--	99,672	101,343	1,671	
99.0 Total obligations.....				

STANDARD FORM 304  
May 1969, Bureau of the Budget  
Circular No. A-11, Revised  
304-103

DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
SALARIES AND EXPENSES

OBJECT CLASSIFICATION (in thousands of dollars)

10  
11  
12  
13

Identification code	1960 Actual	1960 Estimated	1960 Estimated
	Presently Available	Revised Estimate	Proposed Supplemental
<b>Reimbursable obligations:</b>			
<b>Personnel compensation:</b>			
11.1 Permanent positions.....	...	...	...
11.5 Positions other than permanent.....	...	...	...
11.9 Other personnel compensation.....	...	...	...
11.9 Special personal services payments.....			
Total personnel compensation.....	...	...	...
<b>Personnel benefits:</b>			
12.1 Civilian.....	...	...	...
13.0 Benefits for former personnel.....			
21.0 Travel and transportation of persons.....	...	...	...
22.0 Transportation of things.....	...	...	...
23.0 Rent, communications, and utilities.....	...	...	...
24.0 Printing and reproduction.....	...	...	...
25.0 Other services.....	100	100	...
26.0 Supplies and materials.....	...	...	...
31.0 Equipment.....	...	...	...
33.0 Lands and structures.....			
34.0 Investments and loans.....			
41.0 Grants, subsidies, and contributions.....			
42.0 Insurance claims and indemnities.....			
43.0 Interest and dividends.....			
44.0 Refunds.....			
Total reimbursable obligations.....	100	100	...
99.0 Total obligations.....	99,772	101,443	1,671

**Mr. HIGHTOWER.** Mr. Diamond, we would be happy to hear your prepared statement on the supplemental.

**GENERAL STATEMENT**

**Mr. DIAMOND.** Mr. Chairman and Members of the committee, the 1980 request for a supplemental appropriation of \$1,871,000 for salaries and expenses contained in House Document No. 98-246 consists of funds to cover increased patent and trademark printing unit costs and for the reduction of printing backlogs.

The total amount requested is necessary to ensure that inventories of unprinted allowed applications are minimized, so that application pendencies are not unduly increased. A patent does not go into effect until it is issued; and it cannot be issued unless it has been printed.

Subsequent to the submission of the regular 1980 budget estimates, the average unit price per patent and trademark increased about 21 percent and 19 percent respectively. The effect of the price increase changed the estimated average unit cost per patent from \$163 to \$197. The Trademark price changed from \$16 to \$19. Similar price increases in FY 1979, together with the reprogramming to cover patent examiner costs, reduced the number of patents and trademarks which could be printed, leaving backlogs of 14,000 and 7,000 respectively to be printed.

The regular appropriation for fiscal year 1980 provides for printing of 58,000 patents and 24,433 trademarks at the old unit costs. We now plan to issue 62,000 patents and 30,000 trademarks in fiscal year 1980. The supplemental request thus includes funds for printing 4,000 additional patents, and 5,567 additional trademarks as well as for the increased unit costs.

In closing, let me emphasize that printing of patents and trademarks as soon as possible, tends to lower pendencies and provide the applicant with earlier protection for his invention, or trademark registration, and the public with earlier disclosure of the property rights claimed by the applicant as well as the technical information contained in the patent.

Thank you very much, Mr. Chairman.

That concludes the prepared statement.

**Mr. HIGHTOWER.** Thank you, Mr. Diamond.

**PRINTING COSTS**

**Mr. HIGHTOWER.** In the 1980 Appropriation Act, Congress provided \$2,110,000 above the budget request for additional patent and trademark printing costs. What is the total amount currently available for printing costs and why is that amount not sufficient?

**Mr. DIAMOND.** The amount currently available, Mr. Chairman, for patent printing is \$11,576,000. It is insufficient because of the price increase and because of growing backlogs, Mr. Chairman.

**Mr. HIGHTOWER.** In recent years, it has been necessary for your Office to do a substantial amount of reprogramming out of patent printing to meet its examiner payroll costs. Did these reprogrammings result in patent and trademark printing delays which have now caused the need for this supplemental?

**Mr. DIAMOND.** To some extent they did, Mr. Chairman. We regret this, but it turned out to be necessary under the exigencies of the occasion.

**Mr. HIGHTOWER.** Is there any possibility now to reprogram from other areas back into printing to refinance this requirement?

**Mr. DIAMOND.** Mr. Chairman, we are certainly not planning anything of the sort.

**Mr. O'BRIEN.** Will the gentleman yield?

**Mr. HIGHTOWER.** Yes.

**Mr. O'BRIEN.** If there is an excess or surplus in your printing account and there is a backlog of things to be printed, does that suggest that there ought to be more contract people out there who pick up that backlog of printing? Am I in the wrong end of that?

**Mr. DIAMOND.** Congressman O'Brien, I don't know what you mean by a surplus in the printing.

**Mr. O'BRIEN.** I understood there were some borrowings from the printing account; were there not?

**Mr. DIAMOND.** In prior years, Congressman, yes. This was a complicated situation which developed and which I am not able to give you in complete detail because unfortunately, was not there at the time, maybe, fortunately, was not there at the time.

**Mr. HIGHTOWER.** Printing they could let slide and other things they could not; is that right?

**Mr. DIAMOND.** That is essentially right. In order to pay the cost of patent examination, we asked for permission to divert money from patent printing. That, of course, cut down patent printing.

When the production came up, then they were in trouble on the printing. That is what it comes down to.

**Mr. O'BRIEN.** Thank you, Mr. Chairman.

**Mr. HIGHTOWER.** Could you tell us how much of the request is related to additional unit costs, how much for the cost of keyboarding 7,000 applications, and how much for printing 14,000 applications that could not be printed in fiscal year 1979?

**Mr. DIAMOND.** I believe the detail is available, Mr. Chairman, but perhaps you would permit me to provide that for the record rather than attempting to read the figures.

**Mr. HIGHTOWER.** That would be fine.

[The following information was submitted:]

Unit price increases between 1979 and 1980 of \$18 for keyboarding and \$7 for typesetting and printing would, on the proposed volumes of 65,000 keyboarded and 62,000 printed, add a total cost of \$1,279,000. Without a supplemental, this amount will have to be paid out of the base, which will reduce the volume that can be printed below the figures indicated. Of the total amount requested in the supplemental (\$1,578,000), approximately \$1,128,000 is for keyboarding and the remaining \$449,000 is for typesetting and printing.

**Mr. HIGHTOWER.** What is keyboarding?

**Mr. DIAMOND.** It is a process by which an operator sits at a keyboard which is a computer terminal and transmits the information which is on a typewritten or printed slip of paper to a magnetic computer tape which is then used for further processing of the material.

#### IMPACT OF BACKLOGS

**Mr. HIGHTOWER.** In recent years, it has been necessary for your office objective of making reductions for fiscal year 1980 and fiscal year 1981. What would happen if this supplemental budget request is not approved and what would be in the impact on the applicants and the public?

Mr. DIAMOND. If this requested funding is not provided, we will wind up at the end of fiscal 1980 with an additional 9,000 applications unkeyboarded and an additional 4,000 on top of that, unprinted. So far as trademarks are concerned, an additional 5,567 trademarks would remain unprinted at the end of fiscal year 1980.

What harm would that do, Mr. Chairman? It is always very difficult to answer questions of that sort, but our theory in the Office is that when an applicant applies for a patent or a trademark, he would like to get the promptest service possible. If the documents are not issued, the rights are delayed.

Mr. HIGHTOWER. Then, ideally, there would be no backlog for the printing of patents and trademarks?

Mr. DIAMOND. Mr. Chairman, I guess that is correct. Of course, the absolute ideal, that fast a turnaround probably could never be accomplished, but there certainly would be no substantial backlog, just the normal material in the pipeline.

Mr. HIGHTOWER. There is not a backlog of printing unless the patent or trademark is approved for printing; isn't that true?

Mr. DIAMOND. That is correct, Mr. Chairman.

Mr. HIGHTOWER. So after it is approved for printing, it ought to be printed in a week.

Mr. DIAMOND. One week would be an ideal amount of time.

Mr. HIGHTOWER. So to approach the ideal situation, then the examiner's work product of each week would be printed the following week?

Mr. DIAMOND. That would approach the ideal, yes, Mr. Chairman, you are quite right.

Mr. HIGHTOWER. With these moneys requested, can we approach the ideal?

Mr. DIAMOND. No, sir; we are still quite a ways away from the ideal. I explained earlier that even with these increases we still cannot keep up to date with the applications coming in the mail every day. We will be eating away at the backlog but not eliminating it.

Mr. HIGHTOWER. In other words, you do not think that we have reached the crest of this upsurge in applications.

Mr. DIAMOND. So far as patents are concerned, we expect a relatively steady number of filings over the next few years. So far as trademarks are concerned, they went up at a very high rate as I have described and then levelled off. They now seem to be starting back up again, perhaps not at the same high rate but higher than last year.

As I say, we consider this normal in what we hope will continue to be an expanding economy, that there will be increases in applications for both patents and trademarks.

Mr. HIGHTOWER. But if we are not going to approach the ideal, what would you consider a normal backlog for the printing of patents and trademarks?

Mr. DIAMOND. I don't know that I can answer the question about normal. I have just been reminded, as a matter of fact, Mr. Chairman, that the patent pipeline actually requires eight weeks. There is an additional processing which is involved apparently in getting all the documentation ready, getting the patents ready for printing and issue. So that there is that extra time factor built into the process.

[The following information was submitted subsequent to the hearing:]

The patent printing process takes an average of about 5½ months, with no backlog, from allowance to issuance of a patent. Of this, 2.3 months is the average time required for applicants to pay issue fees on allowed applications, and about two months for the printing process, including, keyboarding, computer composition, and offset printing. The remaining time of about five weeks is required for processing by the PTO in the various stages of post-examination activities. Below is a table showing a more detailed breakdown of this:

DATE OF ALLOWANCE

Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7
→21→	→7→	→69→	→7→	→20→	→13→	→22→

\* This time period is at the discretion of the public and varies from a few days to 90 days. The 69 days used is the historical average.

- Step 1. Processing in Examining Corps.
- Step 2. Processing Notice of Allowance.
- Step 3. Awaiting payment of Base Issue Fee (Public has 3 months to pay fee, average is 2.3 Months).
- Step 4. Fee processing and building Issue (There is currently a 3 month backlog before an application is placed into an issue).
- Step 5. Data Base Processing.
- Step 6. GPO processing and proofreading.
- Step 7. Printing and distribution.

Mr. HIGHTOWER. In other words, if there were something of high priority for national security, for example, that needed to be walked through the Patent Office, it would take eight weeks?

Mr. DIAMOND. That is right, Mr. Chairman.

Mr. HIGHTOWER. But as a normal priority, routine applications take how long at the present time?

Mr. DIAMOND. The average pendency at the present time is approximately 21.3 months.

Mr. TEGTMAYER. That is until the patent is either issued or is abandoned.

Mr. HIGHTOWER. How does that compare with a year ago?

Mr. TEGTMAYER. It is higher than a year ago.

Mr. HIGHTOWER. So, we are getting farther and farther behind?

Mr. TEGTMAYER. Yes, sir.

Mr. HIGHTOWER. Do you think with the reforms that we are talking about, that during this fiscal year we will see that turned around and we will start going in the other direction?

Mr. DIAMOND. Not according to the projections in the FY 1981 budget, Mr. Chairman. We are making a start in the right direction but we will not yet be able to turn it around.

Mr. HIGHTOWER. In your budget planning, then, for 1982, are you looking that far ahead to say when you will be able to start it in the other direction?

Mr. DIAMOND. Indeed we are looking that far ahead, Mr. Chairman. We are working on the 1982 budget right now internally. But, as I have said several times earlier, we are in a position now where, as a result of relatively flat funding and indeed some reductions in program funding in previous years, coupled with at least a flat rate of applications coming in and in some years much higher than a flat rate coming in, we simply have fallen behind. We are trying to eat away at that at the present time.

## IMPACT OF DELAYED FUNDING

**Mr. HIGHTOWER.** On page 6 of the justification, you state that 65,000 patents can be keyboarded and 62,000 patents printed in fiscal year 1980 if funds are available by March 1, 1980. These funds have not been appropriated and Congress cannot make any supplemental appropriations until a third budget resolution for fiscal year 1980, which would raise the current spending ceiling, is approved. What impact will this delay have on your plans for printing additional patents?

**Mr. DIAMOND.** Mr. Chairman, it will of course make available funds that, if delayed we could not use on roughly a pro rata basis. We had calculated this with a starting date of March 1.

If that starting date of March 1 cannot be reached we simply will not be able to expend all of those funds in the time that we had planned, and we will have less reduction in the backlog at the end of the fiscal year.

**Mr. HIGHTOWER.** On page 6, you state that printing 12,000 patents and keyboarding 2,000 applications would have to be deferred until fiscal year 1981 due to fiscal limitations and the volume of work the contractor could handle.

On page 8, you say the printing of 7,000 trademarks would have to be deferred for the same reason.

Please provide for the record a table showing the increase in the number of patents and trademarks that would have to be deferred until fiscal year 1981 for each month that enactment of the 1980 supplemental is delayed beyond March 1980.

[The following information was submitted:]

## PATENT PRINTING

	Amount that could be obligated	Number for key- boarding	Number printing <sup>1</sup>	Pendency reduction (weeks)
<b>If available for obligation:</b>				
Apr. 1.....	\$1,188,000	6,228	5,678	4.7
May 1.....	1,041,000	5,448	4,998	4.2
June 1.....	895,000	4,668	4,318	3.6
July 1.....	712,000	3,693	3,468	2.9
Aug. 1.....	419,000	2,133	2,108	1.8
Sept. 1.....	0	0	0	0

<sup>1</sup> These volumes represent additional patents for which printing funds are obligated in 1980; some of these will actually issue in fiscal year 1981 due to the lag between obligation and issue of about 2 months.

As we must give the contractor four weeks notice to change volumes, none of the backlog could be worked off if we receive the supplemental as late as September first. Not getting the Supplement in 1980 defers the problem of backlogs and increased pendency into 1982 as the PTO has already requested funds for the maximum amount of printing that can be handled in 1981.

## TRADEMARK PRINTING

We can still use the entire Trademark supplemental even if not approved until July. Of the \$93,000, \$55,000 is to be used for the annual index. The remaining \$38,000 can be obligated and utilized during the last three months of the fiscal year by increasing the issue sizes.

**Mr. HIGHTOWER.** Would you also provide for the record the reduced amount of the supplemental appropriation that you would need in connection with the delay in enactment.

**Mr. DIAMOND.** I would be very glad to do that.  
 [The information follows:]

The reduction by month is shown in the following table:

	Patent printing	Trademark printing	Total reduction
<b>If available for obligation:</b>			
Apr 1.....	\$390,000	0	\$390,000
May 1.....	517,000	0	517,000
June 1.....	683,000	0	683,000
July 1.....	986,000	0	986,000
Aug 1.....	1,159,000	0	1,159,000

**Mr. HIGHTOWER.** Thank you very much, Mr. Diamond.  
 Your initial appearance before the subcommittee was very well done.

**Mr. DIAMOND.** Thank you, Mr. Chairman.

WEDNESDAY, APRIL 16, 1980.

## MARITIME ADMINISTRATION

### WITNESSES

SAMUEL B. NEMIROW, ASSISTANT SECRETARY FOR MARITIME AFFAIRS  
 RUSSELL F. STRYKER, ASSISTANT ADMINISTRATOR FOR POLICY AND ADMINISTRATION  
 MASON G. NOTTINGHAM, DIRECTOR, OFFICE OF BUDGET AND PROGRAM EVALUATION  
 ELSA A. PORTER, ASSISTANT SECRETARY FOR ADMINISTRATION  
 NANCY A. RICHARDS, DEPUTY DIRECTOR FOR BUDGET, OFFICE OF BUDGET AND PROGRAM EVALUATION

### OPERATING—DIFFERENTIAL SUBSIDIES

**Mr. EARLY** (presiding). A fiscal year 1980 supplemental budget request of \$44,307,000 is submitted for Operating-Differential Subsidies. The sum of \$256,208,000 was provided for this item for fiscal year 1980. We will insert the justifications for this request at this point in the record.

[The justification materials follow:]

Department of Commerce  
Maritime Administration

Operating-Differential Subsidies  
Supplemental Budget Request  
Fiscal Year 1980

Funding

Presently Available.....	\$256,208,000
Revised Estimate.....	300,515,000
Proposed Supplemental.....	44,307,000

Statement of Purpose and Need

To provide for increased costs for settlement of amounts due for prior year operations, unbudgeted activity in the Soviet grain trade, cost increases based on the 1980 tentative rates, and changes in the rate of payment for current year operations.

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Department of Commerce  
Maritime Administration

Operating-Differential Subsidies (Liquidation  
of Contract Authority)

For an additional amount for "Operating-Differential Subsidies," \$44,307,000, to remain available until expended.

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MA-2

Summary of Requirements  
(Dollar amounts in thousands)

Appropriation: Operating-Differential Subsidies,  
Maritime Administration

<u>Comparison by activity:</u>	1980		1980		1980	
	<u>Presently Available</u>		<u>Revised Estimates</u>		<u>Proposed</u>	
	<u>Perm.</u>	<u>Pos.</u>	<u>Perm.</u>	<u>Pos.</u>	<u>Supplemental</u>	<u>Perm.</u>
Liner and bulk carrier operators.....	... \$256,208	... \$300,515	... \$44,307			

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Justification for Proposed Supplemental

Activity: Liner and bulk carrier operators

(Dollar amounts in thousands)

	1980		1980		1980	
	<u>Presently Available</u>	<u>Perm. Pos.</u>	<u>Revised Estimate</u>	<u>Perm. Pos.</u>	<u>Proposed Supplemental</u>	<u>Perm. Pos.</u>
Liner operators.....	...	\$243,071	...	\$247,456	...	\$4,385
Bulk carrier operators.....	...	28,383	...	35,097	...	6,714
Payment of prior years obligations.....	...	<u>35,260</u>	...	<u>60,473</u>	...	<u>25,213</u>
Total outlays.....	...	306,714	...	343,026	...	36,312
Financing from prior year balances.....		<u>-50,506</u>		<u>-42,511</u>		<u>7,995</u>
Total requirements (appropriation)		<u>256,208</u>		<u>300,515</u>		<u>44,307</u>

The requested supplemental results from the following factors:

- o Finalization of prior year subsidy rates and consequent settlement of payments for prior year operations at higher costs than anticipated;
- o Changes in the estimates for the regular subsidized fleet due to calculation of the 1980 tentative rates;
- o Changes to more accurately reflect the rate of payment for current year operations in the regular fleet; and,
- o Unbudgeted participation of the U.S.-flag fleet in the U.S./Soviet grain trade.

These factors have caused a net increase in subsidy requirements in both 1979 and 1980. As a result of 1979 increases, primarily in prior year payments and U.S.-flag carriage of Soviet grain, a total of \$7,995,000, which was previously projected as carryover to help offset 1980 costs, will not be available.

The primary factor influencing the 1980 estimates involves an increase of \$25,213,000 in payments for prior year operations. The estimates which were included in the 1980 Budget for payment of prior year obligations were based on preliminary estimates of U.S. and foreign cost factors in the subsidy calculation equation. The final figures for these factors resulted in higher amounts of subsidy being paid out in both 1979 and 1980 than were estimated in the 1980 Budget.

No U.S.-flag fleet participation in the U.S./Soviet grain trade was budgeted in either 1979 or 1980. Current estimates of requirements for this trade are \$10,024,000 in 1979 and \$9,945,000 in 1980. Since submittal of the budget request for 1980, one larger ship reentered this trade and completed three subsidized voyages in 1979, carrying a total of approximately 150,000 tons with resultant outlays of \$4,037,000. Additional outlays of \$5,987,000 were made during 1979 for prior year Russian grain accruals. It is anticipated that this ship will continue at the same level of participation throughout 1980 with resultant requirements of \$4,945,000. The additional impact of unbudgeted prior year Russian grain accruals on 1980 requirements is \$5,000,000. The President's recent embargo on grain shipments to Russia is expected to have no impact on these requirements since the projected 150,000 tons carriage is significantly lower than the U.S. share of the President's allowed shipments of eight million tons.

Increases also result from: (1) revised estimates of 1980 tentative rates compared to amounts estimated in the 1980 Budget; and (2) technical changes in the method of calculating the rate of payment for current year operations.

Increases for FY 1980  
(Dollar amounts in thousands)

	1980 Presently Available	1980 Revised Estimate	1980 Proposed Supplemental
<u>Liner operators</u> .....	\$243,071	\$247,456	\$4,385
This increase results from the incorporation of actual 1980 tentative rates over amounts estimated in the 1980 Budget coupled with technical changes in the payout rate against subsidy accruals.			
<u>Bulk carrier operators</u> .....	\$28,383	\$35,097	\$6,714
This increase results from the incorporation of actual 1980 tentative rates (\$1,769,000) and from the reentry of unbudgeted U.S.-flag ships in the Soviet grain trade (\$4,945,000).			
<u>Prior year payments</u> .....	\$35,260	\$60,473	\$25,213
This increase results from final settlement of subsidy rates and balances due for 1977 and prior years accruals.			

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Summary of Requirements by Object Class  
(Dollar amounts in thousands)

Appropriation: Operating-differential subsidies

<u>Object class</u>	1980			1980			Proposed			
	Presently Available	Revised Estimate	Supplemental	Pos.	Av.	No.	Pos.	Av.	No.	Amount
Other objects:										
41 Grants, subsidies, and contributions.....	... ...	\$256,208	...	... \$300,515	...	...	+\$44,307			

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<u>Justification by Object Class</u>				
41.0 Grants, subsidies, and contributions				
Other non-government contracts.....	256,208	300,515		+44,307

**MR. EARLY.** On page 4 of the justification materials, you state four reasons for this supplemental request. Could you tell us how much money is associated with each of those factors?

You can supply that information for the record if you don't have it immediately available.

**MR. NEMIROW.** I have some numbers that break it down, but not on the basis of those four factors which are identified. I don't have that information. I can supply it for the record.

[The following information was submitted.]

#### FACTORS FOR SUPPLEMENTAL REQUEST

The factors on page 4 and the associated amounts are as follows:

(1) Finalization of prior year subsidy rates and consequent settlement of payments for prior year operations at higher costs than anticipated (+\$25,-213,000).

(2) Changes in the estimates for the regular subsidized fleet due to calculation of the 1980 tentative rates (+\$6,760,000).

(3) Changes to more accurately reflect the rate of payment for current year operations in the regular fleet (+\$394,000).

(4) Unbudgeted participation of the U.S.-flag fleet in the U.S./Soviet grain trade (+\$4,945,000).

In addition, as noted in the first paragraph of page 5 of the justification, the supplemental also included a request for additional appropriation because of lower than anticipated carry-over from FY 1979 (+\$7,985,000).

#### BASIS OF ESTIMATES

**MR. EARLY.** What has caused you to change the calculation of the 1980 rates as compared with the estimates that you used in the regular 1980 budget?

**MR. NEMIROW.** When we calculate our budget for years to come we make our best judgments as to what the foreign competition will look like in the year of the budget.

If the exchange rate changes vis-a-vis the foreign competition, or if the nature of the competition changes in the year to 18 months before those payments are made, then the budgetary amount may be adequate or inadequate. Some examples perhaps of how it could be long instead of short. We calculate, for example, on a particular trade route how much ODS we would pay based upon the foreign competition being encountered by the U.S. operator.

You take the major competitors and make up the difference in cost between that competition and the U.S.-flag costs, and we pay that out of subsidy.

If the competitors on that route change and new low-cost competitors come into service, the ODS cost will go up, because if the U.S. operator cost remains constant and the foreign operator costs reduce, the difference is greater and that is what has happened.

There are new emerging competitors on many of our trade routes who have not been there traditionally.

You base the subsidy on the difference between the cost of the U.S. operator and the cost of his major foreign competitors.

**MR. EARLY.** Are the subsidies going to be less if the costs of the competition go up?

**MR. NEMIROW.** The subsidy is going to be less if the competitors' costs are higher so if you have developed-country competitors, major countries of Europe and Scandinavia competing on a particular route,

the level of subsidy is less than if you have competition from Chinese-flag, Singapore-flag, Soviet-flag vessels.

#### **SOVIET GRAIN TRADE**

**Mr. EARLY.** The last factor listed on page 4 states that unbudgeted participation of the U.S. Flag Fleet in the U.S./Soviet grain trade has caused an increase in this item. Wouldn't the budget for the Soviet grain trade be reduced because of the President's recent embargo on grain shipments to the Soviet Union?

**Mr. NEMIROW.** On the supplements for fiscal year 1980, those are early movements which we already have undertaken in fiscal year 1980. The fact is that our 1981 budget requests, and particularly the most recent budget request, we have eliminated any subsidy for Soviet grain carriage. The fact is that in fiscal year 1980 there have been undertaken certain voyages which should be funded.

**Mr. EARLY.** Do you still need a supplemental to do that?

**Mr. NEMIROW.** Yes.

#### **PAYMENT OF PRIOR YEAR OBLIGATIONS**

**Mr. EARLY.** On page 5 of the justifications, you indicate that the primary factor influencing the 1980 estimates involves an increase of \$25,213,000 in payments for prior year operations. Why were your original estimates in the 1980 budget for payment of prior year obligations so inaccurate?

**Mr. NEMIROW.** We have had what I consider a rather unfortunate history of having in many past years, open accounts with our ODS operators. We have tried to make our payments as current as possible, particularly in these times of very high interest costs when it is important to pay all your obligations as soon as you can.

We have changed our program a bit, and we are making final payments much closer to the close of the particular fiscal year involved than we have in the past. That has increased our outlays, but we hope to be even with the fiscal year after this 1980 supplemental appropriation.

**Mr. EARLY.** Fine.

**Mr. NEMIROW,** we appreciate your testimony and look forward to working with you, and I am sure we will see you again.

**Mr. NEMIROW.** Thank you, Mr. Early.

#### **RELATED AGENCIES**

#### **ARMS CONTROL AND DISARMAMENT AGENCY**

(H. Doc. 96-299 of April 16, 1980 included a proposal to rescind \$720,000 from the Arms Control and Disarmament Agency. A copy of the rescission proposal follows:)

Rescission Proposal No.: R80-51

**PROPOSED RESCSSION OF BUDGET AUTHORITY**  
Report Pursuant to Section 1012 of P.L. 93-344

Agency <b>Arms Control and Disarmament Agency</b>	Bureau	New budget authority <u>(P.L. 96-51)</u>	\$ 18,270,000
Appropriation title & symbol		Other budgetary resources	222,000
Arms Control and Disarmament Activities 9400100		Total budgetary resources	18,547,000
		Amount proposed for rescission	\$ 720,000
OMB identification code: 94-0100-3-1-153		Legal authority (in addition to sec. 1012): <input checked="" type="checkbox"/> Antideficiency Act <input type="checkbox"/> Other _____	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other _____	
Type of account or fund: <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Multiple-year _____ (expiration date) <input type="checkbox"/> No-year			

Justification:

Reduced activity for SALT will allow a savings in operating expenses of \$640,000. In addition, the 1980 hiring ceiling will allow a savings in pay costs of \$80,000. Rather than program these funds, a rescission is proposed to help reduce Federal spending in accordance with the President's anti-inflation program.

Estimated Effects:

This rescission will reduce the agency's operating margin, whose excess would have been reprogrammed to the external research program. The agency will be able to conduct all essential activities, assuming that SALT activity continues at a reduced level.

Outlay Effect: (in millions and tenths)

1980 Outlay Estimate		Outlay Savings			
Without Rescission	With Rescission	1980	1981	1982	1983
\$16.7	\$16.0	8.6	8.1	---	---

## ARMS CONTROL AND DISARMAMENT AGENCY

## Arms Control and Disarmament Activities

Of the funds appropriated under this head in P.L. 96-68, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for fiscal year 1980, \$720,000 are rescinded.

THURSDAY, MARCH 27, 1980.

## BOARD FOR INTERNATIONAL BROADCASTING

## WITNESSES

DR. JOHN A. GRONOUSKI, CHAIRMAN  
WALTER R. ROBERTS, EXECUTIVE DIRECTOR  
GLENN W. FERGUSON, PRESIDENT, RFE/RL, INC.  
ARTHUR D. LEVIN, BUDGET AND ADMINISTRATIVE OFFICER  
MICHAEL R. MARCHETTI, TREASURER AND COMPTROLLER, RFE/  
RL, INC.

Mr. HIGHTOWER (presiding). The fiscal year 1980 supplemental request for the Board for International Broadcasting is \$6,800,000. We will insert the justification at this point in the record.

[The justification materials follow:]

RADIO FREE EUROPE/RADIO LIBERTY: FY 1980 SUPPLEMENTAL NEEDS

FY 1980 authorization and appropriation legislation for B.I.S. grants to RFE/RL, Inc. were based on an estimated exchange rate of 1.93 West German marks to the dollar. The sum of \$80,430,000 was appropriated for regular RFE/RL operating expenses at that rate. In addition, \$3,250,000 was appropriated to cover foreign exchange losses. However, \$2,930,000 of the \$3,250,000 has been applied to cover foreign exchange losses incurred in the third and fourth quarters of FY 1979 -- leaving only \$320,000 to cover FY 1980 losses. The Administration requests a supplemental appropriation of \$6,600,000, which -- together with the \$320,000 available in the currency devaluation fund -- will enable RFE/RL to reprogram its activities at new budgetary exchange rates of One Dollar equals 1.74 marks, 49.79 Portuguese escudos and 65.99 Spanish pesetas. The following tables provide the breakdowns of RFE/RL foreign currency purchases which make the supplemental necessary to maintain the authorized level of operations for FY 1980.

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Currency Devaluation Fund

FY 1980  
(in thousands of dollars)

Funds Available

FY 1979 Unfunded Net Loss	(\$ 2,930 )
FY 1980 Appropriation	3,250
FY 1980 Supplemental Appropriation Request	<u>6,600</u>
	\$ 6,920

Currency Devaluation Fund	\$ 6,920
Loss on 31,792,000 West German Marks Purchased October - December 1979 (1.7696 DM = \$1)	( 1,493 )
Fund Balance as of December 31, 1979	\$ 5,427

Balance of West German Marks to be Purchased January - September 1980:

<u>DM Requirements</u>	<u>Projected Average Rate</u>	<u>Dollar Cost</u>	<u>(Loss)</u>	<u>Fund Balance (\$)</u>
90,920,000	1.93 (Budget)	47,109	-	-
+	1.90	47,853	( 744 )	4,683
+	1.85	49,146	( 2,037 )	3,390
+	1.80	50,511	( 3,402 )	2,025
+	1.75	51,954	( 4,845 )	582
+	1.74	52,253	( 5,144 )	283
+	1.73	52,555	( 5,446 )	( 19 )
+	1.70	53,482	( 6,373 )	( 946 )
+	1.65	55,103	( 7,994 )	( 2,567 )
+	1.60	56,825	( 9,716 )	( 4,289 )

BOARD FOR INTERNATIONAL BROADCASTING

FY 1980 SUPPLEMENTAL

Program and Financing  
(in thousands of dollars)

	<u>FY 1979 Actual</u>	<u>FY 1980 Estimate</u>	<u>FY 1981 Estimate</u>
<b>Program by activities:</b>			
1. Administrative expenses .....	---	---	---
2. Grants for private broadcasting activities	2,000	6,600	---
Total obligations .....	2,000	6,600	---
<b>Financing:</b>			
Budget authority (supplemental now requested)	2,000	6,600	---
<hr/>			
<b>Relation of obligations to outlays:</b>			
Obligations incurred, net .....	2,000	6,600	---
Outlays .....	2,000	6,600	---

## GENERAL STATEMENT

**Mr. HIGHTOWER.** Do you have a general statement in regard to the supplemental request?

**Dr. GRONOUSKI.** I have consistently said, since my first appearance before this committee, that the only supplementals that I will come in for—but I may modify this this year because of the problems that we have with the Afghanistan and Iranian situations—the only supplementals I have come in for in the three years I have been here are those that relate to dollar devaluation, over which we have no control.

I cannot tell the management of the Radios, "You have X amount of dollars." And then in the middle of the year when the bottom drops out of the dollar, I cannot tell them, "Well, you have \$2 million less." It destroys the operation. We have to give them some basic budget with which to work. We keep them on a very tight budget. They have to know what it is. That is why Congress put in this currency devaluation fund, which in effect, if the dollar goes higher we build up the funds, and if it goes lower we draw out of the funds.

Now this year, because of the fact that we used up most of what was appropriated for 1980, that 1979 carryover, the total amount that we need to make up the difference between the 1.93 and the 1.74 figures for the West German mark value is \$6.6 million. It is purely devaluation of the dollar that is involved here.

## CURRENCY DEVALUATION FUND HAS OPEN-ENDED AUTHORIZATION

**Mr. HIGHTOWER.** Is your fiscal year 1980 authorization for currency exchange losses sufficient to cover this supplemental request?

**Dr. GRONOUSKI.** Yes. Beginning in 1980, our authorization for currency devaluation is open-ended. It is entirely up to the Appropriations Committee.

## CURRENCY LOSS AT FY 1980 MIDPOINT

**Mr. HIGHTOWER.** We are now approximately at the midpoint of fiscal year 1980. The justifications for this request indicate that you have only \$320,000 remaining from the appropriation that we have made for currency exchange losses. What is the loss going to be at the midpoint of fiscal year 1980?

**Dr. GRONOUSKI.** I cannot give you that off the top of my head, sir.

**Mr. HIGHTOWER.** You can supply it for the record.

**Dr. GRONOUSKI.** We will.

[The information follows:]

## RFE/RL, INC.—FISCAL YEAR 1980 SUMMARY OF FOREIGN CURRENCY PURCHASES, OCT. 1, 1979 TO MAR. 31, 1980

(In thousands)

	Foreign currency purchased through Mar. 31, 1980	Actual cost	Average rate	At budget rate, DM 1.93, Esc. 46.71, Pta. 71.50	Loss/(gain)
West German marks.....	61,792	\$34,986	1.7662	\$32,017	\$2,969
Escudo.....	131,201	2,650	49.51	2,209	(150)
Peseta.....	141,170	2,115	66.75	1,974	141
Actual net loss.....					2,951

Dr. GRONOUSKI. I might say that if the dollar maintains its revival as it has in the last few weeks, it is going to be substantially less than we earlier thought would be the case.

Mr. HIGHTOWER. Would you also furnish for the record the projected loss for the entire fiscal year?

[The following information was submitted:]

RFE/RL, INC.—FISCAL YEAR 1980 FOREIGN CURRENCY LOSS PROJECTION

[In thousands]

	DM re- quirements	Projected average rate	Dollar Cost	Loss	Cumulative loss
Balance of West German marks (DM), to be purchased April to September 1980	60,920,000	1.93	\$31,565	-----	\$2,951
		1.916	31,795	230	3,181
		1.90	32,063	498	3,449
		1.88	32,404	839	3,790
		1.85	32,930	1,365	4,156
		1.80	33,844	2,279	5,235
		1.75	34,811	3,246	6,197
		1.74	35,011	3,446	6,397
		1.73	35,214	3,649	6,600
		1.70	35,833	4,270	7,221

<sup>1</sup> Budget.

<sup>2</sup> Mar. 27, 1980. Date of fiscal year 1981 budget hearing before House Appropriations Subcommittee on State, Justice, and Commerce, the Judiciary, and related agencies.

<sup>3</sup> Apr. 8, 1980.

Note. Net foreign currency loss Oct. 1, 1979 to Mar. 31, 1980, \$2,951.

IMPACT OF A LOWER THAN REQUESTED SUPPLEMENTAL

Mr. HIGHTOWER. As you may know, there is no room left for supplemental appropriation bills under the Second Concurrent Resolution on the Budget for fiscal year 1980. Congress is going to have to pass a Third Concurrent Resolution on the Budget for fiscal year 1980 which would increase the aggregate ceilings on budget authority and outlays before we can consider this or any other pending supplemental appropriation request. What would be the impact on the Radios if the Congress does not increase the ceiling or does not increase it sufficiently to accommodate their entire supplemental request?

Dr. GRONOUSKI. Well, the impact would depend on what the average costs of West German marks turned out to be during the year. But let's say it was \$3.3 million, instead of \$6.6 million, just to use a figure. There would be a devastating impact. I think we would have to close down a couple of services and fire a lot of people.

Mr. HIGHTOWER. Would you turn to the private sector again and borrow funds from them with the hope to repay these funds in fiscal year 1981?

Mr. FERGUSON. We have a new technique of using existing resources in a capital fund on a temporary basis to fill the gap so that we would not contemplate the need to borrow to fill that gap in future years.

Mr. O'BRIEN. Would the gentleman yield?

Mr. HIGHTOWER. Mr. O'Brien.

SOURCES OF DONORS TO RFE/RL FUND, INC.

Mr. O'BRIEN. I am not referring to the supplemental particularly, but I note that the RFE/RL Fund, Inc., is concerned with receiving private donations. How effective is that? Does it give you any substantial leeway?

**Mr. FERGUSON.** It has virtually been moribund in recent years. Two years ago we resurrected the concept of the Fund. We are making an effort to solicit additional dollars, but we do not anticipate that the total income generated in any calendar year would exceed \$100,000.

**Mr. O'BRIEN.** Can you give me an idea of the sources? Are they individuals, foundations or what?

**Dr. GRONOUSKI.** May I say the complete record is filed with our House and Senate Subcommittees every year on who gave the money, how much and on what date.

**Mr. FERGUSON.** League of Women Voters, North Carolina, must have 50 different league groups in that state which give \$25 to \$100 a year. The largest grant, I believe, was somewhere around \$1,500 in the past year.

**Mr. O'BRIEN.** Then from your standpoint, these donations do not amount to much.

**Mr. FERGUSON.** The individual grants are not extensive, and the total does not exceed \$100,000.

**Mr. O'BRIEN.** Do any of the major foundations, such as Ford, offer you any funds?

**Mr. FERGUSON.** No, but some smaller foundations concerned with freedom of information have supported the Fund in past years.

**Mr. O'BRIEN.** How do you feel about these donations as a source of funding?

**Mr. FERGUSON.** We do not think it is going to be a source of funding in a major way in comparison to an \$80 or \$90 plus million dollar budget, but the flexibility to inaugurate programs such as the internship we see on a continuing basis as a sufficient rationale.

**Mr. O'BRIEN.** Thank you, Mr. Chairman.

#### BORROWING CAPACITY LIMITED TO FORTHCOMING AVAILABILITY OF FUNDS

**Dr. GRONOUSKI.** I might say, just to follow up on your "what if we didn't get the \$6.6 million or part of it," that the borrowing capacity is a limited one and the only reason it made sense to borrow is that I had a sense from the Congressional committees involved that that money would be forthcoming subsequently.

Unless we were reasonably sure of getting the money ultimately, we would be foolish to try to borrow the money, I think. If we lost anything like \$6 million, we would have a big chunk of our operation going out of business. I do not see how we would do anything else.

**Mr. HIGHTOWER.** Dr. Gronouski, Dr. Ferguson, Mr. Levin, we appreciate your testimony here today. Thank you very much.

**Dr. GRONOUSKI.** Thank you, Mr. Hightower.

### DEPARTMENT OF THE TREASURY

#### CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM

(The following language proposal was included in the supplemental section of the budget transmitted in January 1980. The proposal was discussed at hearings on the 1981 budget held April 15, 1980.

See hearings on State, Justice, and Commerce, the Judiciary and Related Agencies Appropriations for 1981.)

**CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM**

(Supplemental appropriation language request pending)

There are appropriated such sums as may be necessary for payment of principal and interest on loans guaranteed pursuant to the Chrysler Corporation Loan Guarantee Act of 1979 and in default, to be available immediately and to remain available until December 31, 1991.

THURSDAY, MARCH 6, 1980.

**FEDERAL COMMUNICATIONS COMMISSION**

**WITNESSES**

CHARLES D. FERRIS, CHAIRMAN  
 PHILIP VERVEER, CHIEF, COMMON CARRIER BUREAU  
 FRANK WASHINGTON, DEPUTY CHIEF, BROADCAST BUREAU  
 CARLOS ROBERTS, CHIEF, PRIVATE RADIO BUREAU  
 JIM MCKINNEY, ACTING CHIEF, FIELD OPERATIONS BUREAU  
 BOB BRUCE, GENERAL COUNSEL  
 STEPHEN LUKASIK, CHIEF SCIENTIST  
 DON LICHTWARDT, EXECUTIVE DIRECTOR  
 NINA CORNELL, CHIEF, OFFICE OF PLANS AND POLICY  
 BOB MANN, DIRECTOR, OFFICE OF PUBLIC AFFAIRS  
 THOMAS CAMPBELL, ASSOCIATE EXECUTIVE DIRECTOR FOR OPERATIONS  
 RYAN TAYLOR, BUDGET OFFICER

Mr. EARLY (presiding). The Federal Communications Commission has pending a supplemental which would increase the limitation in the appropriation language for land and structures from \$325,000 to \$1,125,000 and would increase the limitation on improvement and care of grounds and repair to buildings from \$65,000 to \$100,000.

At this time, we are going to insert in the record, the letter from the Executive Director of the Commission of February 21, 1980, in support of this request.

[The information follows:]

FEDERAL COMMUNICATIONS COMMISSION,  
 Washington, D.C., February 21, 1980.

Hon. JOHN M. SLACK,  
 Chairman, Subcommittee on State, Justice and Commerce, the Judiciary, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Per your request, this letter provides justification for requests to change the Federal Communications Commission's Fiscal Year 1980 Appropriation Language.

We request that the current \$65,000 limitation for improvement and care of grounds and repair of buildings be increased to \$100,000. During FY 1980, as in prior years, the Commission will use almost all of the current limitation for routine maintenance of Commission-owned field offices at the expense of foregoing some much needed property repairs. The following unforeseen repairs will require an increase in the limitation.

(1) Replacement of the air conditioning system control units at our laboratory located in Laurel, MD. The proper operation of these units is critical to our laboratory testing program. The present control units are obsolete, and must be replaced with more modern and reliable units.

(2) Replacement of a power line which intermittently shorts out in an outdoor test facility at our Laurel laboratory. Both the test facility and power line date back to 1948, and replacement of the line would be the most economically feasible course of action.

We request that the \$325,000 limitation for land and structures be increased to \$1,125,000. This proposed language change would enable the Commission, at the request of the State of Florida, to relocate the Fort Lauderdale monitoring station to permit the widening of Florida State Road 84. This road is scheduled to become part of the Interstate Highway System and Federal funds are targeted for its completion. The State of Florida has agreed to deposit in the General Fund of the Treasury an estimated \$700,000 for the relocation and construction of the new monitoring facility. Subsequent to Congressional action on our FY 1980 Budget Estimates, OMB determined that an equivalent amount to that deposited by the State of Florida could only be made available to the Commission through the mechanism of an indefinite appropriation during FY 1980. In order to use the funds provided by the State of Florida for relocation and construction of the facility, we therefore have requested that our limitation for land and structures be raised to \$1,125,000.

Upon approval of the requested language changes, we will reprogram the funds needed to effect the repairs of buildings and improvement of grounds from our FY 1980 mail account. We expect that mail funds will be made available due to decreased numbers of incoming applications. No augmentation of our Fiscal Year 1980 direct appropriation is required in this instance, nor for the projected relocation of the Fort Lauderdale monitoring station.

We would be pleased to discuss these requirements with you or your staff at your convenience.

Sincerely,

R. D. LICHTWARDT,  
*Executive Director.*

#### RELOCATION OF FORT LAUDERDALE MONITORING STATION

**Mr. EARLY.** The current limitation is \$325,000. Your letter indicates that the State of Florida has agreed to deposit in the Treasury an estimated \$700,000 for the relocation and construction of the new monitoring facility. By my arithmetic, the limitation needs to be raised to \$1,025,000 to accommodate this increase. Why are you requesting the additional \$100,000?

**Mr. CAMPBELL.** We proposed the additional amount, based on the fact that the \$700,000 represents our preliminary estimate on this matter. Because it is a statutory amount, rather than running over by \$500 or \$5,000, since we have not finished the final negotiations with the State of Florida, we built in a margin of error with the \$100,000.

**Mr. EARLY.** When do you expect to complete the negotiations with Florida?

**Mr. CAMPBELL.** It is my understanding within the next two to three months. They have run into a snag in terms of the availability of land. Part of this is involved in moving a road, a State highway, to the front of our property and giving us property at the rear of our current parcel, and they have had some difficulties. We expected to have this resolved last fall. We are looking at the next two to three months.

**Mr. EARLY.** Wouldn't it be better to leave \$100,000—which is a 10 percent error—and ask you to do this within what you expect it is going to cost?

**Mr. CAMPBELL.** We are not proposing an additional appropriation, only additional authorization. We would come back to you in terms of reprogramming the funds, with whatever justification we had, to show why we are going over \$700,000. It would be an additional fund from the State of Florida.

## BUILDING AND GROUNDS MAINTENANCE

**Mr. EARLY.** With respect to the requested increase in the limitation for improvement and care of grounds and repair of buildings, why wasn't this problem of major property repairs foreseen at the time your fiscal year 1980 budget was prepared? Surely you knew there were old and obsolete systems to be replaced.

**Mr. CAMPBELL.** We proposed in the Fiscal Year 1980 and 1981 budgets to OMB substantial increases for building and grounds maintenance. A number of our buildings throughout the country need substantial repair. They were not approved. We are proposing, as our fallback option, if you will, just the authority which will then allow us to reprogram money in Fiscal Year 1980.

**Mr. EARLY.** How much will the projects cost?

**Mr. CAMPBELL.** All of them?

**Mr. EARLY.** Yes.

**Mr. CAMPBELL.** We think \$35,000 will allow us to take care of the repairs at Laurel, a relatively new building, six or seven years old, coming into the first repair cycle. The remaining \$65,000 is targeted to building and ground maintenance projects throughout the 13 monitoring stations in the field.

**Mr. EARLY.** Where will you get the money for these projects?

**Mr. CAMPBELL.** \$65,000 is in the basic budget for Fiscal Year 1980. The remaining \$35,000 we are proposing to reprogram from our official mail budget.

**Mr. EARLY.** The proposed appropriation language makes no reference to the fiscal year 1980 Appropriations Act. Since the purpose of the requested change is to increase the limitations that currently exist under that legislation, isn't your proposal deficient in that respect?

**Mr. CAMPBELL.** I think it may be technically deficient. In terms of the proposal, we suggested that those two pieces of our Fiscal Year 1980 Appropriations Act be changed. We ran this through the Office of Management and Budget before it was presented to the Congress.

**Mr. EARLY.** Mr. Ferris, thank you for your testimony.

**Mr. FERRIS.** Thank you, Mr. Early.

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MONDAY, MARCH 3, 1980.

## FEDERAL TRADE COMMISSION

## WITNESSES

MICHAEL PERTSCHUK, CHAIRMAN

CHRISTIAN S. WHITE, EXECUTIVE DIRECTOR

ALBERT H. KRAMER, DIRECTOR, BUREAU OF CONSUMER PROTECTION

ALFRED F. DOUGHERTY, JR., DIRECTOR, BUREAU OF COMPETITION

WILLIAM COMANOR, DIRECTOR, BUREAU OF ECONOMICS

MICHAEL N. SOHN, GENERAL COUNSEL

E. PERRY JOHNSON, DEPUTY DIRECTOR, BUREAU OF COMPETITION

RICHARD C. FOSTER, DEPUTY DIRECTOR, BUREAU OF CONSUMER PROTECTION

BARRY J. KEFAUVER, DEPUTY EXECUTIVE DIRECTOR

JAMES A. WILLIAMS, DIRECTOR, DIVISION OF BUDGET AND FINANCE

**Mr. SMITH** (presiding). With respect to the fiscal year 1980 supplemental, you are requesting \$3,721,000 in budget authority. We shall insert the supplemental justifications at this point in the record.

[The justification materials follow:]

## PART III - SUPPLEMENTALS

FEDERAL TRADE COMMISSION  
Salaries and Expenses

(Appropriation request pending, additional authorization legislation required.)

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed \$1,500 for official reception and representation expenses; \$69,021,000. (15 U.S.C. secs. 41 et seq.). Additional authorizing legislation has been proposed.

PROGRAM AND FINANCING  
(in thousands of dollars)

	1979 <u>act.</u>	1980 <u>est.</u>	1981 <u>est.</u>
<b>Program by activities:</b>			
1. Maintaining Competition.....	1,726		
2. Consumer Protection.....	1,700		
3. Economic Activities.....	295		
<b>10.00 Total obligations<sup>1</sup>.....</b>	<b>3,721</b>		
<b>Budget Authority:</b>			
<b>40.00 Appropriation.....</b>	<b>3,721</b>		
<b>Relation of obligations to outlays:</b>			
<b>71.00 Obligations incurred, net.....</b>	<b>3,721</b>		
<b>90.00 Outlays.....</b>	<b>3,721</b>		

<sup>1</sup>Includes capital investment as follows: 1980 \$45 thousands.

This appropriation, pending before the Congress, would replace the existing Continuing Resolution and add to it \$3,721 million to permit the Federal Trade Commission to continue to operate at present program levels.