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att/ps

May 19, 1964

EXECUTIVE

FG 245-

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LG/Cincinnati

FG 405-

Dear Mr. Comptroller General:

This is in acknowledgment of your letter of May eighteenth to the President, enclosing a copy of your report to the Congress on weaknesses in administration of the requirement for the workable program for community improvement for the city of Cincinnati, Ohio, by the Housing and Home Finance Agency.

It has been noted that two copies of this report are being sent to the Director of the Bureau of the Budget.

Sincerely,

Ralph A. Dungan
Special Assistant
to the President

Honorable Joseph Campbell
Comptroller General
of the United States
Washington, D. C.

rah

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

*ackd.
5/19/64
Rab*

B-118754

May 18, 1964

Dear Mr. President:

Herewith is a copy of our report to the Congress on weaknesses in administration of the requirement for the workable program for community improvement for the city of Cincinnati, Ohio, by the Housing and Home Finance Agency.

Two copies of this report are being sent today to the Director, Bureau of the Budget.

Respectfully yours,

A handwritten signature in cursive script, reading "Lloyd Bentsen", is written over the typed name.

Comptroller General
of the United States

Enclosure

The President
The White House

The White House
Washington

1964 MAY 18 PM 3 01

**REPORT TO
THE CONGRESS OF THE UNITED STATES**

**WEAKNESSES IN ADMINISTRATION OF
REQUIREMENT FOR THE
WORKABLE PROGRAM FOR COMMUNITY IMPROVEMENT
FOR THE
CITY OF CINCINNATI, OHIO**

HOUSING AND HOME FINANCE AGENCY



**BY
THE COMPTROLLER GENERAL
OF THE UNITED STATES**

MAY 1964



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

MAY 18 1964

B-118754

To the Speaker of the House of Representatives
and the President pro tempore of the Senate

Our review disclosed certain weaknesses in the administration of the requirement for the workable program for community improvement for the city of Cincinnati, Ohio, by the Housing and Home Finance Agency. The Housing Act of 1949, as amended, requires that, as a prerequisite to the receipt of Federal financial assistance for certain housing programs, a community must present to the Administrator, Housing and Home Finance Agency, a workable program for community improvement, which is a continuing plan of action for effectively dealing with the problem of urban slums and blight. These programs must be certified by the Administrator who then recertifies them periodically.

The Housing and Home Finance Agency repeatedly recertified Cincinnati's workable program and executed two urban renewal contracts providing for loans of about \$40 million and grants of about \$25.6 million, although the city did not make reasonable progress in correcting certain basic housing code deficiencies, the correction of which the Agency considered essential. Further, the loan and grant contracts were executed at times when the Agency had withheld recertification of the workable program. The recertification of the workable program and the propriety of the execution of the loan and grant contracts under such circumstances is questionable because the city had not provided the means for effectively dealing with the whole problem of urban slums and blight.

The Administrator informed us that he had revised his policies to require that certification or a subsequent recertification of the workable program must be currently in effect at the time of execution of a loan and grant contract and that he had strengthened the criteria used by his staff in evaluating communities' workable programs. We believe that these actions, if properly implemented, will aid in achieving the objectives of the urban renewal program.

B-118754

Copies of this report are being sent to the President of the United States and to the Administrator, Housing and Home Finance Agency.

A handwritten signature in dark ink, appearing to read "Roger Campbell". The signature is fluid and cursive, with a large initial "R" and a stylized "C".

Comptroller General
of the United States

C o n t e n t s

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REPORT ON
WEAKNESSES IN ADMINISTRATION OF
REQUIREMENT FOR THE
WORKABLE PROGRAM FOR COMMUNITY IMPROVEMENT
FOR THE CITY OF CINCINNATI, OHIO
BY THE
HOUSING AND HOME FINANCE AGENCY

INTRODUCTION

The General Accounting Office has made a review of the administration of selected phases of Cincinnati, Ohio's, workable program for community improvement by the Chicago regional office, Housing and Home Finance Agency (HHFA). Workable programs for community improvement are required by the Housing Act of 1949, as amended (42 U.S.C. 1451). Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67). The scope of our review is described on page 17 of this report. In December 1962 we issued a similar report on the administration of the requirement for the workable programs for community improvements by the Fort Worth HHFA regional office (B-118754, December 17, 1962).

HHFA, created under Reorganization Plan 3 on July 27, 1947, was established to carry out the principal housing, home financing, and community development functions of the Federal Government. The Agency is headed by an Administrator who is responsible for the general supervision and coordination of the whole range of housing programs and operations which the Agency embraces.

Title I of the Housing Act of 1949, as amended (42 U.S.C. 1450), authorizes Federal assistance to local communities through advances, loans, and capital grants for the purpose of assisting in

the elimination and prevention of slums and blighted or deteriorating areas.

The following officials were responsible for the activities examined in our review.

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
ADMINISTRATOR, HHFA:		
Albert M. Cole	Mar. 1953	Jan. 1959
Norman P. Mason	Jan. 1959	Jan. 1961
Lewis E. Williams (Acting)	Jan. 1961	Feb. 1961
Robert C. Weaver	Feb. 1961	Present
REGIONAL ADMINISTRATOR, CHICAGO HHFA REGIONAL OFFICE:		
John P. McCollum	July 1955	Present

BACKGROUND

The concept of workable programs for community improvement is an integral part of the slum clearance and urban renewal program.

Prior to 1954, the slum clearance and urban redevelopment program was basically concerned with the demolition of slums. The Housing Act of 1954 (68 Stat. 590) broadened the program to provide for Federal assistance for urban renewal which could cover not only slum clearance and urban redevelopment but also rehabilitation and conservation of blighted and deteriorating areas. In enacting the Housing Act of 1954, the Congress set forth its belief that the problem of urban decay could not be controlled solely through the clearance of existing slums; that the problem would have to be attacked on a community-wide basis; and that financial assistance should be extended to only those communities that are willing to utilize their public and private resources to encourage, on a community-wide basis, the elimination and prevention of slums and blight. Accordingly, the Congress amended section 101 of the Housing Act of 1949 to require that a community must develop a comprehensive workable program for community improvement in order to receive Federal financial assistance under the slum clearance and urban renewal program and under other housing programs (including low-rent public housing).

Section 101(c) of the Housing Act of 1949, as amended (42 U.S.C. 1451), states, in part, that:

"No contract shall be entered into for any loan or capital grant *** unless (1) there is presented to the Administrator by the locality a workable program for community improvement (which shall include an official plan of action, as it exists from time to time ***) for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and urban blight, *** and (2) on the basis of his review of such

program, the Administrator determines that such program meets the requirements of this subsection ***."

A workable program for community improvement (hereafter referred to as workable program), as set forth in the Housing Act of 1954, is a municipality's official plan of action for effectively dealing with the problem of slums and blight, for establishing and maintaining a well-planned community, and for utilizing appropriate private and public resources to achieve the objectives of the slum clearance and urban renewal program. Each community's workable program must, by law, be certified by the Administrator. The Administrator has issued regulations which require communities to update their programs and submit them annually for recertification. It is significant that the certification of workable programs is, by law, a nondelegable function of the Administrator.

HHFA regulations provide that each workable program must be prepared by the governing body of the municipality which must incorporate into the workable program a declaration of policy summarizing what the municipality expects to accomplish through its workable program, identifying specific problems to be resolved and major objectives to be attained.

The adequacy of the workable program submissions is evaluated by HHFA regional office employees who are available also to provide technical assistance to the municipalities. After the HHFA regional offices have reviewed the workable program submissions and supporting documentation and have considered them to be satisfactory, they submit the workable programs to the Administrator for certification. HHFA officials in Washington review all submissions and provide technical and policy guidance to HHFA regional offices and to municipalities.

The stated policy of HHFA is to extend financial assistance to only those communities that will assume the obligation to use their authority and their public and private resources to develop and carry out a workable program for the elimination and prevention of slums and blight. As a prerequisite to certification of a workable program, HHFA procedures require that each community show that it has taken steps to carry out the program. As a prerequisite for the annual recertification of a workable program, HHFA procedures require that the community show evidence of substantial and balanced accomplishments together with a steady rate of progress toward its goals.

In the administration of the workable program requirement of the Housing Act of 1954, HHFA has established seven basic elements that workable programs submitted by municipalities must contain. Those basic elements are:

1. Adequate codes and ordinances.
2. A comprehensive community plan for land use, thoroughfares, community facilities, public improvements, and zoning and subdivision regulations.
3. Neighborhood analysis to locate blight, determine its extent, and recommend remedial action.
4. Establishment of an adequately staffed administrative organization to coordinate action and check regularly on progress toward the attainment of established goals.
5. Review of needs, identification of sources of funds, and provision for required financing.
6. A plan to meet the relocation needs of families being displaced by governmental action.
7. Establishment of a citizens' advisory committee to obtain the broad support of the community's civic, business, and professional leaders.

Our review of the legislative history of the Housing Act of 1954 indicated that the Congress was especially concerned with that aspect of the workable program regarding the adoption of housing codes and ordinances. Accordingly, our review was directed primarily toward evaluating the manner in which this requirement for the workable program element was administered.

Codes and ordinances, as discussed in this report, are local laws which vest the community with permanent power to enforce adequate standards of health, sanitation, and safety for the homes of its inhabitants and for the structures of its industrial, commercial, and other enterprises.

In its bulletin, "Codes and Ordinances," HHFA states that:

"Codes and ordinances thus constitute an essential element of any program which seeks to prevent and eliminate slums and blight by conserving areas not yet seriously impaired, rehabilitating neighborhoods worth saving, removing structures beyond repair, and replacing them with suitable housing and other facilities for better living. Thus, a program for the development and improvement of codes and ordinances is an essential element of a Workable Program prerequisite to several Federal aids for urban renewal. A comprehensive and up-to-date system of codes and ordinances is also a prerequisite for major Federal assistance for urban renewal projects assisted under Title I of the Housing Act of 1949, as amended.

"When there already exist, or begin to develop, dwellings unsuited for safe and decent human habitation, it becomes necessary for the community to draw a line between fit and unfit housing and to establish controls for the prevention and elimination of slums and blight. This requires the development of local standards which define acceptable housing and their adoption as part of the local system of codes and ordinances."

Standards for dwelling structures relate primarily to the construction, maintenance, repair, occupancy, and use of the individual buildings and their equipment. These standards generally fall

into two main categories: (1) housing standards which are embodied in codes that prescribe the minimum conditions under which buildings may be lawfully occupied as dwellings or dwelling units and (2) building or construction standards which are embodied in codes that prescribe structural strength, reasonable safety from fire, and proper plumbing, electrical, and heating installation in buildings.

The standards discussed in this report deal primarily with housing standards as embodied in codes (hereinafter referred to as housing codes).

Although the workable program section of the Housing Act of 1949, as amended, is silent as to codes and ordinances, section 101(a) of the act requires that:

"In entering into any contract for advances for surveys, plans, and other preliminary work for projects under this title or for grants pursuant to section 103(d), the Administrator shall give consideration to the extent to which appropriate local public bodies have undertaken positive programs (through the adoption, modernization, administration, and enforcement of housing, zoning, building and other local laws, codes and regulations relating to land use and adequate standards of health, sanitation, and safety for buildings, including the use and occupancy of dwellings) for (1) preventing the spread or recurrence in the community of slums and blighted areas ***."

WORKABLE PROGRAM REPEATEDLY RECERTIFIED
AND URBAN RENEWAL FUNDS MADE AVAILABLE
FOR CITY THAT DID NOT MEET ESSENTIAL
WORKABLE PROGRAM REQUIREMENTS

HHFA repeatedly recertified the workable program of the city of Cincinnati, Ohio, and executed two slum clearance and urban renewal contracts providing for loans of about \$40 million and grants of about \$25.6 million to the city although the city did not make reasonable progress in correcting certain basic housing code deficiencies, the correction of which HHFA considered essential. Further, the loan and grant contracts were executed at times when HHFA had withheld recertification of the workable program. The recertifications of the workable program and the propriety of the execution of the loan and grant contracts under such circumstances is questionable in that urban renewal funds were made available at times when the community had not provided the means for effectively dealing with the whole problem of urban slums and blight.

In 1952 the American Public Health Association (APHA) published "A Proposed Housing Ordinance" which HHFA endorses as a model housing code. HHFA determined that Cincinnati's housing code did not meet the minimum standards of APHA's model code in the following essential respects:

1. Neither a bath nor a shower was required in each dwelling unit.
2. There was no provision for a lavatory in each dwelling unit.
3. There was no requirement for acceptable heating facilities.
4. There was no provision for window screens.

In its original request for certification of its workable program, the city recognized the need for improvement of its housing code and promised to investigate and report within a year on

recommendations designed to accomplish the major objectives of the city with respect to codes and ordinances. The Administrator, HHFA, certified the workable program in June 1955. This certification was to be effective for a period of 1 year. In submitting its workable program for recertification in June 1956, the city, in commenting on the status of the major objectives of the preceding year, stated that:

"*** the requirement for bath and hot running water in every dwelling unit *** is simply not practicable at this time.

* * * * *

"*** it is felt that the time is hardly propitious for a bathtub or shower requirement, although such will undoubtedly be the case in the next few years ***. In new dwellings or those substantially altered, a bath is required. While there is no requirement for a lavatory, it is felt that its absence is far more than compensated for by the provisions which eliminate the sharing of sinks and toilets."

Regarding the lack of requirements for acceptable heating facilities and for window screens, the city stated:

"A requirement for central heat would encounter serious public opposition and be completely impracticable for existing units.

"Window and door screen requirements.

The health officers of the community do not as yet believe them to be essential."

In the data submitted, the city did not establish target dates for the adoption of these minimal code requirements. HHFA, in its evaluation of the city's request for recertification of its workable program, recognized that, when compared with housing regulations recommended by APHA and with regulations adopted by certain other major cities, Cincinnati's regulations were weak in several

respects. Nevertheless, on August 28, 1956, the Administrator, HHFA, recertified the city's workable program. This recertification provided for an expiration date of July 1, 1957.

Prior to the workable program's expiration date of July 1, 1957, the Housing and Home Finance Agency entered into planning contracts with the city for the Queensgate I urban renewal project and the Avondale I-Corryville urban renewal project.

After Cincinnati's fourth workable program expired on November 30, 1959, the Administrator withheld recertification because the city had not made reasonable progress in correcting basic housing code deficiencies, the correction of which was considered essential by HHFA. On March 14, 1960, the Chicago HHFA Regional Administrator advised the City Manager that:

"Having reviewed the Workable Program Recertification request for Cincinnati, this office is ready to make a recommendation to Washington. However, we find that the regulations affecting existing dwellings and dwelling units are still seriously deficient. Before recommending recertification, we must have assurance that these deficiencies will be corrected. Such assurance is especially necessary since adequate housing regulations are essential in order to effectively carry out rehabilitation in the Avondale area.

"These deficiencies concern the lack of a requirement for: (1) a bathtub or shower, (2) a lavatory, (3) supplied heat, and (4) window screens."

Although the city failed to correct the basic housing code deficiencies which HHFA considered significant, the Administrator recertified the workable program on July 26, 1960, for the fifth time, on the basis of the city's statement that a committee had been formed to study appropriate modifications to its housing code.

During the interim while the Administrator was withholding recertification of the city's workable program, the Chicago Regional Administrator executed a contract with the city in April 1960

which provided for loans of about \$30 million and grants of about \$16.4 million for the Queensgate I urban renewal project, even though the significant deficiencies in the city's workable program had not been corrected.

On September 14, 1960, the city enacted an ordinance requiring a method of heating all parts of dwelling units to a temperature of 70° Fahrenheit in zero weather. However, this ordinance was interpreted by the Cincinnati Housing Bureau as follows:

"This ordinance should not be interpreted to mean that a landlord is required to furnish the heat itself. The ordinance clearly states that it is the landlord's responsibility to furnish a method of heating the dwelling unit and this has been interpreted to mean an approved flue with gas piped to a convenient point below it."

The APHA model code requires heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein to a temperature of at least 70° Fahrenheit at a distance 3 feet above floor level. HHFA officials informed us that the Cincinnati heating ordinance fails to meet the requirements of the model code in the following two respects:

1. The interpretation that only a flue and a gas pipe are required assumes that each tenant owns a space heater. However, in an existing building catering to low-income tenants, there is no assurance that adequate heat will be supplied if the tenant does not own, and cannot afford to buy, an adequate heating unit.
2. The safety of space heaters is questionable. An inspection in 1960 of 5,428 space heaters by the Cincinnati Housing Bureau showed that 1,013 or 20 percent were unsafe.

After the certification expired, the Administrator denied the city's request for a certification for the sixth time because the city still had not corrected three of the basic weaknesses in the housing code--requirements for a bath or a shower, a lavatory, and

window screens. However, in February 1962, although the city did not have a currently certified workable program in effect, HHFA executed another contract with the city which provided for loans of about \$10 million and grants of about \$9.2 million for the Avondale I-Corryville urban renewal project.

The execution of the loan and grant contracts with the city for Queensgate I and Avondale I-Corryville projects did not technically violate the workable program requirement of the act which provides that no contracts shall be entered into unless the Administrator, HHFA, has approved the locality's workable program. The recertification on August 28, 1956, provided that the certification would expire July 1, 1957, except that the certification would continue in effect after that date for (1) certain title I urban renewal aid, (2) low-rent public housing aid, and (3) certain mortgage insurance programs. For title I urban renewal aid, the certification continued, in effect,

"To provide (subject to applicable requirements) Federal assistance under Title I of the Housing Act of 1949, as amended, for any urban renewal project in the locality respecting which a contract for advance or other Federal aid pursuant to such Title I (including a Letter to Proceed or other authorization for planning or project activities) is executed prior to the Expiration Date."

This provides that, when HHFA has entered into a contract with the city for a planning advance for an urban renewal project, HHFA could enter into a contract at a later date to extend Federal loan and grant funds to the city to carry out that project without regard to whether the city was making reasonable progress in meeting fundamental workable program objectives.

The recertification of the workable program and the propriety of the execution of the loan and grant contracts under such circumstances is questionable because the city had not provided the means

for effectively dealing with the whole problem of urban slums and blight on a community-wide basis.

AGENCY'S COMMENTS AND CORRECTIVE ACTION

In a letter to us dated May 22, 1963, the Administrator, HHFA, stated that Cincinnati's housing regulations had been gradually improved over the years during which the city had participated in the workable program and the urban renewal program. He called our attention to numerous sections of the city's housing code which had been reenacted and brought up to date since its inception in 1933 and listed many code improvements which the city had identified in its 1959 request for recertification. He stated also that the city had enacted an ordinance requiring that, after January 1, 1967, all existing dwelling units must have a bathtub or shower equipped with hot and cold running water. Regarding the city's heating requirements, the Administrator stated:

"The [Cincinnati] Housing Bureau's 1960 annual report states in part, in this connection: 'This is done because the individually owned space heater is a firmly entrenched and accepted means of heating apartments in older buildings. There are an estimated 50,000 of such space heaters in use, (in Cincinnati) and so long as the heater is well regulated, and properly vented, it seems to be a satisfactory method of heating habitable space.' While it is true that there is some hazard involved in the use of any type of space heater, it would appear to be unreasonable and unrealistic to require the installation of central heating plants in Cincinnati's hundred year old tenement buildings, which were designed and built for stove heat."

We recognize that, as a practical matter, a city cannot immediately include in its housing code all desirable standards and that a transitional period is necessary. However, the fact remains that HHFA (1) on two occasions refused to recertify the city's workable program because of the city's failure to correct

basic housing code deficiencies, the correction of which was considered essential by HHFA, and (2) made urban renewal funds available to the city for the execution of urban renewal projects although the city over a period of time had not corrected the basic housing code deficiencies. We believe that HHFA should withhold recertification of workable programs and urban renewal funds from communities that do not make reasonable progress, over a period of time, toward providing essential minimum workable program requirements. Further, we believe that withholding recertification is not really effective unless financial assistance is also withheld.

In our report to the Congress on the review of selected phases of workable programs for community improvement under the administration of the Fort Worth regional office, HHFA (B-118754, December 17, 1962), we pointed out that the Administrator, HHFA, repeatedly recertified workable programs of cities which showed no appreciable progress toward correcting serious workable program deficiencies. We suggested that (1) the Administrator require more meaningful evaluations of all elements of the workable program and stress that these evaluations should be concerned with reasonable progress by communities in meeting workable program goals and (2) if such progress is not made, workable program recertification be withheld. The Administrator informed us that his Agency endorsed the suggestions and was employing, and would in the future pursue, every means for carrying them out.

In commenting on our findings relating to the administration of the requirement for Cincinnati's workable program, the administrator informed us that he reendorsed the suggestions.

The Administrator informed us also that it had been HHFA's policy, prior to December 1961, to consider that the workable

program requirement of section 101(c) of the act had been met for any project for which a workable program was in effect at the time a planning advance contract was executed. He informed us also that the Agency revised its procedures in December 1961 to preclude the execution of a loan and grant contract for an urban renewal project unless the locality had a certification or subsequent recertification of its workable program in current effect. In addition, the criteria established by the Administrator for use by his staff in evaluating workable programs have been strengthened measurably since the completion of our field work. The revised criteria provide that, before a community's initial workable program can be approved, the community must establish a target date for the adoption of nationally recognized model codes or codes that provide technical and administrative standards comparable to those in the model codes. The target dates for adoption must be during the first year after the original workable program certification. The revised criteria provide also that, before the workable program can be recertified, the community must have adopted all the codes for which target dates were set under the original submission.

We believe that proper implementation of the revised policy and criteria will aid in achieving the objectives of the urban renewal program.

SCOPE OF REVIEW

Our review of the administration of selected phases of the workable program of Cincinnati, Ohio, was made at the HHFA regional office located in Chicago, Illinois, and at the city of Cincinnati, Ohio. Our examination included:

1. A review of the basic laws authorizing the program and the pertinent legislative history.
2. A review of HHFA's policies and procedures and its administrative regulations applicable to housing codes and ordinances.
3. A review of selected transactions and related correspondence, documents, and other data pertaining to the housing codes and ordinances of the city of Cincinnati.

EXECUTIVE

WE 9

FG999-6

FG245

May 13, 1964

Dear Mayor Collins:

The President appreciated the statement of the Executive Committee of the American Municipal Association on some aspects of our urban and domestic problems, and asked that I reply to your letter and the points made in the statement. The support expressed for the Anti-Poverty Program and the Administration's proposals in the field of mass transportation, area redevelopment, and housing and community development, is of course most welcome. The American Municipal Association knows first hand the problems we are trying to solve with the Anti-Poverty Program and our major proposals to assist orderly urban growth and development.

We can easily understand the concern for effective coordination of Federal urban programs which prompts your recommendation for the establishment of a task force to study the need for a Presidential staff to provide this coordination. The growing size and complexity of urban problems has become a matter of great concern at every level of government. It is clearly apparent that only by concerted and coordinated governmental and private effort can we expect to cope with these serious problems which cut across State and local boundary lines.

The President has, as you observed, submitted to the Congress a proposal to establish a Cabinet-level Department of Housing and Community Development, and your continuing support for this proposal is appreciated. A primary objective of establishing a Cabinet-level Department of Housing and Community Development is to provide leadership and assistance in achieving the necessary planning and action with respect to all Federal activities affecting urban areas.

There have been, as you know, many studies by independent commissions of the need for effective coordination of urban programs in the executive departments and agencies. Congressional committees have also studied and held extensive hearings on these same questions.

EX-100

FIS-4

FG 245

THE WHITE HOUSE

WASHINGTON

MAY 15 1964

Honorable Robert C. Weaver
Administrator, Housing and Home Finance
Agency, and Chairman, Board of Directors
Federal National Mortgage Association
Washington, D. C. 20410

Dear Mr. Weaver:

In response to your letter of March 13, 1964, I am making an additional \$200,000,000 of the Federal National Mortgage Association special assistance authorization available for commitments by the Association for mortgages on housing for low and moderate income families which are insured under Section 221(d)(3) of the National Housing Act and bear interest rates below the maximum under FHA regulations. This increases the amount of \$750,000,000 made available on July 29, 1963, to \$950,000,000.

The foregoing amount is the aggregate amount of purchases and commitments which may be outstanding at any one time, and is based upon my determination, pursuant to Section 305 of the Federal National Mortgage Association Charter Act, that such action is in the public interest.

Sincerely,

LYNDON B. JOHNSON

WHITE HOUSE FILE COPY

EXECUTIVE

YT2-1

FG245

April, 24, 1964

MEMORANDUM FOR

Milt Semer
HIEFA

The report prepared by Paul Emmert of the Community Facilities Division in San Francisco on the Woodside power line controversy is, in my view, an excellent job and I hope you will pass on my appreciation to Mr. Emmert.

Lee C. White
Associate Special Counsel
to the President

THE WHITE HOUSE OFFICE

ROUTE SLIP

(To Remain With Correspondence)

TO Director of the Bureau of the
Budget
Attention: Mr. William Carey
Executive Assistant
Director

PROMPT HANDLING IS ESSENTIAL.
WHEN DRAFT REPLY IS REQUESTED
THE BASIC CORRESPONDENCE MUST
BE RETURNED. IF ANY DELAY IN
SUBMISSION OF DRAFT REPLY IS
ENCOUNTERED, PLEASE TELEPHONE
OFFICE OF THE SPECIAL ASSISTANT.

Date April 21, 1964FROM THE SPECIAL ASSISTANT

ACTION:

Comment _____
Draft reply _____
For direct reply _____
For your information _____
For necessary action _____
For appropriate handling X _____
See below _____

Remarks:

GPO 16-71264-2

Ltr. to Pres., 4/20/64, from Robert C.
Weaver, Administrator, Housing & Home
Finance Agency - submitting the report of the
Housing and Home Finance Agency on employment,
management improvements, and cost reductions
for the quarter ending March 31, 1964.

By direction of the President:

Ralph A. Dungan
Special Assistant
to the President

RECEIVED
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arf Nothing else sent to
Central Files as of 4/13/64

STRAIGHT WIRE

April 17, 1964

EXECUTIVE

MEI-3/K

★ King, Michael J.

ST 29

FG 245

Honorable John W. King
Governor of New Hampshire
Concord
New Hampshire

Mrs. Johnson joins me in expressing to you our deepest sympathy at
the loss of your father.

Our thoughts are with you and your family, and we pray that God
will bless you and help you to persevere throughout these difficult
and mournful days.

LYNDON B. JOHNSON

CC: Mr. Holborn
Central Files

APR 22 1964

CLERK

CC: Honorable Fred A. Forbes
Assistant Administrator, Housing and Home Finance Agency

FG 245

April 9, 1964

Dear Fred:

My speedy departure from the White House prevented my having the time to call on you personally to let you know how greatly I appreciated your guidance, help and support during my tenure as Press Secretary.

The association we developed over the years means a great deal to me personally and professionally and I hope you'll accept these inadequate words as a measure of my thanks and appreciation.

I would be pleased if you would extend my sincere thanks to the rest of your able staff with whom it was my pleasure to be associated.

I hope it won't be too long before seeing you again.

Sincerely,

Pierre Salinger

PS:ecc

Mr. Fred A. ^XForbes
Assistant Administrator (Public Affairs)
Housing and Home Finance Agency
Washington 25, D.C.

EXECUTIVE

FG 663

FG 745

April 3, 1964

Dear Mr. Administrator:

The President on April second signed an Executive Order entitled, "Establishing the Federal Reconstruction and Development Planning Commission for Alaska," a copy of which is enclosed.

Sincerely,

WILLIAM J. HOPKINS
Executive Clerk

Honorable Robert C. Weaver
Administrator
Housing and Home Finance Agency
Washington, D.C.

Enclosure

bs

February 28, 1964

EXECUTIVE

F6245

CHRONOLOGY OF ACTIONS WITH HHFA
ON PLANNING FUNDS FOR 1964 PROGRAM

February 9, 1962:

Original application dated January 25, 1962, forwarded by BRA General Manager. This application requested an advance of \$538,500 for planning funds under the terms of PL 560, 83rd Congress, as amended. This advance was requested in order to plan the public works which now constitute the 1964 Program of the Brazos River Authority.

February 9, 1962:

HHFA acknowledged receipt of application and assigned a project number of P-TEX-3132.

June 15, 1962:

BRA requested that original application and appended data be disregarded and that amended application dated June 15, 1962, be substituted therefor. This application requested \$140,000 for preliminary planning and \$400,000 for final planning, or a total of \$540,000.

Letter of transmittal also requested that payment schedule of 25% increments based on preliminary and final planning funds (\$540,000) be approved.

July 18, 1962:

Agreement tendered by HHFA granting \$140,000 for preliminary planning work.

July 23, 1962:

Agreement accepted by BRA.

September 27, 1962:

HHFA check for \$42,000 was received by BRA.

February 9, 1963:

HHFA announced approval of an increase of \$127,000 (to \$267,000) in the advance for preliminary planning of the project.

February 14, 1963:

HHFA acknowledged a request for increase in the amount of planning advance but indicated that "at this time we are in a position to offer additional financial assistance in connection with preliminary planning only, without prejudice to your right to request additional funds for final funds during the next fiscal year."

Accompanying this HHFA letter was an Amendatory Offer which (1) increased the Government advance from \$140,000 to \$267,000 (2) spelled out the additional preliminary planning covered, and (3) specified January 19, 1964, as a completion date for preliminary planning.

RECEIVED
MAR 26 1964
CENTRAL FILES

Nothing else sent to
Central Files as of 3/31/64

February 19, 1963:

Amendatory Agreement executed by the Authority and forwarded to HHFA.

February 20, 1963:

Letter to HHFA suggesting a reimbursement schedule for funds advanced on preliminary planning.

March 5, 1963:

HHFA approved reimbursement schedule.

April 29, 1963:

Copies of Board action ratifying acceptance of HHFA Amendatory Agreement by President Fox, forwarded to HHFA.

May 28, 1963:

HHFA check for \$42,079.27 was received by BRA.

January 17, 1964:

Letter dated January 16, 1964, together with supporting data was delivered to HHFA. This was a final preliminary planning report at a cost of \$226,892, with a request that the unused portion of the grant for preliminary planning (\$267,000 minus \$226,892) be included in the request for final planning. The amount requested concurrently for final planning was \$313,108.

The urgency of expediting the additional grant for final planning purposes based on commitments with respect to land acquisition was explained to HHFA.

January 21, 1964:

HHFA acknowledged receipt of application for planning advance in the amount of \$313,108. Project number changed to P-Tex-3217. Shortage of funds available to support the program indicated.

Further inquiry made by HHFA concerning grant-in-aid.

January 22, 1964:

BRA informed HHFA that data requested concerning grant-in-aid was included in Enclosure "K" to application for final planning funds. BRA again emphasized the necessity for prompt action in connection with the final planning phase of this project.

February 3, 1964:

Texas State Department of Health in letter to HHFA indicated interest in project particularly as a possible source of additional water for municipal use for communities in the vicinity of the proposed project, and also indicated that clearing of the lake should be considered in order to protect the water quality.

February 10, 1964:

BRA Assistant General Manager discussed project with Mr. Douglas Porter of HHFA. Mr. Porter indicated that the

project had cleared Engineering Section a few days earlier and was now being processed by the Legal and Fiscal Sections. HHFA's main concern appeared to be related to ownership of the DeCordova site. No difficulty was indicated in connection with the final preliminary planning data. It was indicated that the request for final planning funds would be forwarded to Washington within one or two weeks. Mr. Porter promised that BRA would be contacted if any hitch developed.

February 19, 1964:

Assistant General Manager in telephone conversation with Mr. Porter learned that application for final planning funds was still in the hands of the Legal Section. Mr. Porter again promised to call if any difficulties were encountered.

February 20, 1964:

General Manager in telephone conversation with Mr. Creel of HHFA office learned that project was still being processed by the Fort Worth office. Indications were that the Fort Worth office still did not recognize the urgency of the project and, when considered with other projects being processed by that office, the project appeared to have a low priority.

February 25, 1964:

Director Provence of BRA called and indicated that on February 24 he had talked to Mr. Collins of the Fort Worth office of HHFA concerning the request for funds. Mr. Collins indicated that (1) the project was still being processed by the Fort Worth office (2) there was concern over the problem of site ownership (3) other means of financing the additional planning work were being considered or investigated (4) funds available to HHFA for this purpose were limited at this time and (5) he would follow the project all the way to Washington.



T. B. HUNTER
Assistant General Manager

SUPPLEMENTAL
CHRONOLOGY OF ACTIONS WITH HHFA ON
PLANNING FUNDS FOR 1964 PROGRAM

March 2, 1964:

Mr. Douglas Porter of the Fort Worth office called the Authority and talked to Mr. Bryan briefly. He indicated that the Fort Worth office was concerned with two problems, one involved the time when construction would begin and the other had to do with ownership of the site.

March 3, 1964:

The Assistant General Manager called Mr. Porter and followed up on his discussion with Mr. Bryan on the previous date. Mr. Porter explained that a new policy was now being considered by HHFA and that there was a feeling that agencies which could place projects under construction within six (6) months probably required little or no advance of funds. He suggested that the Authority write a letter to them and request that the date for start of construction for the DeCordova Bend project be changed to "late in 1964 or early 1965". This was done. Mr. Porter indicated that the problem of a waiver on the ownership of the site would have to be referred to Washington for decision. He inferred that the request would be forwarded to Washington that day or the following day.

March 9, 1964:

A check from HHFA and in favor of the Authority in the amount of \$142,812.04 was received. This is the final settlement in reimbursement for costs incurred in the preparation of preliminary plans.



T. B. HUNTER
Assistant General Manager

cc: Mr. Harry Provence



gnx

HOUSING AND HOME FINANCE AGENCY
OFFICE OF THE ADMINISTRATOR • WASHINGTON 25, D.C.

EXECUTIVE

W H 5-1

FG 245

Federal Housing Administration
Public Housing Administration
Federal National Mortgage Association
Community Facilities Administration
Urban Renewal Administration

February 12, 1964

MEMORANDUM FOR: Timothy J. Reardon, Jr.
Special Assistant to the President
The White House

FROM: Fred A. Forbes

SUBJECT: Memorandum by the President of February 3rd
on White House Mail

Since our meeting with Assistants to Cabinet Officers and Heads of Agencies, I have completely checked out our routine for answering White House Mail.

We have no problems in this Agency. This mail all has a priority and is expedited within a 24-hour period.

We further have no problem of delivery of this mail. It comes to our mail room and is sent to the appropriate department for handling. Through Mrs. Edith P. L. Gilbert, Assistant to the Administrator, this whole program is carefully watched, and we will continue to process this mail in the 24-hour period.

Fred
Assistant Administrator
(Public Affairs)

RECEIVED
FEB 1 1964
CENTRAL FILES

PRESIDENT'S PERSONAL AUTOGRAPH FILE RECORD

EXECUTIVE
PR 6-1/W7
FG 245

Date Mailed: January 28, 1964

Item Autographed: () White House Card
() Autograph Album
() Book
() First Day Cover
() Souvenir Program

(X) Photograph of the President, furnished
by office
() Photograph of the President, furnished
by party being autographed for
() Photograph of President with someone
else
() Magazine Cover
() Newspaper Picture
Further description of photograph
if necessary:

() Other

Inscription: To Dr. Robert Weaver a wise man Lyndon B. Johnson

For party other than one to whom addressed or delivered:

Sent or delivered to: Honorable Robert C. Weaver
Administrator
Housing and Home Finance Agency
Washington, D.C.



Federal Housing Administration
Public Housing Administration
Federal National Mortgage Association
Community Facilities Administration
Urban Renewal Administration

HOUSING AND HOME FINANCE AGENCY
OFFICE OF THE ADMINISTRATOR • WASHINGTON 25, D.C.

EXECUTIVE (1)
LE/WE
WE
FG 245
JAN 24 1964

MEMORANDUM FOR: Honorable Lee C. White
Assistant Special Counsel
to the President
The White House

SUBJECT: More complete specifications with regard
to certain function in Section 6(a) of
"Specifications for a Bill to Combat
Poverty"

In response to the request for more complete specifications as to how the enumerated functions listed in Section 6(a) of the Specifications for a Bill to Combat Poverty would be carried out, received under cover of your memorandum of January 21, 1964, I am submitting the enclosed statements.


Robert C. Weaver
Administrator

Enclosures

Nothing else sent to
Central Files as of 10/30/64



THE SECRETARY OF THE INTERIOR
WASHINGTON

January 24, 1964 JAN 24

Dear Mr. President:

In response to your request at the Cabinet meeting, Friday, January 17, the Department of the Interior will effect at least a ten percent reduction in the publications program.

This reduction of public costs will be effected through:

- A. Elimination of some publications.
- B. Consolidation of other publications.
- C. Elimination of expensive bindings for gift to VIP's.
- D. And, last but not least, through tighter editing, use of less expensive papers, and utilization of less expensive printing methods.

This program will be guided so that research, data collection, analysis and other preparation work will remain at the same high level. The Department of the Interior feels particularly responsible to keep its publications accurate, since 90 percent of the total number of our publications fall in the research, technical and scientific categories. The remaining 10 percent are in the general public interest category. Most of the publications of Interior are widely used in the public and private educational facilities of the country.

Implementation of this ten percent cut by Interior is now being pursued vigorously.

Sincerely,

Stewart L. Udall
Stewart L. Udall
Secretary of the Interior

The President
The White House

*File
FG 100
1/17/64*

EXECUTIVE

STRAIGHT WIRE

January 23, 1963

ME3-3/26/Keene
26/Keene
WF
FG 245

Honorable Robert L. Mallatt, Jr.
Mayor of Keene *
Keene
New Hampshire

I am delighted to learn that Keene, New Hampshire, has joined the war against poverty to which I have dedicated myself and this administration. As we all know, poverty is a national problem -- a problem which needs to be attacked and conquered in every private home, in every public office, in every local community throughout the Nation.

Keene's "Task Force Poverty" is a particularly gratifying acceptance of my challenge. To you, Mayor Mallatt, and to all those public officials and private citizens of Keene joined in this effort, I send my best wishes and the hope that in this land of plenty, poverty will soon be completely eradicated.

Lyndon B. Johnson

CC: Mr. Holborn
Central Files
PR Unit
Mr. Salinger
Mr. Reardon
Honorable Fred A. Forbes, H & HFA.
LBJ:MS:mb.

RECEIVED
JAN 24 1963
U.S. DEPT. OF JUSTICE

EXECUTIVE

January 23, 1964

FG 717

FG 245

Dear Dr. Weaver:


Under Executive Order 11136, which establishes the President's Committee on Consumer Interests, the head of each Federal department or agency which is to be represented on the Committee is to designate one person who shall be an assistant secretary or an official of comparable rank to serve as a member of the Committee.

Mrs. Esther Peterson, my Special Assistant for Consumer Affairs, will serve as Chairman of the Committee. Will you please inform Mrs. Peterson as soon as possible whom you are designating to represent you on the Committee?

It is important that Mrs. Peterson be given full cooperation and support in this effort, including the required budget and staff and assistance which is to be provided by the agencies represented on the Committee, as set forth in the Executive Order.

In establishing this Committee, I have directed that it consider the Federal policies and programs of primary importance to consumers. I am confident that each agency which has consumer programs will assign a high priority to reexamining its policies, programs and procedures to insure that, in its overall task of furthering the public interest, consumer interests will be given more careful consideration.

Sincerely,



Honorable Robert C. Weaver
Administrator
Housing and Home Finance Agency
Washington, D. C.

LBJ:EP:ceb



HOUSING AND HOME FINANCE AGENCY
OFFICE OF THE ADMINISTRATOR

WASHINGTON 25, D.C.

EXECUTIVE

FI 1-2

FG 245

Federal Housing Administration
Public Housing Administration
Federal National Mortgage Association
Community Facilities Administration
Urban Renewal Administration

JAN 21 1964

Dear Mr. President:

In accordance with your memorandum of November 30, 1963, I am submitting the report of the Housing and Home Finance Agency on cost reduction actions taken during the past year and on my plans for further steps to be taken during the coming year.

The enclosed report, in the format suggested by the Bureau of the Budget, outlines the specific actions and plans of this Agency and its constituent organizations for cost reductions and increased efficiency.

Throughout the past year I have placed increased emphasis on more efficient and economical operations, as have the heads of the constituent organizations of the Housing and Home Finance Agency. We have updated and expanded our management improvement program. We have developed a manpower control and utilization program in response to President Kennedy's directive of October 11, 1962, and we have made significant progress in its implementation. The results to date, while preliminary, have been encouraging, and I am directing that these programs be accelerated during the coming year.

These programs produce a continuing flow of specific changes and improvements in the ways in which the Agency and its constituents carry out their work. As would be expected, many of these changes are relatively minor and the savings in each case are correspondingly small; in total, however, they have produced significant results. During the past year, those improvement actions of the Agency which can be estimated in dollar terms have produced saving of more than \$4 million in our cost of operations. This saving is, in fact, a continuing one, since the one-time savings included are counterbalanced by savings in effect only a part of the year and which are therefore included at only a fraction of their annual rate.

In addition, increases in user charges through increased FHA fees produced approximately \$3,500,000 last year and will produce an estimated \$7 million annually. Also, the Agency has programmed or completed fiscal actions to reduce by \$650 million at the end of fiscal year 1965 the amount of Government funds which would otherwise have been tied up in long-term investments.

This Agency is charged with responsibility for a number of new, dynamic programs, in expanding areas of public service. Consequently, these savings must often be reductions from amounts which would otherwise have been required, rather than reductions from an existing, static level. Since such reductions enable the Agency to meet expanding national needs through increasingly efficient use of dollars and manpower, I feel that they are real and valid savings. These savings have been taken fully into account in our budget proposals for fiscal years 1964 and 1965.

THE WHITE HOUSE
Washington

5301
EX-107-104
FI 4-11
FG 163
FG 243
FG 173
FG 135

Honorable Luther H. Hodges
Secretary of Commerce
Washington, D. C.

JAN 20 1964

Dear Mr. Secretary:

Pursuant to the authority contained in the Public Works Appropriation Act, 1964, I hereby allocate from the appropriation for Public Works Acceleration:

<u>To</u>	<u>Amount</u>
Department of Health, Education, and Welfare	\$7,000,000
Housing and Home Finance Agency	20,000,000
Department of the Interior	<u>1,000,000</u>
Total	28,000,000

to be expended by said agencies for the initiation or acceleration of public works projects as authorized by Public Law 87-658 approved September 14, 1962, and as set forth in your letter to me of January 2, 1964. The funds hereby allocated shall be available only for project expenses, except that \$300,000 of the amount allocated to HEWA may be utilized for administrative expenses as needed in carrying out this program.

In addition, the following amounts are allocated for the necessary costs of administering the initiation or acceleration of the public works projects financed from previous appropriations:

<u>To</u>	<u>Amount</u>
Department of Commerce	\$350,000
Department of Health, Education, and Welfare	250,000
Housing and Home Finance Agency	<u>1,400,000</u>
Total	2,000,000

Will you please arrange for the necessary transfer of funds and advise the various agencies when this has been accomplished.

Sincerely,

LYNDON B. JOHNSON

RECEIVED
JAN 21 1964
C. L. H.

(C/O William Pflieger
EOB-143)
1/21/64

1 copy + the
Only to Budget 1/21/64



Federal Housing Administration
Public Housing Administration
Federal National Mortgage Association
Community Facilities Administration
Urban Renewal Administration

HOUSING AND HOME FINANCE AGENCY

OFFICE OF THE ADMINISTRATOR

WASHINGTON 25, D.C.

EXECUTIVE
IN
FG 245

January 17, 1964

MEMORANDUM FOR: Lee White
The White House

Here is some background on the Indian housing activities

I told you about on the phone earlier today.

Milton Sener

Milton Sener
General Counsel

Enclosure

INDIAN HOUSING PROGRAM

The public housing program for Indians on Indian reservations started under the Kennedy Administration by interpretation of the Public Housing Administration and the Bureau of Indian Affairs that such a program was legally permissible under existing law. The first project (over 50 units of which are already occupied) was constructed on the Pine Ridge Reservation, South Dakota, and is of the conventional rental type housing with the exception of the congregate housing facility for the elderly which is the first congregate facility under the public housing program. Although South Dakota has had a public housing law for a number of years, this Indian project was the first public housing project in that State.

The public housing Indian program in general received a major impetus from a meeting sponsored by Senators Mansfield and Metcalf on July 26, 1961, attended by the Public Housing Administration, the Bureau of Indian Affairs, and the Public Health Service at which all of these Agencies agreed to work together towards helping to alleviate the serious housing problems that have existed for many years on Indian reservations. After that meeting a number of applications for conventional public housing were received and processed in the usual manner.

In late 1962 the Public Housing Administration developed the mutual-help concept and it was agreed to try it on a test basis at the San Carlos Reservation in Arizona. Ten of these houses are under construction now. The advantages of the mutual-help idea are extremely low rental payments, conversion of the unemployment of Indian families into housing equity, incentives of home ownership and of maintenance of the units by the occupants, and resulting economies in Federal subsidy over the normal rental-type program. Although it was made explicitly clear that the San Carlos project was to be a test program on this one reservation, the popularity of the mutual-help concept was so great that the greater number of units applied for by Indians since that time has been for mutual-help housing.

The Bureau of Indian Affairs has agreed to assume the full responsibilities required for administrative services to the approximately 1,500 units of mutual self-help housing now authorized in the development and management stages.



Federal Housing Administration
Public Housing Administration
Federal National Mortgage Association
Community Facilities Administration
Urban Renewal Administration

HOUSING AND HOME FINANCE AGENCY
OFFICE OF THE ADMINISTRATOR

WASHINGTON 25, D.C.

JAN 10 1964

EXECUTIVE

FG 742

FG 245

Mr. Myer Feldman
Deputy Special Counsel
to the President
The White House
Washington, D. C. 20501

Dear Mike:

This is just a note as a reminder of our conversation regarding the publication of the Report of the President's Council on Aging. This is a Report that was due October 31 and was requested in President Kennedy's Special Message on Aging last year. It has been mentioned several times in hearings before Congressional Committees and questions have been raised as to whether it is being "buried" or not.

I think it is a good Report, representing solid activity by the President's Council, and for the first time in history would show specific accomplishments on an interdepartmental basis by the Council. It could be made public as a statement of the President in his Message this month. This statement could be a brief and positive one in which the President accepts the Report from the Council and makes it available to the public. Otherwise, the Message would have to include a re-write of the Report as a minor sub-category -- making the Message longer and less effective.

I have spoken to several other people on the President's Council and they agree on the need for issuing the full October 31 Report along with the Message on Aging.

Sincerely,

Sidney Spector
Assistant Administrator
Housing for Senior Citizens



HOUSING AND HOME FINANCE AGENCY

OFFICE OF THE ADMINISTRATOR

WASHINGTON 25, D. C.

Federal Housing Administration
Public Housing Administration
Federal National Mortgage Association
Community Facilities Administration
Urban Renewal Administration

JAN 10 1964

The President
The White House
Washington, D. C. 20501

Dear Mr. President:

In response to your memorandum of December 24, 1963, I have once again reviewed the ceiling figures on year-end employment for this Agency for the fiscal years 1964 and 1965 which were arrived at earlier in discussions with the Bureau of the Budget.

In this process, we have identified additional reductions in year-end employment for fiscal year 1964 totaling 75 permanent jobs. While this is not a great number in itself, it looms larger as an addition to actions already taken. Before this adjustment, 1964 employment for the Agency had been reduced by 697 positions, or 4.6 percent, below the number included in the 1964 budget as submitted last year to the Congress. With this adjustment, year-end employment is expected to be 772 positions, or more than 5 percent, below previously budgeted requirements.

End of year employment for the Housing Agency, as you are aware, is subject to a degree of uncertainty. The workload of the Federal Housing Administration, for example, depends in important part on the extent and concentration of building activity in the spring building season. Similarly, the workload of the Federal National Mortgage Association is subject to rather substantial fluctuations in the volume of mortgage purchases and sales as a result of changes in the long-term money market. While factors like these, unfortunately, cannot be predicted with precision, I believe that the reduced employment target which you have requested is achievable and I shall bend every effort, in accordance with your instructions, to see that it is achieved.

With respect to employment for the end of fiscal year 1965, I do not find further reductions which I would feel justified in proposing to you now below the levels you have approved for inclusion in the Budget. This does not mean that I have no hope of improving on these forecasts; it means, rather, that I do not have facts before me which would permit me to identify specific points where such improvement is attainable.

EXECUTIVE

FG 717

FE6

FG 240

FG 135

FG 155

FG 145

FG 160

FG 11-3

FG 150

FG 165

FG 245

FG 234

January 6, 1964

Dear Mr. Administrator:

The President on January third signed
#11136
an Executive Order entitled "Establishing the
President's Committee on Consumer Interests and
the Consumer Advisory Council," and also issued
a statement in connection therewith, copies of
which are enclosed.

Sincerely,

WILLIAM J. HOPKINS
Executive Clerk

Honorable Bernard L. Boutin
Administrator of General Services
Washington, D. C.

Enclosures: 2

Nothing else sent to
Files 1-8-64

NOTED
TAM

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EXECUTIVE

FG 245 ⑩

FG 405

FG 245-5

FA

FI 1-1

January 2, 1964

Dear Mr. Comptroller General:

This will acknowledge your letter of December thirty-first to the President, enclosing a copy of your report to the Congress on the inadequate collection procedures and other weaknesses in the Administration of the programs for making advances for public works planning, Community Facilities Administration, Housing and Home Finance Agency.

It has been noted that two copies of this report are being sent to the Director of the Bureau of the Budget.

Sincerely,

Ralph A. Dungan
Special Assistant
to the President

Honorable Joseph Campbell
Comptroller General
of the United States
Washington, D. C.

rah

RECEIVED
JAN 7 1964
CENTRAL FILES



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

The White House
Washington

ackd.
1/2/64
R.A.H.

1964 JAN 2 09 4 33

B-118754

December 31, 1963

Dear Mr. President:

Herewith is a copy of our report to the Congress on the inadequate collection procedures and other weaknesses in the Administration of the programs for making advances for public works planning, Community Facilities Administration, Housing and Home Finance Agency.

Two copies of this report are being sent today to the Director, Bureau of the Budget.

Respectfully yours,

Comptroller General
of the United States

Enclosure

The President
The White House

**REPORT TO
THE CONGRESS OF THE UNITED STATES**

**INADEQUATE COLLECTION PROCEDURES AND OTHER WEAKNESSES
IN THE ADMINISTRATION OF THE PROGRAMS
FOR MAKING ADVANCES FOR PUBLIC WORKS PLANNING
COMMUNITY FACILITIES ADMINISTRATION
HOUSING AND HOME FINANCE AGENCY**



**BY
THE COMPTROLLER GENERAL
OF THE UNITED STATES**

DECEMBER 1963



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-118754

DEC 31 1963

To the Speaker of the House of Representatives
and the President pro tempore of the Senate

Herewith is our report on the inadequate collection procedures and other weaknesses in the administration of the programs for making advances for public works planning. These programs are administered by the Community Facilities Administration, a constituent unit of the Housing and Home Finance Agency.

The Congress has authorized three public works planning programs, the first two of which are presently in liquidation. Under these programs, interest-free advances have been made to State and local jurisdictions (public agencies) to assist them in preparing or maintaining a shelf of planned public works which readily can be placed under construction when such action is made desirable by the state of the national or local economy or by the acute need for a planned facility. The advances are repayable by the public agencies if and when they undertake construction of the planned public works. To June 30, 1962, advances totaling \$118.4 million had been approved for planning about 10,000 projects having estimated construction costs totaling about \$7 billion. Advances totaling about \$51 million applicable to over 4,200 projects were outstanding at June 30, 1962, of which almost \$13 million was for over 1,700 projects that had been determined obsolete, and active efforts to collect the advances had been discontinued.

A summary of our findings is included in the forepart of the report. Our principal findings relate to (1) planning advances not recovered as a result of inadequate collection procedures and (2) inadequate reviews for determining financial feasibility of proposed projects. The Commissioner, Community Facilities Administration, advised us that action would be taken to eliminate most of the weaknesses disclosed by our review. In addition, we are recommending that the Commissioner strengthen procedures for reviewing construction cost estimates and establishing the financial feasibility of proposed projects before approval of final plans.

B-118754

Copies of this report are being sent to the President of the United States; the Administrator, Housing and Home Finance Agency; and the Commissioner, Community Facilities Administration.

A handwritten signature in dark ink, appearing to read "Roger Campbell". The signature is written in a cursive style with a large, prominent initial "R".

Comptroller General
of the United States

C o n t e n t s

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REPORT ON
INADEQUATE COLLECTION PROCEDURES AND OTHER WEAKNESSES
IN THE ADMINISTRATION OF THE PROGRAMS
FOR MAKING ADVANCES FOR PUBLIC WORKS PLANNING
COMMUNITY FACILITIES ADMINISTRATION
HOUSING AND HOME FINANCE AGENCY

INTRODUCTION

The General Accounting Office has reviewed the programs for making advances for public works planning administered by the COMMUNITY FACILITIES ADMINISTRATION (CFA), HOUSING AND HOME FINANCE AGENCY (HHFA). This review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67). The scope of our review is described on page 54 of this report.

The Congress has authorized three public works planning programs, the first two of which are presently in liquidation. Under these three programs, interest-free advances have been made to State and local jurisdictions (public agencies) to assist them in preparing or maintaining a shelf of planned public works which readily can be placed under construction when such action is made desirable by the state of the national or local economy or by the acute need for a planned facility. The advances are repayable by the public agencies if and when they undertake construction of the planned public works.

The first and second programs of advances for public works planning, authorized in 1944 and 1949 respectively, were initially carried out by other Government agencies. However, Reorganization Plan No. 17 of 1950 (64 Stat. 1269) transferred all remaining responsibilities for carrying out the programs to the Administrator, HHFA. At the time of our review, HHFA's primary functions in regard to the first two programs were the collection of planning advances for projects placed under construction and the follow-up of projects still carried in the active reserve of planned public works. HHFA's activities in regard to the third planning program, authorized in 1954, encompass the approval of new advances in addition to the collection and follow-up activities.

The Administrator, HHFA, has delegated to the Commissioner, CFA, broad authority for administering the public works planning programs. The CFA office is in Washington, D.C.; the field activities of the programs are carried out by the seven HHFA regional offices. Our review was made principally in the New York and Chicago Regional Offices, which have jurisdiction over the public works planning activities in 17 States in the New England, middle Atlantic, and north-central areas of the United States. A list of principal officials responsible for the activities examined during our review is presented on page 57 as an appendix of this report.

At June 30, 1962, planning advances totaling \$50,905,161 were outstanding, as shown below.

	<u>Number of projects</u>	<u>Outstanding advances</u>
First program	2,873	\$21,767,730
Second program	293	4,565,518
Third program	<u>1,103</u>	<u>24,571,913</u>
Total	<u>4,269</u>	<u>\$50,905,161</u>

SUMMARY OF FINDINGS AND RECOMMENDATION

Our findings and recommendation are summarized below and are discussed in greater detail in later sections of this report. The Commissioner, CFA, commented on our findings and proposals for corrective action in a letter dated May 17, 1963. The Acting Commissioner submitted supplemental comments in a letter dated October 15, 1963. The comments of both officials were considered in preparing this report. The Administrator, HHFA, advised us that he had no comments in addition to those of the Commissioner, CFA.

SOME PLANNING ADVANCES NOT RECOVERED AS A RESULT OF INADEQUATE COLLECTION PROCEDURES

The CFA has not included in its collection procedures adequate provisions to safeguard against indefinitely postponing or precluding the recovery of advances to public agencies for public works planning. As a result, the CFA has not collected some planning advances which, according to interpretations of the repayment provisions by the courts, appear to be repayable by the public agencies involved.

The laws authorizing the three public works planning programs provide, in effect, that planning advances are repayable by the public agencies if and when they undertake construction of the planned public works. The law authorizing the third (current) program contains an additional provision that, if a public agency undertakes to construct only a portion of a planned public work, it shall repay such proportionate amount of the advance as the Administrator determines to be equitable. Further, under a recent

amendment to the law concerning the third program, the repayment obligation is canceled if the construction is initiated as a result of a grant-in-aid made from an allocation under the Public Works Acceleration Act (76 Stat. 541). The Federal courts have interpreted the legislation and enunciated criteria relating to the repayment of advances under the first program of advances for public works planning. These criteria provide, in effect, that public agencies should repay their planning advances if they construct substitute facilities which serve the general purposes intended by the public agencies when they sought and obtained the advances. We believe that these criteria also are applicable to the second program and could be applied to advances under the third program in a limited degree.

The CFA's policies and procedures relating to the advance planning programs provide that, for administrative economy, the HHFA regional offices shall classify projects as obsolete if construction is not undertaken within a reasonable time and the probability of the planned projects being constructed has been reduced or eliminated by such factors as technological change, construction of substitute facilities, changes in population, or developments in the community. After projects have been classified as obsolete, the regional offices transfer the accountability for the related advances to Washington for recording on the central office books and thereafter the regional offices do not systematically follow up and report on the status of the related advances. The provision requiring the HHFA regional offices to classify projects as

obsolete as a result of the construction of substitute facilities seems to be inconsistent with the repayment criteria established by the courts and has resulted in the suspension of collection efforts with respect to some planning advances which, in our opinion, the public agencies should be required to repay.

At June 30, 1962, a total of 1,781 projects had been classified as obsolete by the HHFA regional offices. The projects that had been classified as obsolete involved planning advances totaling about \$13 million, or 20 percent of the total amount advanced under the first and second programs of advances for public works planning.

We proposed that CFA (1) review all projects classified as obsolete to ascertain whether, under the criteria established by the Federal courts, the advances are repayable and (2) advise the HHFA regional offices of the correct interpretation and proper application of the court-established repayment criteria with respect to future cases involving the construction of substitute facilities. The Acting Commissioner, CFA, has advised us that CFA has abolished the obsolete category, pending the development of more precise criteria as to the follow-up method applicable to the various categories of advances, and that a review is being made of all outstanding advances under the first and second programs prior to adopting substantial changes in policy or procedures for the purpose of taking the corrective action we proposed.

In view of the actions being taken by CFA, we are not recommending additional action at this time. (See p. 19.)

INADEQUATE REVIEWS FOR DETERMINING
FINANCIAL FEASIBILITY OF PROPOSED PROJECTS

The HHFA regional offices review the financial data submitted by public agencies on their applications for planning advances to determine whether the applicants have, or reasonably can be expected to have, adequate financial means to undertake construction of the proposed projects. Under certain prescribed conditions, the HHFA regional offices make additional financial reviews before approving the final planning reports and making disbursements for the related planning advances. Our review has disclosed that the reviews made by the HHFA regional offices are inadequate, in some cases, for determining the financial feasibility of proposed projects.

Advance made for preliminary planning
without determining whether funds for
constructing the project could be obtained

Our review disclosed that the Chicago HHFA Regional Office had approved an application and subsequently had made an advance of \$20,000 for the preliminary planning of a toll bridge which, according to the application for the advance, would be financed, in part, by funds to be provided by the two States to be connected by the bridge. The applicant had not requested the States to provide the necessary financial aid. The CFA manual of policies and procedures provides that applications for planning advances should not be approved unless (1) the proposed financings, in general terms of the total amount and the method, appear to be reasonable ventures

for the communities, (2) the applicants are expected to be reasonably able to finance the projects, and (3) the proposed methods of financing appear feasible.

We believe that in the cited case the Chicago HHFA Regional Office should have required the applicant to furnish evidence that the two States involved were willing to share in the costs of constructing the proposed toll bridge before approving the application for the planning advance.

Advances made for final planning without verifying
that applicants were capable of financing
the proposed projects

Our review of 14 advances made for final planning of projects in New York State disclosed that the New York HHFA Regional Office had made advances totaling \$156,499 for the final planning of five projects without making reviews to determine whether the public agencies had adequate financial means to undertake construction of the projects. The final estimates of the costs of constructing these projects ranged from 9 to 35 percent higher than the original estimates of construction costs shown in the applications for advances.

We are recommending that the Commissioner, CFA, instruct the HHFA regional offices to (1) closely scrutinize the construction cost estimates when completed plans are submitted for approval, (2) make financial capability studies in cases where scrutiny of the final cost estimates indicates a possibility that the public agencies may be unable to finance the planned projects, and (3) withhold approval of final plans and disbursements of planning

advances for projects determined to be financially infeasible.

(See p. 43)

PLANNING ADVANCE OF QUESTIONABLE PROPRIETY--RECOVERED

The HHFA Chicago Regional Office approved a city's application for a planning advance of \$125,000 and subsequently made an advance of \$63,000 for an incinerator project that, in our opinion, was ineligible because it was for a feasibility study rather than for planning a specific project. The CFA manual of policies and procedures provides that advances will not be made for feasibility studies. Further, although several extensions of time had been granted by the Regional Director of Community Facilities, the city had not completed its plans for the project within the time limit specified in the agreement with HHFA.

We proposed that CFA withhold approval of the applicant's plans and attempt to recover the interim advance of \$63,000.

The Commissioner, CFA, informed us in May 1963 that, although the original planning completion date of October 10, 1959, had been extended to October 1, 1962, only partial preliminary planning had been completed. The Commissioner concluded that the city had breached and in effect had terminated its agreement with the Government and stated that the regional office would be directed to bill the city for the refund to the Government of the \$63,000 advance. On October 15, 1963, the Acting Commissioner, CFA, informed us that the \$63,000 advance had been repaid and that the balance of the Government's commitment had been canceled. (See p. 51)

PROGRAM PROVISIONS AND ADMINISTRATION

FIRST AND SECOND PROGRAMS OF ADVANCES FOR PUBLIC WORKS PLANNING

The first program of advances for public works planning was authorized by the War Mobilization and Reconversion Act of 1944 (58 Stat. 791). Initially the Federal Works Administrator was responsible for carrying out the program, but the Federal Property and Administrative Services Act of 1949 (63 Stat. 380) transferred the responsibility to the Administrator of General Services. On May 24, 1950, Reorganization Plan No. 17 of 1950 (64 Stat. 1269) transferred all remaining functions under this program to the Administrator of HHFA. Under the first program, \$65 million was appropriated. The authority for this program expired on June 30, 1947.

The second program of advances for public works planning was authorized by the act of October 13, 1949 (40 U.S.C. 451). The Administrator of General Services had the responsibility for carrying out this program until May 24, 1950, when Reorganization Plan No. 17 of 1950 transferred the responsibility to the Administrator, HHFA.

Initially, the provisions of the second program were essentially the same as those of the first program. However, in October 1950, as part of the defense effort, this program was redirected to projects serving national defense and to urgent civilian requirements intended for early construction. A total of \$28 million was appropriated under this program. The authority for the second program expired on October 31, 1951.

No new advances may be approved under the first and second programs since they are in a liquidating stage. The HHFA regional office activities in regard to these programs, therefore, are confined primarily to (1) the collection of planning advances that are repayable for projects placed under construction and (2) the follow-up of projects that are still carried in the "active reserve" of planned public works.

To assist in the administration of the programs of advances for public works planning, CFA issued a manual which prescribes the policies and procedures to be followed. Repayment of the advances is required whenever the construction planned, or similar construction, is undertaken. If repayment is not made promptly, the unpaid sum bears interest from the date of the Government's demand to the date of payment by the public agency. The manual requires that, whenever an applicant denies liability for repayment, the HHFA regional office will make technical, legal, and administrative reviews to determine the applicant's liability for repayment.

The manual requires the HHFA regional offices to follow up periodically all cases involving unrepaid advances. If the follow-up shows that an advance is repayable, the regional office is required to promptly bill the public agency for refund.

Pertinent statistics relative to the first and second programs of advances for public works planning from inception to June 30, 1962, are summarized below:

	First program of advances for public works planning			Second program of advances for public works planning		
	<u>Number of projects</u>	<u>Amounts advanced</u>	<u>Estimated project costs</u>	<u>Number of projects</u>	<u>Amounts advanced</u>	<u>Estimated project costs</u>
	— in millions —			— in millions —		
Advances for completed plans (note a)	6,453	\$45.7	\$2,586.5	1,165	\$16.0	\$949.8
Construction undertaken and advances repaid	<u>3,580</u>	<u>23.9</u>	<u>1,515.3</u>	<u>872</u>	<u>11.4</u>	<u>745.8</u>
Projects having unrepaid advances	<u>2,873</u>	<u>\$21.8</u>	<u>\$1,071.2</u>	<u>293</u>	<u>\$ 4.6</u>	<u>\$204.0</u>
Analysis of projects having unrepaid advances as shown above:						
Advances referred to GAO for collection	72	\$ 0.8	\$ 18.4	6	\$ 0.3	\$ 8.9
Inactive or obsolete	1,684	11.5	523.4	97	1.2	64.5
Active plans	<u>1,117</u>	<u>9.5</u>	<u>529.4</u>	<u>190</u>	<u>3.1</u>	<u>130.6</u>
Total	<u>2,873</u>	<u>\$21.8</u>	<u>\$1,071.2</u>	<u>293</u>	<u>\$ 4.6</u>	<u>\$204.0</u>

^a About half of all the completed plans were for sewers, water, and sanitary facilities; slightly less than one third were for schools, other educational facilities, hospitals, and health facilities; and the remainder included other public buildings, highways, roads, bridges, etc.

THIRD PROGRAM OF ADVANCES FOR PUBLIC WORKS PLANNING

The third program of advances for public works planning was authorized by the Housing Act of 1954 (40 U.S.C. 462). HHFA's functions under this program include (1) the approval of new advances, (2) the collection of planning advances that are repayable for projects placed under construction, and (3) the follow-up of projects still carried in the active reserve of planned public works.

The responsibility for initiating a request for a planning advance under the third program of advances for public works planning is placed in public agencies which are defined by section 703 of the Housing Act of 1954 as "any State,*** or any public agency or political subdivision therein." A public agency desiring to obtain a Federal advance under the act must submit an application for Advance for Public Works Planning to the applicable HHFA regional office.

Advances for public works planning may be made to finance both preliminary and final types of planning. The emphasis, however, is on preliminary planning. Preliminary planning may include investigations, surveys, and cost estimates necessary to establish the complete scope, character, and cost of the proposed public work. Foundation exploration, test pits, core drilling, surface and subsurface water source investigation, topographic surveys, and other necessary specific data may be included. Provision also may be made for fall-out shelters. Preliminary plans should be sufficiently comprehensive to obtain cost estimates that are accurate

enough to permit the completion of financing arrangements and the prompt completion of final plans and specifications.

Generally, in accord with CFA's prescribed policies and procedures, advances for final planning are approved (1) when it is the reasonable approach to a specific project or community need, (2) where obsolescence in relation to the type of project or anticipated start of construction will not be a deterrent factor, and (3) where the applicant has title to the project site, has an option on the site, or has started condemnation proceedings. Final planning is based on preliminary planning and includes preparation of all detailed plans and specifications required to award the contracts for actual construction.

The enabling legislation, as amended, requires that funds cannot be advanced for planning, unless:

1. The project is planned to be constructed within or over a reasonable period of time considering the nature of the project. (CFA determined administratively that "a reasonable period of time" was to be no more than 5 years, unless long-range planning is being requested.)
2. The project conforms to an overall State, local, or regional plan approved by a competent State, local, or regional authority.
3. The public agency formally contracts with the Federal Government to complete the plan preparation promptly and to repay the advance when due.

The responsibility for approving an advance rests with the HHFA Regional Administrator. CFA's manual of policies and procedures provides that the Regional Administrator, in giving such approvals, shall be guided by the recommendation of the Regional Director of Community Facilities which will be based on the comments

and advice of the regional office technical staff. In accord with these policies and procedures, the regional offices perform various technical reviews involving legal, engineering, financial, and architectural determinations.

Generally, payment of advances cannot be made until the completed plans are approved. However, interim payments are permissible in certain instances, with prior CFA approval, if the planning contracts between the public agencies and the engineering firms provide for interim payments.

The advances are required to be repaid when construction is undertaken or started. If only a portion of the planned work is undertaken, the public agency is required to repay only a proportionate amount. In any event if repayment is not made promptly, the unpaid sum shall bear interest at 4 percent per annum from the date of the Government's demand to the date of payment by the public agency.

In contrast to the first and second programs of advances for public works planning, the law for the third program authorizes advances to be financed from a revolving fund into which all appropriations, repayments, and other receipts are required to be deposited. The Housing Act of 1961 (75 Stat. 149, 175) placed an overall limitation of \$58 million on the total of undisbursed balances together with outstanding advances in the revolving fund. Through June 30, 1962, \$44 million had been appropriated to the revolving fund. At that date, \$39 million had been disbursed for advances.

Pertinent statistics relative to the third program of advances for public works planning from inception to June 30, 1962, as carried out nationally and in Region I (New York) and Region IV (Chicago) are summarized below:

Region and State	Advances															
	Withdrawn and recoveries after approval										Fiscal year 1962 approved projects					
	Applications				Under re-view	Approved		Total		Number	Amount	Com-pleted	Status of plans			
	Filed	Deferred and withdrawn	Number	Amount		Number	Amount	Number	Amount				Disbursed		Repaid	
													Number	Amount	Number	Amount
United States	3,906	\$117,906,958	851	\$31,888,791	211	2,844	\$74,336,157	501	\$17,614,185	27	\$780,673	1,901	1,774	\$39,046,714	671	\$14,474,801
Region I (New York):																
Connecticut	51	\$ 2,263,446	4	\$ 258,390	1	46	\$ 1,992,556	8	\$ 308,716	1	\$ 10,300	24	23	\$ 957,057	9	\$ 334,313
Maine	39	476,470	3	59,800	2	34	409,150	4	43,208	1	7,300	17	16	130,642	-	187
Massachusetts	114	3,445,626	11	377,562	5	98	2,938,844	12	683,548	-	-	70	70	1,855,761	14	482,527
New Hampshire	44	827,351	4	39,800	1	39	717,551	3	37,838	-	-	26	26	470,313	4	140,244
New York	116	3,569,293	17	458,080	3	96	3,051,656	11	712,585	1	222,700	56	56	1,530,334	5	140,934
Rhode Island	21	734,453	5	91,440	-	16	643,013	7	261,504	-	-	5	4	185,159	-	40,559
Vermont	76	1,522,910	4	94,099	4	68	1,078,358	-	118,127	-	-	59	58	688,353	10	206,178
Total	461	\$ 12,839,549	48	\$ 1,379,171	16	397	\$10,831,128	45	\$ 2,165,526	3	\$240,300	257	253	\$ 5,817,619	42	\$ 1,344,942
Region IV (Chicago):																
Illinois	172	\$ 4,600,758	57	\$ 1,519,593	17	98	\$ 2,871,192	11	\$ 193,874	-	\$ -	83	73	\$ 1,398,048	18	\$ 239,255
Indiana	19	1,663,154	9	1,238,200	1	9	421,954	-	40,793	-	-	8	7	303,661	7	303,661
Iowa	39	562,855	11	285,320	6	22	244,735	2	47,149	-	-	21	18	121,586	6	19,116
Michigan	71	7,066,709	30	5,585,598	4	37	1,410,661	7	293,960	-	-	24	18	894,425	3	35,014
Minnesota	44	504,519	15	223,525	4	25	257,394	1	10,462	-	-	23	18	110,073	4	23,058
Nebraska	4	444,025	2	411,050	-	2	32,975	-	455	-	-	2	2	32,520	1	26,600
North Dakota	5	86,165	3	80,852	-	2	5,313	-	5,313	-	-	-	-	-	-	-
Ohio	104	3,965,851	38	1,295,907	5	61	2,373,308	12	578,642	1	37,020	47	42	1,477,657	15	419,608
South Dakota	6	101,000	2	15,000	-	4	86,000	1	27,750	-	-	3	3	58,250	1	15,000
Wisconsin	17	370,883	4	25,411	-	13	345,472	1	117,822	-	-	11	10	156,650	6	50,613
Total	481	\$ 19,365,919	171	\$10,680,456	37	273	\$ 8,049,004	37	\$ 1,316,220	1	\$ 37,020	222	191	\$ 4,552,870	61	\$ 1,133,925

The types of facilities planned under the third program through June 30, 1962, are summarized below:

<u>Types of facilities planned</u>	<u>Number</u>	<u>Amount of advances approved</u>	<u>Estimated project costs</u>
Sanitation and water facilities	1,417	\$32,130,022	\$1,888,729,059
Schools and other educational facilities	405	7,019,147	404,710,748
Other public buildings	176	7,061,635	425,748,729
Highways, roads, and streets	74	2,180,709	114,556,424
Hospitals and other health facilities	52	1,401,790	91,904,696
Bridges, viaducts, and grade separations	28	1,234,346	96,461,540
Miscellaneous	<u>191</u>	<u>5,694,322</u>	<u>486,758,490</u>
Total	<u>2,343</u>	<u>\$56,721,971</u>	<u>\$3,508,869,686</u>

FINDINGS AND RECOMMENDATION

SOME PLANNING ADVANCES NOT RECOVERED AS A RESULT OF INADEQUATE COLLECTION PROCEDURES

The CFA has not included in its collection procedures adequate provisions to safeguard against indefinitely postponing or precluding the recovery of advances to public agencies for public works planning. As a result, the CFA has not collected some planning advances which, according to interpretations of the repayment provisions by the courts, appear to be repayable by the public agencies involved.

The laws authorizing the three public works planning programs provide, in effect, that planning advances are repayable by the public agencies if and when they undertake construction of the planned public works. The law authorizing the third (current) program contains an additional provision that, if a public agency undertakes to construct only a portion of a planned public work, it shall repay such proportionate amount of the advance as the Administrator determines to be equitable. Under a recent amendment to the law concerning the third program, the repayment obligation is canceled if the construction is initiated as a result of a grant-in-aid made from an allocation under the Public Works Acceleration Act. The Federal courts have interpreted the legislation and enunciated criteria relating to the repayment of advances under the first program of advances for public works planning. These criteria provide, in effect, that public agencies should repay their planning advances if they construct substitute facilities which

serve the general purposes intended by the public agencies when they sought and obtained the advances. We believe that these criteria also are applicable to the second program and could be applied to advances under the third program in a limited degree.

The CFA's policies and procedures relating to the advance planning programs provide that, for administrative economy, the HHFA regional offices shall classify projects as obsolete if construction is not undertaken within a reasonable time and the probability of the planned projects being constructed has been reduced or eliminated by such factors as technological change, construction of substitute facilities, changes in population, or developments in the community. After projects have been classified as obsolete, the regional offices transfer the accountability for the related advances to Washington for recording on the central office books and thereafter the regional offices do not systematically follow up and report on the status of the related advances. The provision requiring the HHFA regional offices to classify projects as obsolete as a result of the construction of substitute facilities seems to be inconsistent with the repayment criteria established by the courts and has resulted in the suspension of collection efforts with respect to some planning advances which, in our opinion, the public agencies should be required to repay.

At June 30, 1962, a total of 1,781 projects had been classified as obsolete by the HHFA regional offices. The projects that had been classified as obsolete involved planning advances totaling

about \$13 million, or 20 percent of the total amount advanced under the first and second programs of advances for public works planning. Our reviews in the New York and Chicago HHFA Regional Offices indicated that a substantial percentage of these projects had been classified as obsolete because of the construction of substitute facilities and that adequate consideration may not have been given to the court-established repayment criteria before classifying the projects as obsolete.

Court decisions regarding
public agencies' responsibility
for repayment of planning advances

On December 8, 1954, the United States District Court for the District of North Dakota (Southwestern Division) decided the case of U.S. v. The Board of Education of the City of Bismarck (126 F. Supp. 338). In the decision the court interpreted the repayment provision contained in section 501(c) of the War Mobilization and Reconversion Act of 1944 relating to the first program of advances for public works planning which states that the Government's advances to a public agency "**** shall be repaid by such agency if and when the construction of the public works so planned is undertaken." The court stated that the case hinged upon the meaning of the phrase "public works so planned."

In this case, the Board of Education of the City of Bismarck obtained an advance for the planning of an addition to the Richholt Grade School at Bismarck, North Dakota. Bids received for the construction of the addition planned with the advance were substantially in excess of the amount that had been approved for the

project. Accordingly, bids were rejected and the board used its own funds to have completely new and different plans prepared. The school addition subsequently was constructed in accordance with the new plans.

The Government claimed that construction of the "public works so planned" was undertaken when construction under the second set of plans commenced and that the advance thus became repayable. At the trial, the board's defense centered around the concept that an entirely new set of plans was used in the construction of the school addition and that the architects derived little or no benefit from the first set of plans in preparing the second set. The board thus argued that the "public works so planned" was abandoned when all bids on the first set of plans were rejected and that, since the school addition was constructed from an entirely new set of plans, it was not obligated to repay the advance.

One of the architects who prepared both sets of plans gave uncontradicted testimony that (1) the building represented by the first set of plans was not built, (2) the building represented by the second set of plans was built, (3) the second set of plans did not call for the same construction as the first set, (4) he was unable to use the computations of the first set of plans in preparing the second set, (5) in preparing the second set of plans he had to start all over again, (6) the only similarity between the first and second sets of plans was that both provided for brick buildings, similar concrete mix, and that they were both school buildings, and

(7) he did not use any of the preliminary work obtained for the first set of plans in preparing the second set.

With respect to the defense outlined by the board, the court observed as follows:

"It is obvious that the building constructed from the second set of plans is not the same building as provided for in the first set of plans. The lowest bid on the first set of plans represented a construction cost of approximately \$258,000. The bids which were accepted on the second set of plans totaled \$113,933. The rejected bids on the first set of plans were made in April 1949. The accepted bids on plan No. 2 were made in July of the same year, so it seems obvious that the building constructed is not the same building as provided for in the first set of plans.

"To the Court's mind, however, that is not determinative. The statute under which this litigation arises provides for loans or advances 'to aid in financing the cost of architectural, engineering, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action preliminary to the construction of such public works.' At the time application was made for a loan or advance, the public work referred to by the members of the school board was 'an addition to the Richholt School.'"

The court went on to state that the preparation of the first set of plans and the advertising for bids thereon was, in effect, an economic study resulting in a determination by the Board of Education of the City of Bismarck that it could not afford to construct an addition as large or as elaborate as first contemplated and that it would have to reduce its ideas and cut its costs to fit the amount of money it had to expend. The court held that such an economic investigation is entirely within the meaning of this statute. The court stated also that the board of education could have used the advance in any manner it saw fit as long as such use came

within the broad provisions of the statute and that the board of education chose to use the advance to finance the preparation of building plans which proved prohibitive in cost when bids were called for. The court reasoned that once the board of education ascertained that the original plans were prohibitive in costs "it proceeded to 'cut the suit to fit the cloth' by constructing a less expensive building but it still was an undertaking to construct an addition to the Richholt School--the purpose it had originally in mind and for which it asked for an advance." (Underscoring supplied.)

The court concluded, as follows:

"This Court is of the opinion that the phrase 'public works so planned' relates to the general plan contemplated by the applicant when requesting an advance of funds from the Government. The evidence indicates that the defendant [the Board] had only a general plan for 'an addition to the Richholt School' in mind when it applied for a loan. 'An addition to the Richholt School' was eventually constructed. Thus, 'the public works so planned' was undertaken and repayment of the advance is accordingly required. The mere fact that the defendant was unable to make use of the first set of plans or specifications prepared under their general plan should not defeat recovery. It was merely one step in the planning procedure or architectural study or investigation as referred to in the statute. Inability to use the first set of plans or specifications did not constitute an abandonment of the general plan of constructing 'an addition to the Richholt School' for which the advance was made. Plaintiff [the Government] is entitled to recover." (Underscoring supplied.)

The question of whether the construction of a substitute facility would constitute an undertaking of a "public works so planned" again came under judicial review on September 21, 1956, before the United States Ninth Circuit Court of Appeals in the case of

U.S. v. City of Wendell, Idaho (237 F. 2d 51). In this case, the city of Wendell obtained a planning advance under the first program of advances for public works planning for the "grading, draining, and paving of various streets" in Wendell. Plans and specifications for paving 71 blocks of streets in Wendell were drawn by a contract engineer hired by the city of Wendell. These plans were held in abeyance by the city for about a year. Thereafter, the city undertook another paving project encompassing 41 blocks. Seven of the blocks were not within the original 71 blocks planned to be paved, but 34 blocks were included in the original plans.

The city of Wendell successfully defended in the trial court against the Government's claim for repayment of the planning advance. The city of Wendell defended on the grounds that the original project had been abandoned and that the actual project was not the project originally contemplated when the planning advance was obtained by the city. The city relied heavily on the variance in area and size of project as between the project contemplated in the original plans and the project ultimately constructed. The Government appealed the trial court's decision.

The Court of Appeals stated that it was guided by the Bismarck decision and outlined the following test which should be applied in ascertaining whether a planning advance should be repaid:

*** the question of the occurrence of the conditions requiring repayment should be primarily tested by the description of the proposed project in the application and agreement without particular emphasis on the original plans and specifications ***." (Underscoring supplied.)

The Court of Appeals stated also that the project which was ultimately undertaken by the city of Wendell "did not parallel in identity but did overlap as to area" when compared with the project originally contemplated. The Court of Appeals went on to say:

"The completed paving is not unlike that described in the application. That is enough. The word planning itself imports fluidity." (Underscoring supplied.)

While thus agreeing with the position taken by the court in the Bismarck case that an advance is repayable as long as the general plan contemplated by a public agency when requesting an advance from the Government is undertaken, the Court of Appeals in the Wendell case seems to have suggested that an advance may not be repayable if the ultimate undertaking is outside the general area originally contemplated to be benefited in the application and agreement for the Government advance. This apparently minor modification of the doctrine stated in the Bismarck case is brought out by the Court of Appeals in the following manner:

"This is not to say that if the application had asked for money for plans on the west side of town and a project had been commenced on the east side of town that the money would have become repayable. Or, if there had been a de minimis overlapping of area, then the conditions for repayment probably would not have been attained."

The Court of Appeals decided in favor of the Government.

Since the Court of Appeals in the Wendell case followed the rule laid down in the Bismarck case which was again followed in the case of U.S. v. City of Willis, Texas (264F. 2d 672), the decision in the Bismarck case must be regarded as establishing a legal

precedent as to the construction of the law involved, which precedent should be followed by the Federal agencies in the administration of that law.

Although the court cases cited above relate to planning advances approved under the first public works planning program, we believe that the criteria established in the court decisions apply equally to advances approved under the second public works planning program and could be applied to advances under the third program in a limited degree because the repayment provisions of the pertinent enabling laws are substantially the same.

Inadequate consideration given to
court-established repayment criteria

We reviewed the records pertaining to 39 outstanding planning advances totaling \$1,173,904 at the New York and Chicago HHFA Regional Offices. All of these advances involved projects that had been classified as obsolete because the public agencies had constructed substitute facilities. Our reviews indicated that the HHFA regional offices had not given adequate consideration to the court-established criteria before classifying the planned projects as obsolete.

Outstanding planning advances applicable to
public agencies in the area administered by
the New York HHFA Regional Office

At January 12, 1962, the outstanding advances under the first and second programs of advances for public works planning applicable to public agencies in the area administered by the New York HHFA Regional Office totaled \$4,902,146. Of this amount, \$1,843,578 pertained to projects which had been classified as obsolete and the accounts had been transferred to Washington for recording on the books of the central office. Of the outstanding advances for projects classified as obsolete, \$1,303,781, or about 70 percent, represented advances for planning projects that probably will not be constructed because the public agencies have undertaken construction of substitute facilities.

We reviewed the following 24 advances made to public agencies in the State of New York, all of which pertained to projects that had been classified as obsolete because of the construction of substitute facilities.

<u>Project number</u>	<u>Type of facility</u>	<u>Amount of advance outstanding</u>	<u>Date project declared obsolete</u>
<u>First public works planning program</u>			
NY-30-P-196	High school	\$168,750	6-15-61
NY-30-P-138	School addition	68,250	4-28-55
NY-30-P-47	High school	42,000	9-27-60
NY-30-P-166	Elementary school	30,240	4-18-56
NY-30-P-39	Recreation	27,300	8-20-57
NY-30-P-155	School addition	21,091	9-12-60
NY-30-P-197	Elementary school	18,563	9-26-61
NY-30-P-149	Elementary school	18,200	4-29-58
NY-30-P-52	City Hall	14,000	4-29-60
NY-30-P-35	City Hall--Police Station	12,000	8-10-59
NY-30-P-148	School addition	11,400	4- 1-58
NY-30-P-222	School addition	8,850	12-14-51
NY-30-P-18	Police station	7,100	3-28-58
NY-30-P-179	School addition	5,750	3-25-52
NY-30-P-80	Health center	5,125	11- 2-59
NY-30-P-182	School addition	4,438	3-28-51
NY-30-P-173	Water system	3,700	10-31-58
NY-30-P-3	Water system	<u>2,200</u>	10-30-58
		<u>468,957</u>	
<u>Second public works planning program</u>			
NY-30-P-1104	High school	50,000	11- 4-59
NY-30-P-1004	Elementary school	30,240	7-13-56
NY-30-P-1005	Elementary school	27,720	7-18-56
NY-30-P-1054	School	14,543	4-17-57
NY-30-P-1087	School addition	12,000	3-28-55
NY-30-P-1037	Playground	<u>7,763</u>	2-20-58
		<u>142,266</u>	
		<u>\$611,223</u>	

Comments regarding the basis for classifying several of the projects as obsolete follow:

Project NY-30-P-196

On June 19, 1947, the Government agreed to advance \$168,750 to the applicant for the designing of a new senior high school. The

applicant had plans prepared in 1949 for construction of a school building with a capacity for 2,500 pupils, containing facilities stipulated in the application for the advance. Subsequently, the applicant undertook construction of a school from plans not financed with the Federal advance. In March 1960 the applicant advised the regional office that developments in the community "made it necessary that the original project be dropped in its entirety."

According to the HHFA plan comparison, the as-built plans, dated October 18, 1960, had little physical resemblance to the original plans but did provide for all the facilities and functions to satisfy the original needs. While the site was changed, it remained "a close proximity" to the location originally planned. The plan comparison summed up the situation as follows:

"Although there are no physical resemblances between the two sets of plans, however, it can not be denied that they both proposed the construction of new high school facilities. As such, the function and needs of the public work involved are substantially the same, namely to meet the applicant's educational requirements. The application called for the construction of a new senior high school, and the 'As Built' drawings will provide just that. The original need has been satisfied.

"In addition to the above, it is entirely conceivable that the 'Program Plan' could have been utilized in the form of economic and engineering studies prior to the applicant's preparation of the 'As Built' documents."

In a memorandum, dated March 22, 1961, the New York Regional Director of Community Facilities informed the Commissioner, CFA, that: "Although the two structures were intended to serve the same purpose, it is questionable whether the project under construction is substantially the same as that contemplated by the plans

prepared with the advance." In response to this memorandum, the Commissioner, CFA, determined in May 1961 that the facilities placed under construction were not the public works planned with the Federal advance and accordingly decided that the advance was not repayable. Thereupon, the project was classified as obsolete.

In view of the criteria established in the Bismarck and Wendell decisions, it is difficult to reconcile the conclusions reached by the Commissioner, CFA, with the facts developed in the plan comparison.

Project NY-30-P-155

Pursuant to an application approved on May 23, 1947, the Government advanced \$21,091 to the applicant to plan an addition to a school. In a report dated March 3, 1953, the applicant stated that: "A complete change in building needs makes it doubtful if these plans will ever be used." Accordingly, the HHFA regional office declared the project as obsolete.

On October 1, 1959, an HHFA field engineer discovered during a site inspection that in 1955 an addition had been erected to the subject school. However, the addition was to the southeast corner whereas the original plan proposed an addition at the west end of the existing building. As a result of his review, the field engineer concluded that the advance should be repaid by the applicant. On July 6, 1960, the chief of the engineering staff in the New York HHFA Regional Office concurred with the field engineer and stated as follows:

"Recommendation:

Notwithstanding that we detected no physical resemblance between the two sets of plans in our review, we do not infer that the Program [original] Plan was not utilized by the second architect in a manner which may aid him to make architectural, engineering and economic investigations prior to final design in his preparation of the 'As Built' drawings. The Applicant, in its comment contained in the latest Form H-907 (Construction Status Report) dated March 3, 1953, admitted that 'A complete change in building needs makes it doubtful if these plans will ever be used.' It is apparent, without the original Program Plan, the Applicant had no way to determine its 'building needs' whereby a new addition to [the] *** School was actually constructed. Therefore, it is our opinion that the Program Plan has been used and has served its purposes under the purview of the regulations under which the planning advance was made. Recovery of the \$21,091 advance from the Applicant is hereby recommended.

"To substantiate our recommendations we wish to refer to the Court Opinion, Case Civil No. 2770 (U.S. District Court for the District of North Dakota, Southwestern Division) [Bismarck case] wherein a precedent was made in a litigation of similar circumstances."

Notwithstanding the conclusions of the engineers, the Deputy Regional Director of Community Facilities recommended on September 12, 1960, "that project remain in the 'obsolete' category." This recommendation was approved by the Regional Director of Community Facilities.

The Acting Regional Director of Community Facilities advised us that the Deputy Regional Director who signed the recommendation that the project be retained in the obsolete category probably considered that it would be difficult to prove in a court of law that the applicant had utilized the plans prepared with the aid of the advance. Since the courts have held that it is inconsequential whether the identical plans prepared with the Federal advance were

in fact utilized by the public agency, there does not appear to be a valid basis for not attempting collection of the advance. The determinative factor is whether the general plan in the mind of the public agency when it applied for an advance was ultimately carried out without regard to whether the plans prepared with the advance were used in the construction. Moreover, we believe that the decision with respect to whether a case can be proven in a court of law should be made by HHFA's legal officers or by the Department of Justice rather than by administrative personnel.

Project NY-30-P-18

Pursuant to an agreement entered into on September 19, 1945 (amended on January 23, 1947, and on April 1, 1947), the Government advanced to the applicant \$7,100 to plan the construction of a police headquarters building. A construction contract was awarded on September 10, 1956, and construction was undertaken. However, the HHFA regional office field engineer was informed by the applicant that the original plans had been discarded and that a new architectural firm had been engaged to design the plans on which bids had been received and contracts awarded.

According to a plan comparison report prepared by the regional office review engineer, dated September 30, 1957, the original and as-built plans differed widely in architectural and structural detail and in usable floor area. However, the general plan to construct a police headquarters building was ultimately carried out. Nevertheless, the plan comparison report concluded that, "Since no substantial use was made of the planning accomplished under the

Federal advance; since the need has been satisfied by a substitute facility; and since it is evident that no substantial use will ever be made of the planning," the project should be placed in the obsolete category. In concurring in this recommendation, the HHFA Regional Administrator recognized, in a letter dated October 17, 1957, to the Commissioner, CFA, that: "Because the original site has been used, it is possible that boring and survey data which was acquired with the aid of the advance may have been used in designing the new plans; ***."

HHFA apparently did not give consideration in this case to the collection criteria established by the Bismarck and Wendell decisions because the general plan contemplated by the applicant when it requested the advance had been carried out. The applicant contemplated the construction of a police headquarters building, and a police headquarters building was constructed.

Project NY-30-P-52

Pursuant to an application approved on June 26, 1946, the Government advanced \$14,000 to the applicant for planning a city hall building. The original plans and specifications, dated February 1, 1947, were abandoned by the applicant because the lowest construction bid was about twice the amount allocated for construction by the applicant. Accordingly, the applicant had other plans prepared and construction on the same site, but with considerable design variation, was undertaken. On November 18, 1957, the applicant requested a waiver of payment because the original plans and specifications had been abandoned. The HHFA review engineer prepared a

comparison between the original and the as-built plans. He noted that the building sites were the same and that the location of utilities were substantially the same in both sets of plans. While the review engineer recognized that the two sets of plans were not substantially similar, he stated that, since the original plans had served their purpose in the form of economic investigations and studies and other action preliminary to the construction of the city hall building, the original plans "*** have been used under the purview of the regulations on which the loan was made." and, accordingly, recommended the recovery of the advance. To substantiate his recommendation, the review engineer cited the Bismarck case. The review engineer concluded as follows:

"Without the original File Plans, the Applicant has no way with which to determine how extensive or elaborate a building it can construct within its financial limitations."

Citing the circumstances surrounding this case and the recommendation for recovery by the review engineer, the HHFA Regional Administrator requested guidance from the Commissioner, CFA.

On the basis of a memorandum opinion by the CFA Acting Chief Counsel, dated August 12, 1960 (which stated in effect that the facility placed under construction was not the public work planned with the Federal advance), the memorandum of the HHFA Regional Administrator, the engineering reports, and the CFA files, the Acting Commissioner, CFA, advised the HHFA Regional Administrator in a memorandum dated August 29, 1960, that "In view of the fact that substitute facilities have been constructed, it appears that the

project may be considered obsolete in accordance with existing regulations."

In view of the similarity between this case and the Bismarck and Wendell cases, it seems that the CFA Washington office did not give adequate consideration to the effect of the courts' decisions.

Outstanding planning advances applicable to
public agencies in the area administered by
the Chicago HHFA Regional Office

At February 28, 1962, the Chicago HHFA Regional Office had a total of \$3,247,613 of outstanding advances made to public agencies under the first and second programs of advances for public works planning. Data were not readily available regarding the total amount of the advances that had been transferred to Washington because the related projects had been classified as obsolete. However, our review disclosed that at least 15 projects involving outstanding planning advances totaling \$562,681 had been classified as obsolete because of the construction of substitute facilities. These 15 outstanding advances are listed below:

<u>Project number</u>	<u>Type of facility</u>	<u>Amount of advance outstanding</u>	<u>Date project declared obsolete</u>
<u>First public works planning program</u>			
47-P-145	Museum	\$139,500	9-27-60
20-P-176	Library	118,750	2- 6-59
33-P-419	Sewer	70,000	2-15-61
13-P-78	School	63,977	6-27-60
20-P-307	School	4,350	9-27-60
47-P-26	Sewer	<u>3,175</u>	9-27-60
		<u>399,752</u>	
<u>Second public works planning program</u>			
33-P-1007	Courthouse and jail	52,000	5-22-59
13-P-1007	Sewerage treatment plant	50,000	7-23-58
11-P-1092	School	7,531	7-28-58
11-P-1019	Water facilities	14,250	3- 6-61
33-P-1015	Sewer	13,000	8-13-59
33-P-1039	County jail	11,600	5-13-58
47-P-1024	Sewer	7,908	7-15-55
33-P-1020	Sewer	4,500	5-24-60
12-P-1045	Paving and resurfacing	<u>2,140</u>	5- 5-59
		<u>162,929</u>	
		<u>\$562,681</u>	

Comments regarding the basis for classifying several of these projects as obsolete follow:

Project 47-P-145

Pursuant to an agreement approved on November 15, 1946, the Government advanced \$139,500 to the applicant for planning the construction of a public museum building. The applicant stated in a construction status report dated January 27, 1959, that a construction contract was to be signed in October 1959 and that construction would be undertaken in November or December 1959.

On the basis of a plan comparison report prepared by the regional office engineering staff, dated September 8, 1960, the Regional Director of Community Facilities recommended and the HHFA Regional Administrator approved on September 15, 1960, a finding of obsolescence of the plans prepared with the Federal advance.

The engineering staff made no reference in its plan comparison report to the repayment criteria enunciated by the Federal courts. Moreover, from the following conclusions and recommendations of the engineering report, it is apparent that the engineering staff did not consider those criteria.

"CONCLUSIONS AND RECOMMENDATIONS

In view of the above changes necessitated by revised ideas relative to museum exhibition and storage facilities and the need for economy and simplification of the museum as originally planned it has been necessary to completely revise the plans for the entire museum structure.

"Since the *** [applicant] received bids on August 3, 1960 for the construction of a museum building redesigned according to the latest concepts in museum planning and since such revised design differs in all aspects except the general shape of the originally planned building, it is recommended that the original plans be declared obsolete and the Applicant be excused from repayment of the planning advance."

The plan comparison report also brought out that the applicant had insufficient funds to construct the museum as originally planned because the estimated construction cost was not within the appropriation authorized. According to the Bismarck decision, economic motivation should not be considered in determining whether an advance is repayable. As in the Bismarck case, once the applicant ascertained that construction from the original plans was

prohibitive in costs, it proceeded to "cut the suit to fit the cloth" by constructing a less expensive building. Nevertheless, the actual construction was an undertaking to construct a museum--the purpose the applicant had in mind when it asked for a planning advance.

Project 20-P-176

Pursuant to an agreement approved on March 10, 1947, the Government advanced to the applicant \$118,750 to plan additions and alterations to an existing library building. In 1958 the applicant undertook construction of the proposed project.

In an obsolescence report, dated February 5, 1959, the regional office engineering staff stated that the plan comparison between the original and as-built plans showed that neither the scope nor the design layouts were similar. Accordingly, the engineering staff concluded that: "Since the original project plans and specifications will not be used, they should be declared obsolete. Therefore, we find the Advance is not due and repayable at this time."

In a memorandum dated March 12, 1959, the Director of the Engineering Branch informed the Director of the Advance Planning Branch, in part, as follows:

"The Engineering Branch recognizes that major changes in the design of the project were made, requiring new plans and specifications, nevertheless, the project when completed will fit the description of the project in the Agreement executed for the advance of funds. However, under existing regulations the Engineering Branch has no other alternative than to consider the project undertaken by the applicant as not the public work planned with the aid of the Federal advance, and therefore concurs in the

recommendation of the Regional Office in declaring this project to be obsolete. This project definitely falls in the category of the 'Bismarck' case and, if applicable, a recommendation would be made for repayment of the advance." (Underscoring supplied.)

On March 17, 1959, the CFA Chief Counsel informed the Director of the Advance Planning Branch that "based upon a review of the Regional and Central office files which contain uniform findings to the effect that the facilities placed under construction are not the public works planned with the Federal advance, *** said advance is not presently repayable." In a letter to the Regional Administrator, dated March 20, 1959, the Commissioner, CFA, concurred in the finding of obsolescence.

We believe that the applicant carried out the general plan contemplated when it obtained the advance. The applicant intended to construct additions to the existing library building and such additions were undertaken.

Project 33-P-1007

Pursuant to an agreement dated April 24, 1950, the Government advanced \$52,000 to the applicant for planning the construction of a courthouse and jail. Construction of a courthouse and jail was undertaken on December 29, 1958.

In a plan comparison report dated February 24, 1959, the regional office engineering staff stated that, in view of the different design layouts, no similarity existed between the original and as-built plans and drawings. Accordingly, the engineering staff concluded that the advance "is not due and repayable at this time" and because the original plans and specifications will not be used,

the project should be declared obsolete. The site of the structure as built is the same as originally planned. By memorandum dated May 20, 1959, to the Regional Administrator, the Acting Commissioner, CFA, concurred in the finding of obsolescence.

We believe that CFA did not adequately consider the court-established repayment criteria when it classified this project as obsolete because the applicant carried out the general plan contemplated when it obtained the advance. The applicant intended to construct a courthouse and jail, and a courthouse and jail were constructed on the same site as originally planned.

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We believe that CFA and the HHFA regional offices should apply those tests which have been consistently recognized by the courts in the Bismarck, Wendell, and Willis decisions in ascertaining whether an advance should be repaid when a public agency constructs a substitute facility.

We proposed that CFA (1) review all projects classified as obsolete to ascertain whether, under the criteria established by the Federal courts, the advances are repayable and (2) advise the HHFA regional offices of the correct interpretation and proper application of the court-established repayment criteria with respect to future cases involving the construction of substitute facilities.

In reply to our proposals the Commissioner, CFA, stated:

"*** I agree that such criteria [based on the court decisions] can be developed and would be helpful to our Regional Offices, provided that clarification can be obtained as to the legally permissible guidelines. It is apparent that there have been variations in past practice

as to the correct interpretation of the existing criteria and, more importantly, the proper application of the three court decisions cited in the report. Every effort will be made to resolve at an early date these variations with respect to long-standing CFA procedures and practices relating to liability for specific repayment in those difficult cases that involve the construction of substitute facilities."

The Commissioner stated further that CFA is developing plans for the review of obsolete cases to identify and assess the considerations that led to such classifications, with the objective of eliminating the obsolete category.

In conclusion, the Commissioner stated that:

"*** we shall undertake at the earliest possible date a comprehensive review of all facets of our administration of this program for the purpose of developing and publishing new criteria to govern our continuing operations in this area."

On October 15, 1963, CFA issued a circular to all HHFA regional offices requiring the submission to Washington of certain data with respect to all outstanding advances under the first and second programs of advances for public works planning. The circular provided for abolishing the obsolete category for advances pending the development of more precise criteria as to the follow-up method applicable to the various categories of outstanding advances. In a letter of the same date, the Acting Commissioner, CFA, advised us that a full review must be made of the data to be submitted by the HHFA regional offices before adopting any substantive changes in policy or procedures for the purpose of taking the corrective action proposed in our report.

In view of the actions being taken by CFA, we are not recommending additional action at this time.

INADEQUATE REVIEWS FOR DETERMINING
FINANCIAL FEASIBILITY OF PROPOSED PROJECTS

The HHFA regional offices review the financial data submitted by public agencies on their applications for planning advances to determine whether the applicants have, or reasonably can be expected to have, adequate financial means to undertake construction of the proposed projects. Under certain prescribed conditions, the HHFA regional offices make additional financial reviews before approving the final planning reports and making disbursements for the related planning advances. Our review has disclosed that the reviews made by the HHFA regional offices are inadequate, in some cases, for determining the financial feasibility of proposed projects.

Advance made for preliminary planning
without determining whether funds for
constructing the project could be obtained

Our review disclosed that the Chicago HHFA Regional Office had approved an application and subsequently had made an advance of \$20,000 for the preliminary planning of a toll bridge which, according to the application for the advance, would be financed, in part, by funds to be provided by the two States to be connected by the bridge. The applicant had not requested the States to provide the necessary financial aid.

The CFA manual of policies and procedures provides that applications for planning advances should not be approved unless (1) the proposed financings, in general terms of the total amount and the method, appear to be reasonable ventures for the communities,

(2) the applicants are expected to be reasonably able to finance the projects, and (3) the proposed methods of financing appear feasible.

In October 1958, the Chicago HHFA Regional Office approved an advance of \$20,000 to the Muscatine Bridge Commission, Muscatine, Iowa, for planning a new bridge over the Mississippi River at Muscatine, Iowa. The preliminary engineering planning work was completed in August 1959, and the HHFA Regional Office disbursed the \$20,000 to the applicant. The estimated cost of constructing the new bridge was \$5.3 million.

In its application for the planning advance, the applicant stated that sufficient revenue bonds could not be sold to pay all the costs of the proposed bridge and that a substantial amount of financial aid would be required. The amount of bonds that could be sold on the basis of toll revenues was estimated at \$2 million. The applicant indicated in its application that the remaining amount would have to be obtained from or through the highway departments of the States of Illinois and Iowa. However, the applicant had not requested these States to aid in financing the construction.

According to information obtained from the Bureau of Public Roads, the applicant, in 1963, will solicit about \$1 million each from the States of Illinois and Iowa for the construction of a new bridge. If favorable action is taken on the applicant's request, it was estimated that it will be 1967 or 1968 before any actual construction is scheduled. It was the applicant's belief that it

needed a base period of operations and experience to show the highway departments of the States of Illinois and Iowa what could be done toward paying the indebtedness on an existing bridge. The applicant believes that without this period of experience and study it would not be possible to present a logical or reasonable appeal for financial assistance.

The Administrator, HHFA, advised us, in a letter dated February 14, 1962, that the advance had been approved in 1958 on the basis of an administrative determination that construction of the new bridge could be expected to commence within a 5-year period. In view of the applicant's statement in its application that a substantial amount of financial aid would be required from the States, coupled with the absence of any type of commitment from the States, we believe that the HHFA regional office should have questioned the applicant regarding the probability of the construction being started within a reasonable period of time.

We proposed that CFA instruct the HHFA regional offices to disapprove applications for advances where it is apparent that the applicants do not have adequate financial means to undertake the intended construction.

The Commissioner, CFA, advised us that applications previously had been rejected for financial infeasibility and that in the current program the rejection rate was running above 20 percent, largely because of the applicants' lack of financial capability. He pointed out that detailed analyses of financial capability often are impractical until firm cost estimates have been developed

during the planning process. He stated further that, because the construction and financing of proposed projects will occur in the future, the HHFA regional offices not only give consideration to financial capability existing at the time applications are made but also give considerable weight to the applicants' general credit ratings and financial records.

We believe that in the cited case the Chicago HHFA Regional Office should have required the applicant to furnish evidence that the two States involved were willing to share in the costs of constructing the proposed toll bridge before approving the application for the planning advance.

Advances made for final planning without verifying
that applicants were capable of financing
the proposed projects

Our review of 14 advances made for final planning of projects in New York State disclosed that the New York HHFA Regional Office had made advances totaling \$156,499 for the final planning of five projects without making reviews to determine whether the public agencies had adequate financial means to undertake construction of the projects. The final estimates of the costs of constructing these projects ranged from 9 to 35 percent higher than the original estimates of construction costs shown in the applications for advances.

We reviewed all 14 of the advances under the third program of advances for public works planning which had been made to public agencies in the State of New York. Five of these advances involved plans on which the final estimates of construction cost were higher

than the original estimates. Nevertheless, the New York HHFA Regional Office had not made financial reviews for any of these projects when the completed plans were submitted for review and approval. Pertinent data relating to estimates of cost of these projects follow.

<u>Project number</u>	<u>Amount of advance</u>	<u>Project cost estimate shown in application for advance</u>	<u>Final project cost estimate</u>	<u>Percent increase</u>
NY-30-P-3085	\$ 58,611	\$12,000,000	\$13,056,820	9
NY-30-P-3017	39,589	1,044,000	1,152,000	10
NY-30-P-3010	26,304	1,466,000	1,980,000	35
NY-30-P-3036	18,750	750,000	830,000	10
NY-30-P-3016	<u>13,245</u>	396,000	523,250	32
	<u>\$156,499</u>			

At the time the final plans for three of these projects were approved, the CFA manual of policies and procedures provided that, if there was a substantial increase in the final construction cost estimate over the estimate in the application, the regional engineering review was to be directed toward determining whether the increase in the estimated construction cost resulted from oversign or a revision in the scope of the project. No financial review was required, although the CFA Regional Director could make such a review if, in his opinion, a review was justified. The manual has since been revised to require a financial review when the increase in the estimated construction costs is 15 percent or more. The Deputy Regional Director of Community Facilities at the New York HHFA Regional Office informed us that the regional office had

informally followed this practice in the past. He stated also that, even if the construction cost estimates were increased substantially, thus creating the likelihood that the applicants would not proceed with the planned construction, the regional office would nevertheless make the advances. He explained that (1) the Government had, in effect, authorized the applicant to enter into a contract with an architect and, therefore, was responsible for the architect's fee and (2) the applicant might be able to finance the project at a later date.

Since the law provides that advances for public works planning are not repayable unless the public agencies undertake construction of the planned facilities and the public agencies are not likely to undertake construction of financially infeasible projects, we believe that, before making advances for final project plans, the HHFA regional offices should take all reasonable precautions to assure that the public agencies have adequate financial means to construct the proposed public works. Further, we believe that an arbitrary limitation of 15 percent on the percentage of increase in the estimated construction costs is not an appropriate criterion by which to gauge the need for reviews to determine financial feasibility because some public agencies may have insufficient resources to be able to finance even small increases while other public agencies may have sufficient resources to finance sizable increases.

We proposed that the CFA instruct the HHFA regional offices to closely scrutinize construction cost estimates when completed plans are submitted for approval to assure that the public agencies have the financial capability to construct the proposed projects.

In commenting on our proposal, the Commissioner, CFA, pointed out that a requirement for detailed reviews of all plans involving increases, regardless of size, could easily lead to unnecessary financial review of many minor increases. He stated, however, that action would be taken to permit the HHFA regional offices to examine those cases where increases may be within the 15 percent limit but involve substantial increases in estimated construction costs.

We agree with the Commissioner that the CFA regulations should not be so inflexible as to require the HHFA regional offices to make unnecessary financial reviews. However, as pointed out by the Commissioner (see page 45), it often is impracticable for the HHFA regional offices to make detailed analyses of financial capability on the basis of the data available when applications for advances are filed. In such cases the preliminary financial analyses may be inadequate to assure that the public agencies have the financial means to undertake construction of the proposed projects. Further, since substantial time frequently elapses between the date of a public agency's application for an advance and the completion of its final planning report, conditions may have changed to the extent that the public agency no longer is capable of financing the planned project. Consequently, we believe that the CFA instructions to the HHFA regional offices need to be revised to require the HHFA regional offices to determine whether financial capability studies are needed at the time completed plans are received and to

withhold approval of final planning reports for financially infeasible projects.

Recommendation to the Commissioner, CFA

We recommend that the Commissioner, CFA, instruct the HHFA regional offices to (1) closely scrutinize the construction cost estimates when completed plans are submitted for approval, (2) make financial capability studies in cases where scrutiny of the final cost estimates indicates a possibility that the public agencies may be unable to finance the planned projects, and (3) withhold approval of final plans and disbursements of planning advances for projects determined to be financially infeasible.

PLANNING ADVANCE OF QUESTIONABLE PROPRIETY--RECOVERED

The HHFA Chicago Regional Office approved a city's application for a planning advance of \$125,000 and subsequently made an advance of \$63,000 for an incinerator project (Project No. 47-P-3010) that, in our opinion, was ineligible because it was for a feasibility study rather than for planning a specific project. The CFA manual of policies and procedures provides that advances will not be made for feasibility studies. Further, although several extensions of time had been granted by the Regional Director of Community Facilities, the city had not completed its plans for the project within the time limit specified in the agreement with HHFA.

On October 30, 1958, CFA approved an advance of \$125,000 for the planning of an all-purpose refuse disposal incinerator, including electric power generating facilities and a storage garage. During January 1959, HHFA regional office representatives discussed the proposed scope of the project with the city's representative and found that the intended planning included a study of various methods of garbage disposal. The regional office representatives advised the city that the planning must be restricted to the incineration aspect.

Our review disclosed that the city had entered into two separate contracts with an engineering firm, as follows: (1) "Acceptability of Disposal Methods other than Incineration" and (2) "Survey to Determine Long Term Incineration program." Only the second contract was submitted to CFA for approval.

During December 1960 the engineering firm submitted general plans to the applicant for two methods of disposal, incineration and sanitary landfill. In January 1961, the city submitted the plans pertaining to the second contract to CFA for review and approval and requested an interim advance of \$63,000 to enable further preliminary planning. CFA delayed making the interim advance until July 1961 because the plans were incomplete and the city had failed to state when the construction would be started.

Our review disclosed that the city had done no further planning on the incineration project after receiving the advance. Instead, all the subsequent planning activities had been directed toward the sanitary landfill method of disposal. Our review disclosed also that, although several extensions of time had been granted to the city for submitting completed plans for the incineration project, there was little likelihood that the plans would be completed by the date specified in the latest extension because the city had not definitely decided whether to construct an incineration project or a landfill project.

The Chicago Regional Director of Community Facilities advised us that the regional office was aware that the plans submitted at the time of the interim advance were not complete and had informed the city that it must produce plans for a specific incineration project. He stated also that, if the city did not submit completed plans for the incineration method of disposal, CFA would treat the agreement as breached and bill the applicant for the interim advance of \$63,000. He stated further that he was not aware

that the city was planning a sanitary landfill instead of an incineration project.

Since our review indicated that the applicant had conducted a study to determine a feasible method of garbage disposal, we proposed that CFA withhold approval of the applicant's plans and attempt to recover the interim advance of \$63,000.

The Commissioner, CFA, informed us in May 1963 that, although the original planning completion date of October 10, 1959, had been extended to October 1, 1962, only partial preliminary planning had been completed. The Commissioner concluded that the city had breached and in effect had terminated its agreement with the Government and stated that the regional office would be directed to bill the city for the refund to the Government of the \$63,000 advance. On October 15, 1963, the Acting Commissioner, CFA, informed us that the \$63,000 advance had been repaid and that the balance of the Government's commitment had been canceled.

SCOPE OF REVIEW

Our review of the administration of the programs of advances for public works planning, which was made at the Chicago and New York HHFA Regional Offices and selected public agencies within their jurisdictions and at the CFA Washington Office, included examinations into:

1. The basic laws authorizing the programs and the pertinent legislative history.
2. CFA's policies, procedures, and administrative regulations applicable to activities of the HHFA regional offices for conformance with the basic legislation and court decisions interpreting the basic legislation.
3. Selected transactions and related agreements, project correspondence, documents, and other data pertaining to selected advances for public works planning for conformance with basic legislation and CFA's policies, procedures, and administrative regulations.

Our review covered procedures of the regional offices principally in fiscal year 1962 and procedures of the Washington office through January 1963. CFA comments on the matters included in this report were received in May and October 1963.

APPENDIX

HOUSING AND HOME FINANCE AGENCY

PRINCIPAL OFFICIALS

RESPONSIBLE FOR THE ACTIVITIES EXAMINED DURING OUR REVIEW

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
ADMINISTRATOR, HHFA:		
Albert M. Cole	Mar. 1953	Jan. 1959
Norman P. Mason	Jan. 1959	Jan. 1961
Lewis E. Williams (Acting)	Jan. 1961	Feb. 1961
Robert C. Weaver	Feb. 1961	Present
COMMISSIONER, CFA:		
Pere F. Seward	May 1950	Aug. 1953
John C. Hazeltine	Aug. 1953	Feb. 1961
Sidney H. Woolner	Feb. 1961	Present
REGIONAL ADMINISTRATORS, HHFA:		
New York Regional Office:		
Clarence R. Knickman	Dec. 1954	June 1955
William D. Jones (Acting)	June 1955	Dec. 1955
Walter S. Fried	Dec. 1955	May 1960
Daniel R. Bayer (Acting)	May 1960	June 1960
Lester Eisner, Jr.	June 1960	Present
Chicago Regional Office:		
John P. McCollum	July 1955	Present
REGIONAL DIRECTORS, CFA:		
New York HHFA Regional Office:		
William P. Jones	May 1955	Mar. 1957
Ralph Cornell (Acting)	Mar. 1957	Aug. 1957
Ralph Cornell	Aug. 1957	Oct. 1961
Richardson J. Thompson (Acting)	Oct. 1961	Oct. 1961
Richardson J. Thompson	Oct. 1961	Present
Chicago HHFA Regional Office:		
Lester Brown (Acting)	Aug. 1951	Aug. 1956
Dean Swartzel	Aug. 1956	Sept. 1957
Lester Brown (Acting)	Sept. 1957	Mar. 1958
John P. Harris	Mar. 1958	Present

EXECUTIVE

FE12/x Kennedy, John F.
FG 245

December 20, 1963

Dear Mr. Weaver:

The Attorney General will shortly communicate with you with respect to the collection of materials for the John F. Kennedy Library. I regard this as a project of historic importance. Nothing like it has been attempted before in the entire record of the Presidency. If carried through successfully, it will give future generations a unique grasp of the history of our times. I fully endorse the project and request that every department or agency cooperate fully, subject to applicable laws and regulations and departmental or agency policies.

Sincerely,

LYNDON B. JOHNSON
Carbons stamped in
processing area

Honorable Robert C. Weaver
Administrator
Housing and Home Finance Agency
Washington, D.C.

mjs

*Rec'd
12-17-63
my for
11 am*

gm/EF

**EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON 25, D. C.**

EXECUTIVE
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JF LE
FI4/FG 245*

DEC 11 1963

MEMORANDUM FOR THE PRESIDENT

F

Attached is a staff memorandum summarizing the Housing and Home Finance Agency's legislative program for 1964 and commenting briefly on it. As I mentioned in our telephone conversation, I have not yet completed my own review of this agency's 1965 budget and accordingly would like to reserve my final position on this legislation.

Alvin S. Gordon
Director

Attachment

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DEC 23 1963
CENTRAL FILES**

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON 25, D.C.

DEC 11 1963

MEMORANDUM FOR THE DIRECTOR

Subject: 1964 Legislative proposals for the Housing and Home Finance Agency

As you requested, we are setting forth below a brief resume of Housing and Home Finance Agency's legislative proposals with equally brief comments reflecting staff views at this time:

EXTENSIONS OF EXISTING PROGRAMS

1. Urban renewal capital grants -- \$3 billion for a four-year period.
2. Urban planning grants -- \$125 million for a four-year period.
3. Open space land grants -- \$125 million for a two-year period.
4. Urban transportation assistance -- \$375 million for grants over a three-year period, supplemented by loan guarantees.
5. College housing loans -- \$900 million for fiscal years 1966-68.
6. Direct loans for housing for the elderly -- \$250 million for a two-year period.
7. Public works planning advances -- removes limitation on appropriations (\$25 million requested for 1965).
8. Low-income housing demonstration grants -- \$5 million.

Comments: These are mostly non-controversial although we disagree with the Agency in some cases on the amount needed; we further believe that part of the urban renewal grants and all of the college housing loan request could be deferred.

RECEIVED
DEC 2 1963
CENTRAL FILES

MAJOR REVISION OF EXISTING PROGRAM

9. Low-rent public housing -- a 200,000 increase in units to be committed over four years at an ultimate cost of \$150 million a year in annual contributions; revised financial assistance formula to encourage use of rehabilitated existing housing; and an additional subsidy of \$120 per annum per unit for units occupied by new urban renewal displacees.

Comment: We agree on the need for additional units but numbers are flexible; we see no real justification for special subsidy for urban renewal displacees.

NEW PROGRAMS GENERALLY ACCEPTABLE

10. Public housing rental subsidies for leased units -- 40,000 units over four years at an annual cost of \$29 million in full operation.
11. Conversion of home equities of the elderly into life annuities -- a basically self-supporting insurance program requiring only limited Federal administrative expenditures.
12. Public facility loans for growth capacity of water and sewer systems -- deferred repayments of loans for excess basic capacity in fast-growing areas.
13. Loans for advance acquisition of land for public improvements -- deferred repayments on loans for option or purchase of land needed for future State or local public works.
14. New communities development program -- planning grants and loans to public bodies and loan insurance for private developers to encourage better-planned suburban development.
15. Grants to States for training governmental personnel -- up to \$25 million a year for 50 per cent grants.

CONTROVERSIAL PROPOSALS STILL BEING CONSIDERED

16. Supplementary housing payments for families displaced by urban renewal -- payments for three years equal to the difference between 20 per cent of a family's monthly gross income and average local rental costs of adequate housing.
17. Special compensation for business firms displaced by urban renewal -- lump-sum payment up to one-half of a firm's average annual net income, but not to exceed \$5,000 per firm.

Comment on 16 and 17: Legitimate problems, but probably should be handled through general reform of State eminent domain compensation principles.

18. Demonstration program on human problems -- \$25 million for grants of up to 100 per cent for local programs to deal with social problems of urban changes.
19. Below-market interest rate loans for home rehabilitation -- insured loans at 3-3/8 per cent to be purchased (\$50 million a year) by the Federal National Mortgage Association for rehabilitation and refinancing existing indebtedness on homes in urban renewal areas-- including deferred repayments for elderly homeowners.
20. Grants for basic water and sewer facilities -- \$750 million for four years of 30 per cent grants.
21. Grants for public facilities in new communities -- 30 per cent grants as supplement to new communities development program described in item 14.
22. Mortgage payment insurance for unemployed FHA or VA home owners -- partial coverage of up to one year's mortgage payments during periods of temporary unemployment.

Comments on 18 through 22: We believe these proposals either duplicate existing programs (#18), involve excessive Federal expenditures for the benefits derived (#19, 20, and 21), or can be handled at less cost through alternatives to be made available through minor modification of existing programs (#22). We need, however, to explore these questions further with the Agency.

Name	Date
Mary C. Annan Mr. Bill Morgan Hose	12-7-66

ugh/

EXECUTIVE
FE3-1/Kennedy
FG 245
PRI

December 3, 1963

Dear Wayne:

Please accept my sincere thanks for your very professional help during the events of the past weeks. I very much appreciated your voluntarily taking on these tough assignments and it was indeed a comfort to me to know that they were in good hands. The rest of my staff joins me in sending you grateful thanks.

Sincerely yours,

Pierre Salinger
Press Secretary
to the President

PS:ecc

X
Mr. Wayne Phillips
Information Office
HHFA
Washington 25, D.C.

RECEIVED
DEC 4 1963
GENERAL INVESTIGATIVE

Copy filed in President Kennedy's files

EXECUTIVE ②

FE3-1/Kennedy

PR1

FG245

December 2, 1963

Dear Fred:

I want you to know how much all of us here in the Press Office appreciated the fine services of Wayne Phillips during the events of last week.

He took on each assignment professionally and capably and we are indebted to you and to him for making himself available when we most needed the support and help of valued friends.

Best Regards,

Pierre Salinger
Press Secretary
to the President

PS:ecc

Mr. Fred Forbes
Assistant Administrator (Public Affairs)
HIFA
Washington, D.C.

cc: Mr. Phillips

yellow copy filed in President Kennedy's file