SMALL AGENCY REVIEW

SESSION 7

March 8, 1995

Small Agency Review
Index

March 8,1995

Clinton Presidential Records
Digital Records Marker

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This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Divider Title: **A**

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

DESCRIPTION: The Conference assists the President, the Congress, Federal departments, and agencies by issuing formal recommendations for improving administrative procedures, and then assisting agencies with their implementation. It publishes administrative law sourcebooks used throughout federal, state and local governments. ACUS has also worked with USIA and State on projects to provide administrative law assistance to foreign governments.

FY 1996 BUDGET PROPOSAL: Proposed FY 96 net budget authority of $2.26M is an increase of $459,000 from the FY 95 budget. Proposed FY 96 FTE are 22, an increase of 4 FTE from FY 95.

AGENCY PROPOSAL: The Conference proposed no alternatives to its continuation. ACUS contends that a privatized entity or large agency could not provide the independent, non-partisan forum that contributes to ACUS' ability to achieve consensus on issues among the government representatives, federal judges and private sector representatives who participate.

DECISION OPTIONS:

A. No change. Follow FY 96 budget recommendation.

B. Terminate the ACUS. Have the Department of Justice, Office of Policy Development subsume this mission.

C. Develop a plan to privatize the Conference to encourage competition for Federal funding for its activities through fee-for-service contracts.

ADVISORY GROUP RECOMMENDATION: B (NPR)

RATIONALE: The conference currently works extensively with the Office of Policy Development at Justice. This DOJ should subsume the conference mission rather than serve a coordinating role. The Appropriation Committees in past Congresses have attempted to zero out the Conference. Opponents would point to the conference as the only agency that supports administrative reform.

STEERING COMMITTEE RECOMMENDATION

The Administrative Conference of the United States

Agency Option Paper
Phase Two of Reinventing Government

General Outline of Agency Functions

The Administrative Conference of the United States (ACUS) assists the President, the Congress, Federal departments and agencies and the courts by identifying and examining issues of administrative law and regulatory procedures (including judicial review of agency actions) used by all branches of the federal government. ACUS conducts studies of the efficiency, adequacy, and fairness of the procedures that the agencies and departments use to determine the rights, privileges, and obligations of private persons. The Administrative Conference issues formal recommendations for improvements and assists agencies with implementation or, as appropriate, supports changes in law. In addition, the Administrative Conference has played, and expects to continue to play, a major role in assisting agencies as they implement many of the numerous recommendations of the National Performance Review to streamline the Government and make it more efficient. ACUS' major program areas are:

1. Research & Recommendations
2. Implementation & Advisory Activities
   - Alternative Dispute Resolution
   - Regulatory Reform
3. Clearinghouse Activities
4. International Assistance

Competition Options

Analysis - Elimination/Privatization/Consolidation

The above functions are critical to the mission of ACUS and cannot be effectively performed by other federal agencies or at the state and local level.* ACUS relies on its unique public/private partnership of approximately 100 members from both government agencies and the private sector to study the "nuts and bolts" of administrative law and process issues and to achieve a workable consensus on such issues.

The Administrative Conference is the federal government's independent and non-partisan permanent guardian of fairness, efficiency, and effectiveness in governmental procedures. This independence would be severely compromised if ACUS were consolidated with a larger Department such as the Department of Justice. If this were done, it would be difficult, if not

* ACUS' functions relate primarily to the federal government, so the issue of devolution to a state or local government is not applicable.

impossible, for ACUS to take an independent stand on reform issues or even to achieve a true public/private consensus on such issues. A case in point is the promotion of alternative dispute resolution (ADR) in agency proceedings -- a reform which the Department of Justice, with its concentration on litigation, tended to resist until recently. Obviously the same could be said for other possible "homes" for ACUS such as the Office of Information and Regulatory Affairs (OIRA), within the Executive Office of the President, or the General Accounting Office, a Congressional agency. A principal benefit of ACUS is that government agency representatives, federal judges, and private sector representatives can come together to discuss reform initiatives independent of agency or administration positions. We doubt that this would be possible if ACUS were subsumed into another agency.

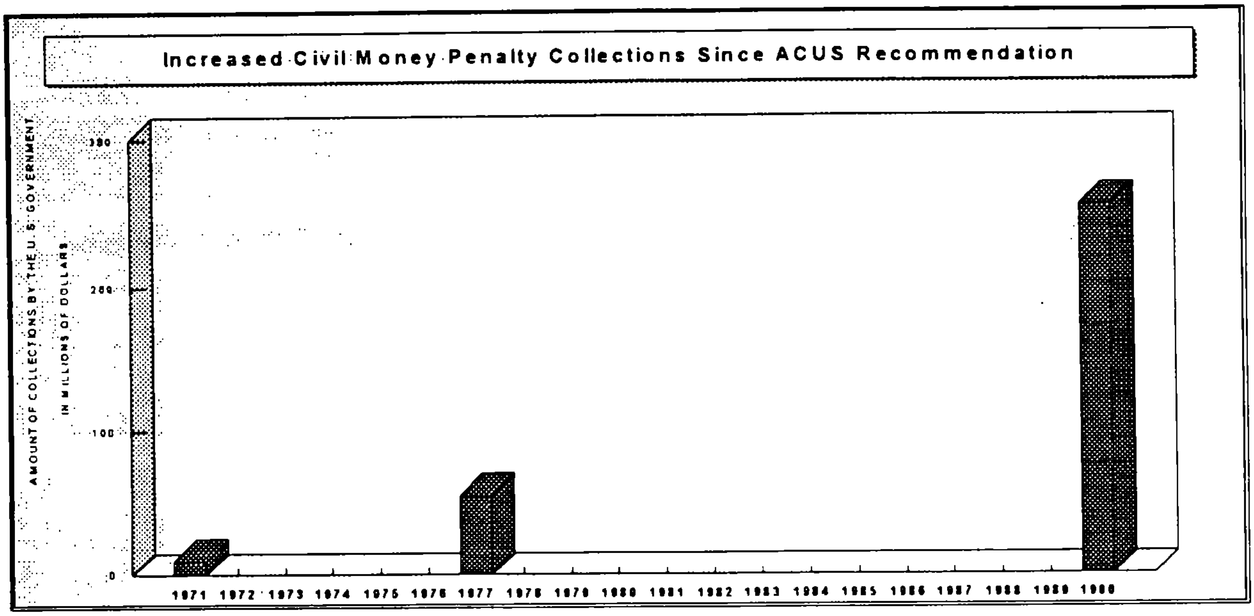
While all federal agencies are concerned with issues of fairness, efficiency, and effectiveness, these issues necessarily play a secondary role to the primary mission and function of those agencies. Only the Administrative Conference focuses its exclusive attention on improving issues of administrative procedure that affect the daily lives of millions of Americans. ACUS is also a centralized resource on administrative procedure for Congress, the federal departments and agencies, and the general public. Other federal departments or agencies, concerned with pursuing their own programs and accomplishing their missions, are not able to devote resources to the type of basic cross-cutting research needed to produce the recommendations to improvements in the administrative process that is central to the mission and statute of the Administrative Conference.

The Administrative Conference, through its unique structure, selection of consultants, small professional staff, committees, and members from the private and public sectors, bring to individual projects an objectivity, impartiality, and breadth of experience that would simply be unavailable if projects were undertaken by individual agencies, academicians, or companies in the private sector. While it is extremely helpful for ACUS to draw upon the resources of its private members and to make use of private sector resources while carrying out its mission, the primary benefit is derived from the public/private interaction which is forged in a non-partisan objective manner at ACUS. If ACUS were privatized, it would become just another outside advocacy organization without the accountability, credibility, and synergistic interaction provided by its federal charter.

ACUS' continued existence is crucial to the federal government's ability to truly reform government. In addition to ACUS' pathbreaking recommendations concerning agencies' use of ADR and negotiated rulemaking (reg-neg), other ACUS recommendations such as the 1972 recommendation (Recommendation 72-6, "Civil Money Penalties as A Sanction") that led to the modern "administration-imposition" model by which most agencies now collect civil money penalties in furtherance of their regulatory enforcement responsibilities. This recommendation was accompanied by an ACUS-drafted model civil money penalty statute that has since been incorporated in more than 200 statutes. Its popularity with Congress and agencies is due to the fact that it is much less cumbersome than the traditional (pre-1972) "court collection" model that required agencies to persuade the Department of Justice to prosecute a civil collection action in federal district court. In 1977, the Supreme Court ruled that the administrative-imposition model was constitutional.

There has been a resulting surge in civil money penalty collections since 1972. According to ACUS surveys in 1971 and 1977 and an OMB survey in 1990, annual collections have soared from approximately $10 million in 1971 (just prior to the ACUS recommendation) to $61 million in 1977, to $254 million in 1990.

Acceptance of the ACUS model has been a key to this increase in collections. A quick and simple cost/benefit analysis shows that if ACUS is given as little as 10% of the credit for this development, its total appropriation of less than $30 million in 25 years has been repaid 10-fold by virtue of this single 1972 recommendation.



Other examples of ACUS recommendations that have dramatically improved the administration of agency programs are attached as Appendix A.

Application of NPR Principles
Putting Customers First, Cutting Red Tape, and Empowering Employees

The Administrative Conference has, over the past several months and under the direction of a newly appointed Chairman, revisited its mission, and is in the process of first identifying and then communicating with all of its customers. ACUS has already streamlined and delayered its staff and is in the process of examining its committee structure.

At the request of the Vice President, ACUS has taken a very active role in the National Performance Review effort by providing the team leader for the task force on improving regulatory systems; promoting agencies' use of alternative dispute resolution and negotiated rulemaking to avoid unnecessary litigation; and by assisting agencies with the implementation of several key NPR recommendations.

In addition, ACUS actively participates in information exchange activities with other federal agencies; state and local government; several foreign countries, and the general public through the use of electronic mail. Electronic mail has improved the flow of information inside and outside the agency and, ACUS is currently exploring ways to expand its use in the area of negotiated rulemaking by electronic forums. Our principal customers, other federal agencies, are accessible through e-mail. Meetings are arranged, materials are provided, and information is shared instantly. The use of ACUS' external e-mail has provided greater access to government information in general, and specifically on alternative dispute resolution and negotiated rulemaking. As one of the sponsoring agencies and reinvention labs for the NPR/GSA electronic mail pilot, ACUS actively promotes and supports the use of external e-mail for gathering and disseminating information and, has found it to be more efficient and effective in making better use of an already limited staff.

Finally, as the United States prepares to strengthen its role in post cold-war international affairs by participating in information exchange activities with emerging democracies, ACUS plays a key role. ACUS has an official responsibility to provide administrative law assistance to foreign governments. Recognizing the role of administrative law in promoting rule-of-law and regulatory harmonization, Congress authorized ACUS to partner with the United States Information Agency (USIA) and the State Department in providing such assistance. ACUS/USIA projects have dealt with establishing an independent judiciary and improving court administration, establishing legal services programs, training government officials, and creating dispute resolution programs in various countries including China, Bulgaria, Ukraine, South Africa, and numerous sub-Saharan African nations.

If ACUS should somehow disappear, it is unlikely that any other agency will find itself positioned to globally examine administrative process issues and make recommendations that will improve governmental administration. No other agencies or private sector organizations are as cost effective or, as well positioned to take a lead role in independently and objectively assisting the Congress and the Administration in efforts to improve the regulatory process.

Appendix A
ACUS Recommendations

A chronological sampling of other ACUS recommendations that have measurably improved the administration of agency programs and which reveal significant cost savings to the government are listed below:

Recommendation [19]68-8, "Judicial Review of ICC Orders," is an early example. This recommendation urged a change in the then-existing statutory requirement that orders of the Interstate Commerce Commission be reviewed by a three-judge panel of U.S. district court judges with automatic review by the Supreme Court. The three-judge panel procedure required at least one court of appeals judge to travel to the district court where the case was to be heard, with consequent costs and inconvenience. The automatic review by the Supreme Court obviously also led to higher than necessary litigation costs. ACUS' study showed that in FY 1966 there were 73 three-judge panels and that in the 1967 Supreme Court term there were 16 direct appeals in ICC cases. One can easily see the wastefulness of this procedure when compared to the usual court of appeals review and discretionary review by the Supreme Court. The law was changed in 1974 (Pub. L. No. 93-584) and the House Committee Report stated "To sum up, the Committee thinks it indisputable that the benefits to be reaped by enacting this reform are as enormous as they are obvious."

The similar **Recommendation 69-5, "Elimination of Duplicative Hearings in FAA Safety De-certification Cases"** addressed a procedure that allowed pilots to have successive hearings at the FAA and NTSB in license revocation cases. The study showed that an average 25 cases a year went through both procedures. In today's dollars, these hearings probably cost about $50,000 per hearing, or an annual total in the range of $1.25 million. (The figure is derived by taking the average attorney fee award to plaintiffs in administrative hearings in 1992 at the statutory rate of $75 per hour under the Equal Access to Justice Act--$25,000--and multiplying by 2 to reflect the government's costs.) Prodded by ACUS, in 1970 the FAA adopted new regulations to eliminate its formal hearing procedures--leaving only the NTSB hearing.

Recommendation 71-6, "Public Participation in Administrative Hearings," illustrates another type of cost saving. Our study found that transcripts in agency hearings were being done by private reporting companies that would provide low-cost-transcripts to the agencies, while charging high prices to other parties and the public. ACUS recommended, among other things, that transcripts be available to others at the actual cost of duplication. The recommendation was subsequently adopted in the Federal Advisory Committee Act (§11) in 1972. While it did not necessarily save the government any money, this reform certainly prevented price gouging of the general public and made the hearing process more fair.

Recommendation 75-3, "The Choice of Forum for Judicial Review of Administrative Action," provides another example of recurring benefit to the government. This recommendation described a blueprint for Congress in deciding where and how to provide for judicial review of different types of agency action. Its guidance has been largely followed since 1975, and it has not only prevented costly problems in judicial review, but has made it possible for Congressional committees to avoid "reinventing the wheel" every time they insert a judicial review provision into an administrative program.

Recommendation 78-4, "Federal Agency Interaction With Private Standard-Setting Organizations in Health and Safety Regulation," is an example of an innovative regulatory reform recommendation. It recognized the benefit to the government (and to the economy) of avoiding the need to develop a regulation from scratch when an existing standard has already been developed by a nongovernmental organization. The recommendation also provided a list of criteria and safeguards that made this approach appropriate. ACUS' 1978 study and recommendation highlighting this approach helped lead to OMB's Circular A-119 (issued first in 1980, recently revised in October 1993) and the issuance of agency policies and procedures for using voluntary consensus standards whenever feasible. The benefits to the government are the savings of time and effort in harnessing this private sector energy, avoiding unnecessary regulatory proceedings, and achieving easier compliance. While difficult to quantify, these benefits have undoubtedly been quite significant. As a commentator pointed out in 1980: "The possibilities for participation are large. There are at least 440 developers of voluntary standards in the United States--including industry associations, technical societies, and professional organizations. More than 100,000 individuals are estimated to take part in this work at a cost approaching $1 billion a year." [*Regulatory Eye*, Vol. II No. 2, p. 3]

Recommendations 79-6 and 81-2, "Elimination of the Presumption of Validity of Agency Rules and Regulations in Judicial Review," illustrates another type of cost savings produced by ACUS recommendations: opposition to costly proposed legislation. Proposals, popular at the time, would have reversed the usual presumption of validity given to federal agency action and required reviewing courts to review every action de novo, without deference. This fundamental change would surely have cost the government a great deal in litigation costs and in delay of implementation of government actions. ACUS opposition to the proposals was instrumental in their nonadoption, and the Supreme Court's caselaw has since reaffirmed the appropriateness of deference to agency action.

With its **Recommendation 80-5, "Eliminating or Simplifying the 'Race to the Courthouse' in Appeals from Agency Action,"** the Conference again produced a reform that has had quantifiable and continuing benefits. Under traditional methods of seeking judicial review of agency action, the court of appeals in which the first petition for review was filed had jurisdiction over the proceeding. Because of the perceived advantage of suing in one court as opposed to another, parties choosing to appeal an agency decision were "racing" to file petitions for review in various federal courts around the country, and the courts had to devote considerable time to determining which petition was filed first. The Conference proposed a statutory change to establish a scheme of random selection where petitions for review of the same agency decision are timely filed in more than one court. Congress passed legislation implementing the proposal in 1988 (28 U.S.C. §2112). The Judicial Panel on Multidistrict Litigation, which is responsible for conducting the random selection, has data showing that there have been 23 random selections since the passage of the legislation, including 4 in 1993. The Conference consultant who studied the problem in 1979 estimated that each race resulted in $65,000-$100,000 in needless litigation costs to the government and private sectors. Thus, this recommendation alone has produced between $1.5 and $2.3 million in savings (in 1979 dollars) to date.

Recommendation 81-1, "Procedures for Assessing and Collecting FOIA Fees," recommended revising FOIA fees and agency fee collection practices to make it possible to recover the agencies' true costs of searching for and reviewing requested records. This recommendation was largely implemented by the Freedom of Information Reform Act of 1986, and agencies have subsequently updated their regulations to make it easier for them to recoup their costs from requesters who have a private, profit-making purpose underlying the request. (Because fee collection receipts are not gathered in one place, it is not possible at this time to give data on the increase in actual collections, but the savings to the government in actual collections plus a reduced volume of requests from profit-seeking requesters should be significant.)

Recommendations 82-4 and 85-3, "Procedures for Negotiating Proposed Regulations," launched the reg-neg initiative that is now codified in the Negotiated Rulemaking Act of 1990 and the Clinton Administration's National Performance Review recommendation. Since 1982 approximately 40 agency negotiated rulemakings have taken place or are underway. It has already been shown that "reg-negs" can be quite successful in reaching complete or partial consensus among affected parties about the proposed rule, thereby reducing the number of comments received, and, more importantly, the likelihood of expensive and dilatory litigation over the rule.. In 1987, the Administrator of EPA (the agency with the most reg-neg experience) estimated that 75% of all EPA rules were litigated. By contrast, of the first 10 reg-negs completed by EPA, only 2 were challenged in court, and both were upheld. Reduction of litigation rates from 75% to 20% would obviously produce great savings if this rate is maintained. How great? It is difficult to obtain reliable data about the costs of regulatory proceedings, but in 1984, former EPA Administrator William Ruckelshaus estimated that 125 person-years were needed from the EPA, 25 person-years from the Department of Justice, and 175 person-years on the part of plaintiff's counsel, just to handle EPA's annual rulemaking litigation. Other studies have shown that EPA's rulemaking from 1986-89 took an average of 37 months from start to finish, while negotiated rules took 26 months. EPA's own reg-neg office estimates savings from 6 to 18 months per rule by using reg-neg. Such savings, which already amount to millions of dollars, can only increase as agencies respond to the Clinton Administration's directives to make greater use of reg-neg.

In 1983, in **Recommendation 83-1, "The Certification Requirement in the Contract Disputes Act,"** the Conference identified a statutory provision that led to much wasteful litigation over whether government contractors had properly "certified" their claim. The Court of Federal Claims made the following observation about the certification provision: "This court and other judicial bodies spend far too much valuable time hearing motions to dismiss, brought by the government to challenge jurisdiction in government contract cases on the basis of a faulty certification, only to find the very same case refiled, at a later date, following additional administrative procedures to conform with the certification requirements of the statute and the regulations. The result is an inefficient use of the time of the courts, the government and the plaintiffs." Shirley Construction Corp. v. United States, 23 Cl. Ct. 686 (1991) (Judge Horn). The Court of Federal Claims Technical and Procedural Improvements Act of 1992, Title IX of Pub. L. No. 102-572, rectified this problem by modifying the certification provision of the Contract Disputes Act so that it is no longer a jurisdictional barrier to appealing a denial of a contract claim.

User fees have become an important technique for ensuring that the government is compensated for its services where appropriate. ACUS' study and **Recommendation 87-4,**

"User Fees," have provided guidance for Executive Branch agencies and Congress when establishing user fee programs. OMB's Circular A-25 (revised July 1993) follows these principles, and the Congressional Budget office has recognized the Conference's research. To the extent that user fees have produced significant new revenues for the government, ACUS' comprehensive study and its validating recommendation deserve at least a part of the credit.

ACUS **Recommendation 88-9, "Presidential Review of Agency Rulemaking,"** produced procedural guidelines that have helped the Executive and Legislative Branches resolve the long-standing controversy over how OMB review of rulemaking should be conducted. This recommendation's guidelines on openness were used as a guidepost by the Clinton Administration in drafting Executive Order 12866, which was favorably received by Congress, the business community, and public interest groups. Settlement of this controversy has produced not only relief, but real savings in allowing Congress and the Administration to focus on substantive problems of regulation without wasting so much energy on the procedures.

Similarly, **Recommendation 91-8, "Adjudication of Civil Penalties Under the Federal Aviation Act,"** settled a persistent and knotty problem surrounding the procedures and preferred location of civil penalty adjudications concerning violations of the aviation laws. After years of fruitless hearings, lawsuits, and controversy over whether these proceedings should be adjudicated by the DOT or the NTSB, Congress mandated that ACUS study that question. ACUS' recommendation formed the basis for the resulting legislative compromise in Pub. L. No. 102-345.

The latest cost-saving recommendation is **Recommendation 92-9, "De Minimis Settlements Under Superfund."** The recommendation noted that de minimis settlements have been greatly underutilized as a settlement tool, and when used have been applied very late in the clean-up process. This has caused the EPA to expend a considerable amount of resources in the calculation of the identity, waste contribution, and financial viability of potentially responsible parties (PRPs). Likewise, the transaction costs for de minimis parties (including retention of counsel and technical experts) usually are very high compared to the relative amounts of waste they contribute. Both the government and PRPs can realize significant savings by entering into early settlement.

EPA is now implementing broader usage of de minimis settlement and mediation programs. A guidance document EPA issued in early June 1993 implements most of the Conference's recommendations. In particular, the EPA announced a series of administrative improvements to increase the effectiveness and decrease the transaction costs of the Superfund program. One of the changes includes the distribution of instruction memoranda to the various regions, that recommends using de minimis payment to encourage PRPs to settle and directs the regions not to wait until a record of decision has been prepared before entering into settlement negotiations. The EPA has also established mediation programs at 20 Superfund sites to assist in allocation efforts among PRPs.

A Rand study found that 21 percent of the total outlays by PRPs was transaction costs. For firms whose overall expenditures were at the smaller end, i.e., in the range of $100,000 - $500,000, transaction costs averaged 38 percent. In FY 1993, the EPA entered into 38 de minimis settlements at 25 sites. This is approximately 2 1/2 times the previous annual average. Obviously, an increase in the use of settlements will lower transaction costs and decrease overall costs substantially.

The above recommendations (along with our ADR recommendations) represent only a small percentage of ACUS' output in its past 25 years. The recommendations were described at some length in order to illustrate that government can "work better" by improving the administration of agency programs, and "cost less" as evidenced by the millions of dollars that have been saved as a result of ACUS' recommendations.

OTHER INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. [571] *591* et seq.), including not to exceed $1,000 for official reception and representation expenses, [$1,800,000] *$2,259,427. (Independent Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 95–1700–0–1–751	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Direct program	1,798	1,800	2,259
01.01 Reimbursable program	127	150	100
10.00 Total obligations	1,925	1,950	2,359
Financing:			
25.00 Unobligated balance expiring	2	....	....
39.00 Budget authority (gross)	1,927	1,950	2,359
Budget authority:			
Current:			
40.00 Appropriation	1,800	1,800	2,259
Permanent:			
68.00 Spending authority from offsetting collections	127	150	100
Relation of obligations to outlays:			
71.00 Total obligations	1,925	1,950	2,359
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	658	679	630
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	–679	–630	–791
77.00 Adjustments in expired accounts	–189	....	....
87.00 Outlays (gross)	1,715	1,999	2,198
Adjustments to gross budget authority and outlays:			
88.00 Offsetting collections from: Federal sources	–127	–150	–100
89.00 Budget authority (net)	1,800	1,800	2,259
90.00 Outlays (net)	1,588	1,849	2,098

The Conference assists the President, the Congress, Federal departments, and agencies in improving administrative procedure. It conducts studies of the efficiency, adequacy, and fairness of the procedures that the agencies and departments use to determine the rights, privileges, and obligations of private persons. The Conference issues formal recommendations for improvements and then assists agencies with their implementation.

In addition to its research activities, the Conference also arranges for the interchange among administrative agencies of information useful in improving administrative procedure and, on an ongoing basis, furnishes assistance and advice on matters of administrative procedure to the agencies, the Congress, and others. It also publishes a number of administrative law sourcebooks and deskbooks used by attorneys throughout federal agencies, state and local governments and Congress.

The Conference will take a leadership role in actively supporting all agencies with their implementation of alternative dispute resolution (ADR) and negotiated rulemaking (reg neg) during 1996.

In addition, the Conference will support implementation of numerous recommendations of the National Performance Review to streamline the Government and make it more efficient.

Object Classification (in thousands of dollars)

Identification code 95–1700–0–1–751	1994 actual	1995 est.	1996 est.
Direct obligations:			
Personnel compensation:			
11.1 Full-time permanent	918	954	1,154
11.3 Other than full-time permanent	147	150	175
11.5 Other personnel compensation	7	11	13
11.9 Total personnel compensation	1,072	1,115	1,342
12.1 Civilian personnel benefits	228	260	295
21.0 Travel and transportation of persons	32	40	40
23.1 Rental payments to GSA	228	224	226
23.2 Rental payments to others	4	2	7
23.3 Communications, utilities, and miscellaneous charges	24	41	52
24.0 Printing and reproduction	16	23	58
25.1 Advisory and assistance services	84	....	112
25.2 Other services	3	19	24
25.3 Purchases of goods and services from Government accounts	26	32	36
26.0 Supplies and materials	33	44	42
31.0 Equipment	48	....	25
99.0 Subtotal, direct obligations	1,798	1,800	2,259
99.0 Reimbursable obligations	127	150	100
99.9 Total obligations	1,925	1,950	2,359

Personnel Summary

Identification code 95–1700–0–1–751	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	18	18	22

Trust Funds

GIFTS AND BEQUESTS

Program and Financing (in thousands of dollars)

Identification code 95–8280–0–7–751	1994 actual	1995 est.	1996 est.
Relation of obligations to outlays:			
71.00 Total obligations	....	....	....
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	157	147	137
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	–147	–137	–127
90.00 Outlays	10	10	10

ADVISORY COMMISSION ON CONFERENCES IN OCEAN SHIPPING

Federal Funds

General and special funds:

SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

Identification code 48–2500–0–1–403	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations (object class 25.2)	42	....	....

Clinton Presidential Records
Digital Records Marker

Divider Title: **B**

COMMISSION ON CIVIL RIGHTS

DESCRIPTION: The Commission was created by the Civil Rights Act of 1957 and reauthorized in 1994. The purpose of the Commission is to engage in studies concerning areas in which there may be denials of civil rights and to report on these matters to the President and the Congress. The Commission appraises and reports on Federal agencies' enforcement of civil rights laws. In accordance with its reauthorization, the Commission will also issue public service announcements to discourage discrimination and denial of equal protection laws.

FY 1996 BUDGET PROPOSAL: Proposed FY 96 budget authority of $11.4 M is an increase of $2.4M from the FY 95 budget. Proposed FY 96 FTE are 125, an increase of 20 FTE from FY 95.

AGENCY PROPOSAL: The Commission offered no alternative to its own "unique and vital mission."

DECISION OPTIONS:

A. No change. Follow FY 96 budget recommendation.
B. Replace the Commission with one Special Advisor to the President on Civil Rights.
C. Terminate funding.

BACKGROUND: Although the Commission is recognized as the vanguard of the Civil Rights movement, it has accomplished its purpose. Now numerous federal civil rights offices throughout the Government, which did not exist in 1957, effectively address civil rights problems and issues. State Advisory Committees have been established in each of the 50 states. Thus, the Commission has already devolved its primary responsibilities governmentwide and nationwide. Establishing a White House Special Advisor on Civil Rights would strengthen a commitment to protecting civil rights while saving almost $11.4M annually (minus salary and expenses for the Advisor). Authorization expires the end of FY95.

STEERING COMMITTEE RECOMMENDATION

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Tab B

UNITED STATES
COMMISSION ON
CIVIL RIGHTS

624 Ninth Street, N.W.
Washington, D.C. 20425

March 1, 1995

Mr. Marv Voskhul
National Performance Review
750 17th Street, N.W., Suite 200
Washington, D.C. 20006

Dear Mr. Voskhul:

This is in response to your memorandum dated February 23, 1995. Enclosed is the United States Commission on Civil Rights Option Paper analyzing the mission of the Commission. I understand that the Commission will be reviewed on March 8, 1995.

Maintaining the independent, bipartisan posture of the United States Commission on Civil Rights is critical. We are the only agency charged with the responsibility of evaluating civil rights in this country. No other agency has the broad mandate and the expertise to make recommendations to the President and to the Congress. This jurisdiction includes denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice. We do not believe that this role can be addressed effectively by any other organization.

I would appreciate the opportunity to further discuss these issues.

Sincerely,

Mary Frances Berry

MARY FRANCES BERRY
Chairperson

NATIONAL PERFORMANCE REVIEW - PHASE II
U.S. COMMISSION ON CIVIL RIGHTS

Question:

If your agency were eliminated, how would the goals or programs of your agency be undertaken -- by other agencies, by states or localities, by the private sector, or not at all?

Answer:

By its very existence, the U.S. Commission on Civil Rights ensures the public of the government's and the nation's commitment to equal opportunity for all by assessing the status of civil rights and recommending approaches toward the elimination of discrimination in all aspects of American life. While other agencies and private organizations may focus in a narrow manner on specific issues related to civil rights, no one organization has the broad mandate and the expertise to make recommendations to the President and the Congress in all aspects of civil rights. Other entities involved in civil rights are typically engaged in and devoted to specific issues or caseloads in a manner that may not enable them to note larger problems and patterns of discrimination which are limiting American society. Another Federal agency, for example the Department of Justice, or a private organization, may be able to respond to individual claims of discrimination, through litigation or enforcement, but these other organizations are not authorized nor equipped to investigate, evaluate and recommend solutions for widespread problems of discrimination in this country. The Department of Justice also could not perform the educational functions undertaken by the Commission. Our mandate does not end with uncovering, illuminating and offering solutions for discriminatory practices. The Commission provides this information to the President, the Congress and to thousands of individuals and organizations. The cost of such outreach would be prohibitive to most private organizations.

Further, the independent status of the Commission enables us to perform another extremely important function -- evaluation of civil rights enforcement by other agencies within the federal government. This often involves close scrutiny and critique of agencies such as the Department of Justice, and clearly could not be carried out effectively by any other federal agency, local governmental entity or private organization.

The Commission is charged with the specific responsibility to apprise the President, the Congress and the public on the effectiveness with which civil rights laws and policies of the entire Federal Government are enforced. We know of no other Federal, State or private sector organization capable of undertaking this challenging role. With the recent passage of the Congressional Accountability Act which applies 11 different laws to all congressional employees including the Civil Rights Act of 1964, the ADA, and the Age Discrimination act, we anticipate a heightened need for our expertise. We do not believe this is a role which can be addressed initially or assessed in the future effectively by any other organization.

In 50 states and the District of Columbia, the U.S. Commission on Civil Rights has State Advisory Committees which are comprised of citizens familiar with local and state civil rights issues. Committee members serve without compensation and assist in factfinding, investigative issues, and information dissemination. While we would like to believe that individual states could take on this function, we do not believe that it would be a priority in many states and would not be a program continued by the states into the future. It is our belief that this grassroots program of maintaining a close liaison to local communities and citizens must be continued by a Federal entity, independent of state and local political pressures, to ensure an independent view of the state of civil rights resulting in sound recommendations for improvements. We believe it imperative that civil rights reports from our state advisory committees be raised to the national level to enable a comparison of patterns of discrimination nationwide. Again we do not believe that this task is suitable for any other existing Federal agency.

On an annual basis, the U.S. Commission on Civil Rights distributes thousands of reports on various civil rights topics to citizens throughout the world. The audience for our reports is wide and diverse, ranging from foreign governments to school children desiring to learn more about this country's past and future. Organizations representing African Americans, Asian Americans, women, Latinos, Native Americans and other minority groups seek out our reports to assist them in their various activities. Other individuals, states and private organizations study our reports to increase their understanding of conflicts so that they might better avoid future difficulties and misunderstandings. An example of the latter is that our recent national report on civil rights issues facing Asian Americans has been used by police departments in the state of California to narrow the gap of understanding in training between law enforcement officers and the Asian communities they protect.

Additionally, the civil rights library of the U.S. Commission on Civil Rights serves as a clearinghouse for information on American civil rights. Unlike libraries in other Federal agencies whose unique security problems prevent easy access by the public, the U.S. Commission on Civil Rights operates as a public library. Any person desiring to learn more about the past, present and future of civil rights can enter our library.

We do not believe that functions currently performed by the U.S. Commission on Civil Rights would continue in any other organizational entity. Elimination or transfer to another agency of our unique and vital mission would be viewed as a sign of this Administration's lack of commitment to equal opportunity for all Americans and as a tolerance for discrimination. Long term, the lack of high level, national attention to civil rights issues would cause greater strife in our country and would result in increased economic difficulties.

Question:

If there are goals or programs of national importance that will remain undone and require a federal role in order to be accomplished, should they be done differently than they are being done today in order to enhance service to the customers?

Answer:

By the year 2000 it is predicted that the number of minorities and women in the United States will increase dramatically and the composition of America's workforce will continue to change substantially in the years that follow. While for the majority of the twentieth century emphasis and control was in the hands of a few, the twenty-first century will bring with it the realization that no single group of individuals can dominate and that previous discriminatory approaches and practices are obsolete. We are already in a unique period of transition in which communication with individuals of varied backgrounds and cultural experiences and understanding our differences becomes critical. To assist in this transition into the next century, the U.S. Commission on Civil Rights must increase its outreach efforts to the public. We are in the process of developing and implementing an aggressive outreach and education program to elevate the public's awareness of civil rights issues through public service announcements, increased speaking engagements, additional publications and computerized information. Additionally, we are planning to increase our monitoring of civil rights complaints and we are planning to develop strategies to improve the timeliness of all services provided to the public. Civil rights information, in a magazine format, is currently in development and despite limited funding, the first issue will be printed this summer and will be offered free to the public. We plan to make the new magazine a thought evoking publication which will be in schools, libraries, and private organizations throughout the country.

Important steps have been taken recently to begin to move the U.S. Commission on Civil Rights into the twenty-first century with information technology and related services. We fully intend to utilize improved technology to disseminate the greatest amount of information possible to the public on civil rights issues and concerns. It is our belief that our recommendations, suggestions and insights will play a critical role in easing the transition into the future. The U.S. Commission on Civil Rights will be instrumental in decreasing racial and ethnic tensions, increasing tolerance for cultural differences and educating the public on civil rights, all of which will result in monetary savings, increased productivity, and national harmony.

Question:

How do your customers (not just interest groups) feel about the possible eliminations or changes? This would build on your ongoing efforts to get customer input about the services they want, and how to improve satisfaction with the services we provide. Throughout the review we have to continue to put customers first and to deliver on our published customer service standards.

Answer:

Inasmuch as the U.S. Commission on Civil Rights has since its inception been a small organization devoted to the cause of advancing civil rights and equality for all, the public has always been the foremost in our mind. We have sought to eliminate prejudice, increase public awareness of ways to combat illegal discrimination, and provide information affecting all Americans. We believe our customers are the public and should elimination or change be proposed, it would be viewed as a backsliding of the nation's commitment to fairness and equality. Oftentimes the information we provide cites discriminatory practices or a lack of attention to minority concerns. While the messages are not always received warmly, they are nonetheless messages for which many Americans are grateful. Commission reports have been instrumental in past years in encouraging the passage of such landmark civil rights legislation as the Civil Rights Act of 1964 and the Voting Rights Act. The civil rights of American citizens have been directly affected for the better by the passage of these laws. The Commission's role in evaluating the enforcement of civil rights laws at the Federal level serves to further ensure the public that the effectiveness with which these laws are being carried out will be regularly assessed and that reports will be prepared on the status of enforcement in various subject areas.

Commission reports and publications are routinely distributed free of charge to the 11,000 individuals and organizations on our mailing list, along with the hundreds of organizations that have been identified as performing functions specifically related to the topic of a particular report and are therefore on a specialized mailing list. Our customers also include the hundreds of citizens each day who contact our Public Affairs Unit, our Library. and our Office of Civil Rights Evaluation to receive information on a particular topic or to file a complaint alleging discrimination.

The U.S. Commission on Civil Rights does not develop and issue regulations which pose hardships on the public -- instead, we investigate, gather facts, analyze information and make recommendations to ensure greater opportunity for all persons, states and organizations. We strongly believe this is a critical role for the Federal Government to play and that the President should take every possible action to reinforce to the public that he is the nation's foremost civil rights advocate. Maintaining the independent bipartisan U.S. Commission on Civil Rights as a separate government organization is one way to convey this message to the American people.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

necessary expenses as authorized by Public Law 99–190 (99 261; 20 U.S.C. 956(a)), as amended, [$7,500,000] *$6,941,000*. *tment of the Interior and Related Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 95–2602–0–1–503	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations (object class 41.0)	7,500	7,500	6,941
Financing:			
40.00 Budget authority (appropriation)	7,500	7,500	6,941
Relation of obligations to outlays:			
71.00 Total obligations	7,500	7,500	6,941
90.00 Outlays	7,500	7,500	6,941

This program provides payments for general operating support to Washington, D.C. arts and other cultural organizations.

COMMISSION ON AGRICULTURAL WORKERS

Federal Funds

General and special funds:

SALARIES AND EXPENSES

Program and Financing (in thousands of dollars)

Identification code 48–0057–0–1–352	1994 actual	1995 est.	1996 est.
rogram by activities:			
Total obligations	5		
inancing:			
21.40 Unobligated balance available, start of year: Treasury balance	–530	–25	–25
24.40 Unobligated balance available, end of year: Treasury balance	25	25	25
41.00 Budget authority (transferred to other accounts)	–500		
Relation of obligations to outlays:			
71.00 Total obligations	5		
77.00 Adjustments in expired accounts	–1		
90.00 Outlays	4		

The Commission terminated its activities in February 1993.

Object Classification (in thousands of dollars)

Identification code 48–0057–0–1–352	1994 actual	1995 est.	1996 est.
11.1 Personnel compensation: Full-time permanent	2		
24.0 Printing and reproduction	3		
99.9 Total obligations	5		

COMMISSION ON CIVIL RIGHTS

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, [$9,000,000] *$11,400,000*: *Pro d*, That not to exceed $50,000 may be used to employ consultants: *ided further*, That none of the funds appropriated in this para ph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further*, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the [Chairman] *Chairperson* who is permitted 125 billable days. *(Department of Justice and Related Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 95–1900–0–1–751	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations	7,738	9,000	11,400
Financing:			
25.00 Unobligated balance expiring	38		
40.00 Budget authority (appropriation)	7,776	9,000	11,400
Relation of obligations to outlays:			
71.00 Total obligations	7,738	9,000	11,400
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	747	1,034	1,197
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	–1,034	–1,197	–1,516
90.00 Outlays	7,451	8,837	11,081

The Commission engages in studies concerning areas in which there may be denials of civil rights and reports on these matters to the President and the Congress. Hearings by the Commissioners are held to investigate and obtain information about denials of civil rights. Conferences and open meetings are held by staff and State Advisory Committees to gather data and issue reports providing information about civil rights problems. In addition, the Commission appraises and reports on Federal agencies enforcement of civil rights laws. Complaints alleging discrimination are referred to the proper Federal agencies.

The Commission provides liaison with private groups, public groups, and the media to provide civil rights information to Government officials, organizations, and the public. This is accomplished through the issuance of Commission publications. In accordance with the 1994 legislation reauthorizing the Commission, the Commission will also issue public service announcements to discourage discrimination and denial of equal protection of the laws. The Commission also provides a library resource to support civil rights research, studies, hearings, and other Commission activities, and makes this information available to the general public.

Object Classification (in thousands of dollars)

Identification code 95–1900–0–1–751	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	3,573	4,661	6,040
11.3 Other than full-time permanent	851	640	399
11.5 Other personnel compensation	90	57	187
11.9 Total personnel compensation	4,514	5,358	6,626
12.1 Civilian personnel benefits	833	985	1,191
13.0 Benefits for former personnel	13		
21.0 Travel and transportation of persons	299	402	471
22.0 Transportation of things	14	16	20
23.1 Rental payments to GSA	1,022	1,081	1,217
23.2 Rental payments to others	43	52	84
23.3 Communications, utilities, and miscellaneous charges	191	252	297
24.0 Printing and reproduction	95	145	206
25.2 Other services	499	463	922
26.0 Supplies and materials	114	149	175
31.0 Equipment	101	97	191
99.9 Total obligations	7,738	9,000	11,400

Personnel Summary

Identification code 95–1900–0–1–751	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	83	105	125

Clinton Presidential Records
Digital Records Marker

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This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Divider Title: **C**

FEDERAL TRADE COMMISSION

DESCRIPTION: Established in 1914, FTC is charged by law with ensuring that competition in the marketplace is vigorous, free, and fair. This is accomplished by eliminating threats to fair and honest competition from all sources, both public and private.

FY 1996 BUDGET PROPOSAL: The projected FY 1996 Direct appropriation is $59.587 million, an increase of $4.799 million over FY 1995 levels. Projected FY 1996 Reimbursable receipts are $48.812 million, a decrease of $370,000 from FY 1995. Project FY 1996 FTE is 982, no change from FY 1995.

AGENCY PROPOSAL: FTC argues that one of its antitrust functions -- registering and monitoring export trade cartels -- should be ended. FTC also argues that the responsibilities assigned to the agency in the Federal Deposit Insurance Corporation Improvement Act should be moved to another agency. Anticipating an argument for the elimination of its antitrust division, FTC argues that it and the Department of Justice coordinate efforts to avoid duplication of effort. FTC also adds that its antitrust division is a Reimbursable operation funded by fee collections. Because trade rules and regulations must be uniform across the country, FTC argues that it has a Federal role.

DECISION OPTIONS:

A. No change. Fund at FY 1996 levels.

B. Eliminate FTC programs identified above in Agency Proposal. Change funding levels and FTE accordingly.

C. Terminate the FTC. In addition, transfer antitrust functions to Department of Justice Anti-Trust Division. Transfer the consumer protection functions to CPCS.

ADVISORY GROUP RECOMMENDATION: C

RATIONALE: The Federal government should retain FTC core functions (basic consumer protection in the marketplace and corporate protection from unfair competitive practices). These functions can be subsumed by the CPSC. Bank regulation, technology development, and product safety issues are outside of FTC's scope of knowledge and should be transferred to other more knowledgeable agencies. In addition, while FTC's antitrust operations recover their costs through reimbursable fees, this function is properly housed in the Department of Justice's Antitrust Division.

STEERING COMMITTEE RECOMMENDATION:

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CONSUMER PRODUCT SAFETY COMMISSION

DESCRIPTION: The CPSC protects the public against unreasonable risks of injury from consumer products; assists consumers in evaluating the comparative safety of consumer products; develops uniform safety standards for consumer products and minimizes conflicting State and local regulations; and promotes research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries. CPSC has three commissioners and enforces five federal statutes: the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, and the Refrigerator Safety Act.

FY 1996 BUDGET PROPOSAL: Proposed FY 1996 gross budget authority is $44.931 million, an increase of $866,000 from FY 1995. Estimated FY 1996 FTE is 487, no change from FY 1995 levels.

AGENCY PROPOSAL: CPSC states that its functions of Data Collection and Hazard Analysis, Product Safety Standards Setting and Compliance, and Consumer Information cannot be devolved to state and local governments or privatized without redundancy and loss of efficiency escalating costs to the tax payer. CPSC believes it should be left in tact to pursue its reinvention efforts. These reinvention efforts include the utilization of flexiplace and telecommuting to effectively deploy staff and expand the span of supervisory control to 10 to 14 by reducing one level of management, the consolidation of CPSC's two laboratories into one (contingent upon GSA funding), and the consolidation of information and administrative services. These efforts are projected by the CPSC to provide $450,000 in FY '95.

DECISION OPTIONS:

A. Devolve CPSC's functions to state and local governments,
B. Privatize the CPSC,
C. No Change, allow CPSC to continue its reinvention effort.

ADVISORY GROUP RECOMMENDATION:

C. No Change

RATIONALE:

Allow CPSC to continue its aggressive reinvention efforts. This would also serve to maintain a federal presence to ensure fair competition between the states.

STEERING COMMITTEE RECOMMENDATION

Review with Alice Rivlin and Elaine Kamarck.
Consider pushing part of FTC into CPSC.

FEDERAL TRADE COMMISSION

NPR PHASE II

MARCH 1, 1995

Overview: The FTC, established in 1914, is charged with keeping competition free and fair. At 979 FTE positions, it is half the size it was in 1980. The FTC is 20 percent smaller than NPR's target, the agency's size in the 1960's; then, there was one FTC employee for every $2.5 billion in GDP, while today there is one for every $6.5 billion (constant dollar comparisons). The FTC's primary operating units are the Bureaus of Consumer Protection, Competition, and Economics, ten regional offices, the General Counsel and the Executive Director. Its FY1996 budget is $107,849,000; of this, fee collections will supply 45 percent, funding nearly all of the competition mission.

Mission: The FTC's two complementary missions are to protect consumers from deception and unfairness and to protect the free enterprise marketplace against unfair methods of competition. Enforcement of its basic statute, Section 5 of the FTC Act, promotes the welfare of consumers by preserving the integrity of the free market economy. The FTC is the only U.S. government entity with this broad consumer protection authority.

Summary:

Competition enforcement programs, involving mergers, collusion, monopolization, and other unfair methods of competition, directly implement statutory responsibilities that should be retained. One statutory competition program, concerning export cartels, should be eliminated, to avoid conflicts with other antitrust policies and with international agreements such as NAFTA.

Because the FTC and the Antitrust Division coordinate closely and do not duplicate their efforts, combining enforcement into one agency would save only negligible resources unless enforcement were reduced; in any event, antitrust enforcement by both agencies is funded primarily by offsetting fee collections.

Deregulation, bringing competition to industries where the requirements of antitrust compliance are unfamiliar, increases the need for competition law enforcement.

Consumer protection programs, such as those targeting deceptive advertising, fraud, and credit problems, also directly implement statutory responsibilities that should be retained.

Transferring the FTC's consumer protection functions elsewhere would destroy the accumulated experience and central coordinating role of the only general-jurisdiction consumer protection agency. Some consolidations could improve efficiency, and one recently-assigned responsibility for certain financial institutions should be transferred elsewhere.

The FTC already supplies training and case assistance to state and local enforcement efforts against problems with local or regional impacts; however, to avoid subjecting nationwide businesses to conflicting compliance requirements and enforcement demands, the FTC's basic functions must be performed by a federal agency.

The FTC's program and functions, based on customer input, are critical to the FTC's mission, except for one function that should be ended.

The FTC's customers—the consuming public, the business community, and even respondents to FTC law enforcement proceedings—agree that the programs and functions described here are critical to the FTC's mission. (The statutes authorizing all of the Commission's programs are listed in Appendix A.)

Competition programs and functions: The FTC's competition mission is based on Section 5's prohibition of "unfair methods of competition" and on provisions of the Clayton Act that the FTC enforces. Substantively, Section 5 encompasses the other antitrust laws (the Sherman Act and the Clayton Act) and supplements their coverage to address conduct that threatens to harm competition and thereby harm consumers.

Recent illustrations of FTC competition enforcement include an order against tying expensive patient monitoring services to the sale of an antipsychotic drug, the *Infant Formula* cases against price fixing and unilateral practices that facilitated industry collusion, and several cases against attempts to fix prices. Most of these cases were uniquely violations of Section 5's proscription of "unfair methods of competition."

FTC competition enforcement programs cover the entire range of conduct subject to the antitrust laws. The largest single program deals with anticompetitive mergers and acquisitions. The FTC also administers the pre-merger reporting program. Other programs address horizontal restraints, distributional arrangements, and monopolization and other single firm violations.

One of the FTC's antitrust functions should be ended. The Webb-Pomerene Act gives the FTC responsibility for accepting registration of, and monitoring, export trade cartels. This function appears inconsistent with the developing harmonization of antitrust policy in international markets and is difficult to reconcile with the cooperation policies of such international agreements as NAFTA.

Consumer protection programs and functions: The FTC's consumer protection mission is based on Section 5's prohibition of "unfair or deceptive acts or practices," supplemented by statutes supporting particular programs. Consumer protection enforcement is directed at conduct that harms consumers through deception or unfairness, impairing their ability to make free, informed market choices.

Priorities mirror the issues of greatest concern to consumers. Deceptive advertising, fraud and issues related to new technologies are top priorities. Within these broad areas, the consumer protection mission focuses on health claims in food advertising; environmental advertising and labeling; health care fraud; telemarketing, business opportunity, investment, and franchise fraud; and credit-related problems such as mortgage lending and discrimination.

Consumer protection programs about health care services and product standards show the complementarity, in analysis of conduct and design of remedies, between the FTC's consumer protection and competition responsibilities.

The FTC also enforces existing orders, statutes about credit and other particular issues, and a variety of trade regulation rules. Some of these rules are required by specific statutes and others are supported by the general provisions of the FTC Act.[1]

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[1] Rules required by specific statute include those concerning fuel ratings, appliance labeling, plumbing labeling, 900 numbers, and telemarketing. Rules under the FTC Act include those concerning franchising, the funeral industry, used car warranties, eyeglass prescriptions, mail and telephone ordering, insulation R-value claims, and others.

The FTC's programs and functions are best done at the federal level, with appropriate coordination with state and local enforcement authorities.

Regulation of interstate commerce is a federal responsibility, calling for nationwide jurisdictional reach and uniform nationwide policies. The FTC's basic functions are properly the responsibility of a federal agency, to assure that businesses are not subject to conflicting requirements. National advertising should be held to a uniform, consistent standard, and antitrust enforcement by federal and state officials should also follow consistent standards. Moreover, a national authority is needed to deal effectively with fraud artists who escape local jurisdictions by moving their operations.

The FTC's jurisdiction includes some matters that may also be of local or regional importance. The FTC shares enforcement responsibility with local officials, for whom the FTC provides coordination, training, and support, often in cooperation with the National Association of Attorneys General (NAAG) or the National Association of Consumer Agency Administrators.

Coordination of federal, state and local resources has been particularly critical in the fight against telemarketing fraud. With NAAG and the National Consumers' League, the FTC set up a computer database of telemarketing complaints and investigations used by federal, state, and local law enforcers, and last year brought these officials together in nine regional Telemarketing Conferences to share information and expertise. The FTC is now engaged in a Congressionally-mandated proceeding to develop a rule about telemarketing fraud, which will be enforceable by state officials once it is promulgated.

NAAG and the FTC have prepared and distributed a Joint Rule Enforcement Handbook to aid local officials in their enforcement of certain FTC rules. The FTC often assists local officials to enforce its Used Car Rule through training and organizing "sweeps" of the local used car lots that comprise this $290 billion market. Another example is the FTC rule requiring accurate fuel pump posting of octane ratings by the nation's 150,000 gasoline retailers, which has features that local officials can monitor best.

Price-fixing matters have been referred to local authorities when it appeared that the effect was primarily local and the state authorities were equipped to handle the investigation and prosecution.

State and local enforcement authorities also refer matters they discover to the FTC for action.

Although private actions can be brought to enforce the Sherman and Clayton Acts, Congress has not authorized private actions to enforce the FTC Act. Private lawsuits under Section 5's consumer protection or competition doctrines are not an alternative to FTC enforcement. Because Section 5's content and reach are extraordinarily broad, Congress was careful to limit its use to a commission charged with acting in the public interest. Permitting parties moved by their private interests to displace the FTC's role in shaping Section 5 enforcement could lead to confusion and inconsistency in the substantive law and to expensive, but inappropriate, litigation, which could result in higher prices for consumers.

Tangible benefits to be gained from consolidating federal agency programs are negligible; however, one FTC program should be administered by a different federal agency.

Competition functions: Differences between the powers and procedures available to the FTC and the Antitrust Division of the Department of Justice justify maintaining both. Section 5 is a general statement of principle, whose exact coverage Congress intended the FTC to define. "Unfair methods of competition" includes all of the other antitrust laws and also some conduct not covered explicitly by those laws. The FTC deploys those broader powers cautiously, so that Section 5 enforcement policies remain consistent with the policies underlying the other antitrust laws.

Consolidation of antitrust enforcement in one agency would not eliminate unnecessary or redundant federal offices, because the two agencies do not duplicate each other's enforcement work. The agencies' clearance procedures ensure that they do not prosecute the same violations. The agencies apply the same analytic standards to issues for which duplication is theoretically possible, as reflected in the agencies' increasing practice of issuing joint guidelines about enforcement policy. Examples include guides already issued about horizontal mergers and health care and guides now in preparation on international and intellectual property competition issues. Funding for competition enforcement by both agencies comes primarily from offsetting fee collections. The practical savings from combining the agencies would be negligible. Transfer of the Antitrust Division's civil authority to the FTC, or vice versa, would not save total resources unless the total level of antitrust enforcement were cut back.

The consequences of cutting back federal antitrust enforcement should be considered carefully. The process of deregulation and downsizing government has enjoyed bipartisan support, and the need for antitrust oversight to safeguard consumers' interests in the absence of more direct regulation has also been widely recognized. As agencies such as the CAB and ICC are being eliminated and others such as the FCC and FERC are replacing regulation with competition, antitrust enforcement's role will become more, not less, important.[2] Market power historically may have been a concern in some of these industries, yet because of the history of regulation, the requirements of antitrust compliance may be unfamiliar. Removing industry-specific regulatory oversight of mergers and other transactions and applying instead the antitrust standards applied to the rest of industry will directly increase the workload at the antitrust enforcement agencies.

Enforcement by an independent administrative agency may present some advantages over enforcement solely through district court lawsuits. Administrative enforcement may permit more complete analysis of complex problems and invokes more economic expertise. Non-punitive administrative remedies are preferred for the kinds of problems for which Section 5 is uniquely suited, where guidance about future conduct may be as important as prosecution. Thus, Section 5 enforcement, unlike judicial enforcement by the Antitrust Division, is designed not to lead to punitive sanctions or precedents to support private lawsuits. Application to novel or unusual harmful conduct, such as invitations to collude, by a specialized administrative agency can lead to greater consistency in outcomes than would result from the random draw of district judges. Enforcement by an independent agency reflects Congressional concern that antitrust enforcement not be controlled by the Executive branch alone. The multiple views and backgrounds of the Commissioners ensure against capture by a single point of view, while continuity of

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[2] Some competition-enforcement functions now performed by other agencies might be performed more efficiently by the FTC, due to its greater antitrust experience. Appendix B lists and describes competition functions performed by other federal agencies.

membership can promote stability of viewpoint and independent judgment can be protected by security of tenure. The FTC's posture between Congress and the Executive branch is designed to protect impartiality while preserving responsiveness.

Consumer protection functions: The basic consumer protection mission could not be performed more efficiently by reassignment to some other agency. The FTC's enforcement experience about the effects of representations directed to consumers, achieved through expounding the content of "unfair and deceptive acts or practices," is unrivaled.

Transferring its consumer protection functions would eliminate the only general-jurisdiction consumer-protection agency, whose unique experience and jurisdiction has made it the "nerve center" of state and local consumer protection law enforcement policy. That capacity could not be recreated unless the FTC were simply duplicated elsewhere.

Assistance that the FTC provides to other federal agencies needing occasional specialized consumer-protection assistance would be lost. The state little-FTC Acts that are explicitly tied to the interpretation of the FTC Act itself would be cut off from their substantive source. And the FTC's assistance to state and local enforcement efforts would end.

Loss of FTC expertise about consumer behavior and emergence of multiple, potentially inconsistent standards would impair consumer-protection monitoring of major advertising.

Moving consumer protection functions elsewhere could also eliminate the valuable market-oriented viewpoint that results from the functions' partnership with the FTC's competition mission.

Some consumer-protection functions now performed at other agencies virtually duplicate those that the FTC performs in nearly all other settings.[3] Proposals to eliminate the ICC, for example, have called for its consumer protection responsibilities in household moving to be assigned to the FTC. A related example is the Department of Transportation's responsibility under laws, based in part on Section 5, about unfairness or deception in airline advertising and other consumer protection problems involving airlines. By contrast, the work of the CPSC involves complex issues about scientific and technical product testing that are beyond the FTC's expertise, but that resemble functions of the FDA.

FDICIA. One function assigned to the FTC should be administered by some other federal agency, however. The Federal Deposit Insurance Corporation Improvement Act gives the FTC substantial responsibilities over certain depository institutions and their insurers. Because of specific jurisdictional exceptions in Section 5, the FTC has no experience in regulation or enforcement concerning depository institutions. It could not perform these responsibilities without hiring or contracting for specialized personnel. Other agencies that regulate financial institutions are better suited. The FTC has not undertaken any of the FDICIA functions, because appropriations riders have prevented using funds for that purpose. The riders reflect Appropriations Committees' concurrence in OMB recommendations that the FTC is not the proper agency to administer this statute.

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[3] Appendix C lists and describes consumer protection functions performed by other federal agencies. Many of these agencies, such as the SEC, have very broad consumer-protection roles that could not be replicated at the FTC. For others, however, the consumer protection function is not as central to the agencies' missions.

	FY 1996 program levels in Budget	Estimated resulting levels for FY 1996	Estimated cumulative levels for FYs 1997-9	Estimated resulting levels for FY 2000	5-Year Cumulative (FY 1996-2000)
Discretionary Budget Authority	59,587	59,611	169,967	54,272	283,850
Discretionary Budget Outlays	59,199	59,221	170,301	54,361	283,883
Mandatory Outlays	----	----	----	----	----
Governmental Receipts	----	----	----	----	----
FTE Changes (non-cumulative)	979	980	----	940	----

Bold Ideas

Proposal: **Merge the Federal Trade Commission's Antitrust Functions into the Justice Department Antitrust Division. Merge the Remainder into the Consumer Product Safety Commission to Create a New Consumer Protection Agency.**

1995 Estimated Resources

	Antitrust Division	Federal Trade Commission			Consumer Product Safety Commission	Total Antitrust	Total Consumer
		Maintaining Competition (Antitrust)	Consumer Protection	Total FTC			
BA	42	8	53	61	42	**50**	**95**
Pre-merger Filing Fees	40	40	0	40	0	**80**	**0**
Other Fees	0	0	1	1	1	**0**	**2**
TOTAL PROGRAM	**82**	**48**	**54**	**102**	**43**	**130**	**97**
FTE	**834**	**475**	**504**	**979**	**487**	**1,309**	**991**

Background:

• **Antitrust Division:** The Antitrust Division began with the creation in 1903 of an Assistant to the Attorney General to take charge of all antitrust and interstate commerce laws and to assist the Attorney General in the general executive work of the Justice Department. The division now administers and enforces antitrust and related statutes. This program primarily involves the investigation of suspected violations of the antitrust laws, the conduct of civil and criminal proceedings in the Federal courts, and the maintenance of competitive conditions.

• **FTC:** The Federal Trade Commission was established in 1914 to regulate activities in the nation's markets. The Commission is composed of five members, including a chair. Each member is appointed by the President and confirmed by the Senate for a term of seven years. Not more than three of the Commissioners may be members of the same political party. The Commission operates two programs of roughly equal scale:

Maintaining competition.--The Commission's fosters and preserves our competitive market system to maximize consumer welfare. In addition to enforcing the antitrust laws against private sector restraints on competition, the Commission also scrutinizes regulatory policies that unduly restrain competition, and advocates for competitive approaches during the development of these policies.

Consumer protection.--The Commission eliminates unfair or deceptive acts or practices affecting commerce. The goal of the consumer protection mission is to improve market performance so that consumers can make informed choices when exercising their purchasing power. To accomplish this goal, the Commission will remove harmful private and public restrictions on market performance; encourage business to provide consumers with accurate and useful information; and reinforce market forces that enhance consumer welfare.

The Commission received heavy criticism during the 1980s because of its perceived passivity.

- **Consumer Product Safety Commission:**

  - The Consumer Product Safety Commission ("CPSC") was established in 1972 to protect the public against unreasonable risks of injury from consumer products, to assist consumers in evaluating the comparative safety of consumer products, to develop uniform safety standards for consumer products, and to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries. Various functions of the Food and Drug Administration, the Federal Trade Commission, and the Commerce Department were transferred to the CPSC.

  - The Commission is composed of three members, including a chair. Each member is appointed by the President and confirmed by the Senate for a term of seven years.

  - Major programs: 1) hazard identification and analysis; 2) hazard assessment and reduction; 3) compliance and enforcement (the largest program); and 4) consumer information.

- **Current Coordination:**

  - **Antitrust Enforcement:**

    - The Antitrust Division and the Federal Trade Commission allocate antitrust assignments according to expertise and available resources. Historically, the agencies have reported very smooth working relationships and constant interaction between the staffs. They routinely produce joint guidelines for industry, *e.g.*, recent guidelines for hospital mergers.

    - While the agencies consult on substantive priorities, they do not consult on resource requests. However, they are exploring the possibility of some sharing of information prior to full-blown requests to OMB.

  - **Consumer Protection:** Only the Commission has consumer protection responsibilities. However, the Commission does coordinate with the consumer litigation section of the Justice Department's Civil Division on policy.

Arguments for Consolidation:

- **Savings:**

Savings Estimate

(Dollars in Millions)

	1995	1996	1997	1998	1999	2000	**Total**
BA	5	-12	-12	-12	-12	-12	**-55**
OL	4	-9	-11	-12	-12	-12	**-52**

o OMB assumes a one-time cost of +$5 million and annual outyear savings in the range of -$12 million (roughly 5% of the total antitrust and consumer protection programs).

o To increase efficiency, the resultant organization would terminate some staff (including the FTC commissioners), relocate some Washington-based staff, and modify equipment to eliminate any incompatibilities. Savings would result from the elimination of some administrative staff, minor reductions in program staff, and increased staff productivity due to merger.

o Since both organizations consist primarily of staff rather than equipment, it seems unlikely that merger would result in substantial savings due to coordinated purchases or standardized equipment.

o While merger may not result in substantial savings through economies of scale or administrative consolidation, it might create the opportunity to down-size overall staff.

- **Antitrust Enforcement:**

o **Enhance Executive Branch Control:** Merger would eliminate the bipartisan structure of the Commission and bring it directly under Presidential control.

o **Simplify Decision-Making:** Merger would bring the Commission's decision process, which requires a majority of five individuals, into line with that of the Antitrust Division, which generally requires only the approval of a single individual, the Assistant Attorney General for antitrust matters.

o **Eliminate Overlapping Responsibilities:** The jurisdiction of the Antitrust Division and the Federal Trade Commission **overlap substantially** with regard to antitrust enforcement (allowing that only the Antitrust Division may bring criminal antitrust actions). Consolidation would eliminate the potential for conflicting policy.

- **Consumer Protection:** If the agencies were merged, the consumer protection program would decline from roughly one-half of the Commission to almost one-third of a resultant organization.

This might result in the program receiving somewhat less attention. Therefore, it seems appropriate to consider combining the consumer protection program with other consumer-related functions, such as those of the CPSC, to create a **new, single, consumer-oriented agency with a broad mission**. For 1995, the Congress appropriated $42 million and 487 workyears for the CPSC.

<u>Arguments against Consolidation</u>:

- **Antitrust Enforcement:**

  ○ **Amplify Policy Swings:** It would increase the likelihood of substantial swings in antitrust policy. The multiple views and backgrounds of the commissioners guard against capture by a single point of view, while continuity of membership and secure tenure promote stability of viewpoint.

  ○ **No Identified Problem in Coordination:** Existing coordination between the commission and the Antitrust Division appears to be good. The agencies have a clearance process which guards against duplication.

- **Consumer Protection:**

  ○ **Eliminate Antitrust/Consumer Protection Synergies:** Co-location of consumer protection and antitrust functions within the commission results in a more market-oriented approach to consumer protection.

  ○ **Limited FTC-CPSC Commonalities:** The consumer protection work of the commission is not as closely related to the work of the CPSC as might appear initially. The work of the CPSC involves complex issues about scientific and technical product testing that are beyond the FTC's expertise, resembling functions of the Food and Drug Administration and the Centers for Disease Control and Prevention. Therefore, merger of these functions might not yield new efficiencies.

- **Likely Reception:**

  ○ ***Laissez Faire* Reaction:** Those supporting a more *laissez faire* approach to economic regulation might support merger of antitrust enforcement programs, especially if it included a simultaneous reduction in the level of overall resources devoted to them. Merger would increase the ease with which a future Administration could shift policy back toward more narrow regulation. They might oppose the creation of a new, more focussed, free-standing, consumer protection agency.

  ○ **Justice Department Reaction:** The Justice Department probably would favor merger, although it likely would maintain a low profile to avoid the appearance of a "turf-grab".

- **Federal Trade Commission Reaction:** The Commission opposes merger for the reasons set forth above.

- **Consumer Product Safety Commission:** The Commission's position is unknown.

FEDERAL TRADE COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; [$94,428,000] *$107,849,000*: *Provided*, That notwithstanding any other provision of law, not to exceed [$39,640,000] *$48,262,000* of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated *from the General Fund* shall be reduced as such offsetting collections are received during fiscal year [1995] *1996*, so as to result in a final fiscal year [1995] *1996* appropriation *from the General Fund* estimated at not more than [$54,788,000] *$59,587,000*: *Provided further*, That any fees received in excess of [$39,640,000] *$48,262,000* in fiscal year [1995] *1996* shall remain available until expended, but shall not be available for obligation until October 1, [1995: *Provided further*, That section 605 of Public Law 101–162 (103 Stat. 1031), as amended, is further amended by striking "$25,000" and inserting in lieu thereof "$45,000"] *1996*: *Provided further*, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285)[: *Provided further*, That of the budgetary resources available in fiscal year 1995 in this account, $145,000 are permanently canceled: *Provided further*, That amounts available for procurement and procurement-related expenses in this account are reduced by such amount: *Provided further*, That as used herein, "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and closeout, as specified in 41 U.S.C. 403(2): *Provided further*, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374), except that this proviso shall cease to be effective upon enactment of an Act authorizing appropriations for the Federal Trade Commission for fiscal year 1995]. *(Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act, 1995.)*

Unavailable Collections (in thousands of dollars)

Identification code 29–0100–0–1–376		1994 actual	1995 est.	1996 est.
	Balance, start of year:			
01.99	Balance, start of year	4.240	8.294	
03.00	Offsetting Collections	8.294		
04.00	Total: Balances and collections	12.534	8.294	
	Appropriation:			
05.01	Salaries and expenses	–4.240	–8.294	
07.99	Total balance, end of year	8.294		

Program and Financing (in thousands of dollars)

Identification code 29–0100–0–1–376		1994 actual	1995 est.	1996 est.
	Program by activities:			
	Direct program:			
00.01	Maintaining competition	18.735	1.114	3.686
00.02	Consumer protection	49.185	53.674	55.901
00.91	Total direct program	67.920	54.788	59.587
01.01	Reimbursable program	25.662	49.182	48.812
10.00	Total obligations	93.582	103.970	108.399
	Financing:			
21.40	Unobligated balance available, start of year: Treasury balance		–412	
24.40	Unobligated balance available, end of year: Treasury balance	412		
39.00	Budget authority (gross)	93.994	103.558	108.399
	Budget authority:			
	Current:			
40.00	Appropriation	67.920	54.788	59.587
	Permanent:			
68.00	Spending authority from offsetting collections	30.128	40.621	48.812
68.26	Spending authority from offsetting collections (unavailable balances)	4.240	8.294	
68.45	Portion not available for obligation (limitation on obligations)	–8.294		
68.75	Procurement reduction pursuant to P.L. 103–317		–145	
68.90	Spending authority from offsetting collections (total)	26.074	48.770	48.812
	Relation of obligations to outlays:			
71.00	Total obligations	93.582	103.970	108.399
72.40	Obligated balance, start of year: Unpaid obligations: Treasury balance	5.755	7.872	8.284
74.40	Obligated balance, end of year: Unpaid obligations: Treasury balance	–7.872	–8.284	–8.672
77.00	Adjustments in expired accounts	7.393		
87.00	Outlays (gross)	98.858	103.558	108.011
	Adjustments to gross budget authority and outlays:			
	Offsetting collections from:			
88.00	Federal sources	–1.014	–981	–550
88.40	Non-Federal sources	–29.114	–39.640	–48.262
88.90	Total, offsetting collections	–30.128	–40.621	–48.812
89.00	Budget authority (net)	63.866	62.937	59.587
90.00	Outlays (net)	68.730	62.937	59.199

Summary of Budget Authority and Outlays

(in thousands of dollars)

	1994 actual	1995 est.	1996 est.
Enacted/requested:			
Budget Authority	63.866	62.937	59.587
Outlays	68.730	62.937	59.199
Legislative proposal, not subject to PAYGO:			
Budget Authority			24
Outlays			22
Total:			
Budget Authority	63.866	62.937	59.611
Outlays	68.730	62.937	59.221

The Federal Trade Commission (FTC) is charged by law with ensuring that competition in the marketplace is vigorous, free, and fair. This is accomplished by eliminating threats to fair and honest competition from all sources, both public and private.

Maintaining competition.—The Commission's efforts are aimed at fostering and preserving our competitive system with the goal of maximizing consumer welfare. In addition to enforcing the antitrust laws against private sector restraints on competition, the Commission also scrutinizes regulatory policies that unduly restrain competition, and encourages policymakers to harness the benefits of competition when in the development of such policies.

Consumer protection.—The Commission is charged with eliminating unfair or deceptive acts or practices affecting commerce. The goal of the consumer protection mission is to improve market performance so that consumers can make informed choices when exercising their purchasing power. To accomplish this goal, the Commission will: remove harmful private and public restrictions on market performance; encourage business to provide consumers with accurate and useful information; and reinforce market forces that enhance consumer welfare.

The President's budget for 1996 provides a total of 979 workyears. The program level for the Commission would increase from $102.9 million in 1995 to $107.8 million in 1996, allowing the Commission to continue to pursue its missions.

The programs administered by the Federal Trade Commission are funded by appropriated funds and fees assessed for premerger notification filings under the Hart-Scott-Rodino Act, as required by section 605 of Public Law 101–162, as amended. The FTC will use $48.3 million in premerger filings fees to finance its activities.

Object Classification (in thousands of dollars)

Identification code 29–0100–0–1–376		1994 actual	1995 est.	1996 est.
	Direct obligations:			
	Personnel compensation:			
11.1	Full-time permanent	38,600	30,754	32,590
11.3	Other than full-time permanent	1,649	55	57
11.5	Other personnel compensation	1,707	573	605
11.8	Special personal services payments	2		
11.9	Total personnel compensation	41,958	31,382	33,252
12.1	Civilian personnel benefits	7,932	7,222	8,235
13.0	Benefits for former personnel	54	77	79
21.0	Travel and transportation of persons	640	629	653
22.0	Transportation of things	91	131	105
23.1	Rental payments to GSA	8,468	5,994	6,502
23.2	Rental payments to others	7	5	6
23.3	Communications, utilities, and miscellaneous charges	1,252	1,386	1,527
24.0	Printing and reproduction	315	243	301
25.1	Advisory and assistance services	712	920	961
25.2	Other services	1,917	2,148	2,200
25.3	Purchases of goods and services from Government accounts	889	1,174	1,202
25.4	Operation of GOCOs	842	1,110	1,137
26.0	Supplies and materials	975	1,140	900
31.0	Equipment	1,820	1,227	2,527
42.0	Insurance claims and indemnities	48		
99.0	Subtotal, direct obligations	67,920	54,788	59,587
99.0	Reimbursable obligations	25,662	49,182	48,812
99.9	Total obligations	93,582	103,970	108,399

Personnel Summary

Identification code 29–0100–0–1–376		1994 actual	1995 est.	1996 est.
	Direct:			
	Total compensable workyears:			
1001	Full-time equivalent employment	918	971	975
1005	Full-time equivalent of overtime and holiday hours	3	3	3
	Reimbursable:			
2001	Total compensable workyears. Full-time equivalent employment	15	8	4

SALARIES AND EXPENSES

(Legislative proposal, not subject to PAYGO)

Program and Financing (in thousands of dollars)

Identification code 29–0100–2–1–376		1994 actual	1995 est.	1996 est.
	Program by activities:			
10.00	Total obligations			24
	Financing:			
40.00	Budget authority (appropriation)			24
	Relation of obligations to outlays:			
71.00	Total obligations			24
72.40	Obligated balance, start of year: Unpaid obligations: Treasury balance			
74.40	Obligated balance, end of year: Unpaid obligations: Treasury balance			−2
90.00	Outlays			22

Legislation will be proposed to sunset the Interstate Commerce Commission and transfer responsibility for the handling of consumer complaints regarding household goods movers to the Federal Trade Commission.

Object Classification (in thousands of dollars)

Identification code 29–0100–2–1–376		1994 actual	1995 est.	1996 est.
11.1	Personnel compensation: Full-time permanent			18
12.1	Civilian personnel benefits			6
99.9	Total obligations			24

Personnel Summary

Identification code 29–0100–2–1–376		1994 actual	1995 est.	1996 est.
1001	Total compensable workyears. Full-time equivalent employment			1

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), [$48,000] *$147,000*, to remain available until September 30, 1996. *(Department of the Interior and Related Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 76–0700–0–1–808		1994 actual	1995 est.	1996 est.
	Program by activities:			
10.00	Total obligations	129	234	147
	Financing:			
21.40	Unobligated balance available, start of year: Treasury balance	−266	−186	
24.40	Unobligated balance available, end of year: Treasury balance	186		
40.00	Budget authority (appropriation)	49	48	147
	Relation of obligations to outlays:			
71.00	Total obligations	129	234	147
72.40	Obligated balance, start of year: Unpaid obligations: Treasury balance	154	60	
74.40	Obligated balance, end of year: Unpaid obligations: Treasury balance	−60		
90.00	Outlays	223	294	147

The Commission is responsible for formulating plans for a memorial to Franklin Delano Roosevelt.

Object Classification (in thousands of dollars)

Identification code 76–0700–0–1–808		1994 actual	1995 est.	1996 est.
21.0	Travel and transportation of persons	1	8	7
23.3	Communications, utilities, and miscellaneous charges	2	6	4
24.0	Printing and reproduction	13	30	12
25.1	Advisory and assistance services	104	169	
25.2	Other services	5	5	115
26.0	Supplies and materials	4	15	7
31.0	Equipment		1	2
99.9	Total obligations	129	234	147

Clinton Presidential Records
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This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Divider Title: **D**

LEGAL SERVICES CORPORATION

DESCRIPTION: Established in 1974, LSC distributes appropriated funds to local, state, and national non-profit organizations that provide free civil legal assistance to people living in poverty. LSC is chartered by Congress as a private, non-profit entity outside of the Federal government.

FY 1996 BUDGET PROPOSAL: The proposed FY 1996 appropriation is $440 million, an increase of $25 million over FY 1995. As a private, non-profit entity outside of the Federal government, LSC does not have FTE. The administrative staff for LSC is 196. According to LSC, approximately 11,000 lawyers, paralegals, and support staff are supported through Corporation funds.

AGENCY PROPOSAL: LSC proposes no changes. LSC argues that if it were abolished many poor people in rural and low income areas would be without legal services in civil cases. LSC argues that *pro bono* services from private attorneys, and state and local funding sources (valued at approximately $232,600,000) cannot replace the Federal grants from LSC. LSC argues that if it were eliminated, the framework through which most *pro bono* services are provided would be eliminated. LSC argues that one of the principal roles of the lawyers working with LSC is to unravel the red tape created by the Federal and state programs designed to help the poor. LSC also argues that it is a model for efficient dispute resolution and unnecessary litigation avoidance. According to LSC, only 8% of its cases were litigated, and of the litigated cases, 65% of the cases required court intervention (usually family law cases).

DECISION OPTIONS:

A. No change. Fund LSC at FY 1996 levels.

B. Fund LSC at FY 1996 levels. LSC should explore ways to reduce its reliance on Federal funding. LSC should develop specific initiatives to help the 323 client groups leverage their Federal funding into more state, local, and private support.

C. Terminate Federal funding for LSC.

ADVISORY GROUP RECOMMENDATION:

B. Fund LSC at FY 1996 levels. LSC should explore ways to reduce its reliance on Federal funding. LSC should develop specific initiatives to help the 323 client groups leverage their Federal funding into more state, local, and private support.

RATIONALE: State and local governments need to bear more of the financial burden for providing legal assistance to the poor. It appears that a large amount of LSC legal work is either done on the state and local level, or is associated with "ombudsman" work (helping the poor unravel "red tape"). LSC grantees need to learn how to raise funds more effectively to support their operations.

STEERING COMMITTEE RECOMMENDATION:

LEGAL SERVICES CORPORATION

Option paper: The Legal Services Corporation

1) If the Legal Services Corporation were eliminated, how would its goals be undertaken: by other agencies, by states or localities, by the private sector, or not at all?

The Legal Services Corporation (LSC) is a private, non-profit corporation established by Congress to help provide equal access to justice under the law for all Americans. It receives funds annually from Congress and makes grants directly to independent local programs that provide civil legal assistance to those who otherwise would be unable to afford it.

The LSC currently provides funds to 323 programs operating over 1200 neighborhood law offices. Together they serve every county in the nation. Special programs serve the particular needs of migrant workers and Native Americans.

Programs funded through the LSC provide services to more than 1.7 million clients a year, benefitting approximately 5 million individuals, the majority of them children living in poverty.

The LSC was created by Congress in 1974 with bipartisan sponsorship and the support of the Nixon Administration, after the American Bar Association and an independent commission established by President Nixon recommended the creation of a separate corporation as the most effective way to provide legal assistance to the poor without political interference.

In creating the LSC, Congress determined that the federal government has an important interest in ensuring access to justice. The principle of "Equal Justice under Law" is fundamental to our system of government, and all Americans have a stake in securing respect for the legal system, which cannot be elicited unless the system is both just and accessible to all citizens.

Congress recognized that federal funding was necessary to ensure that at least a minimum level of legal services would be available everywhere in the United States. While some states and localities have a long and proud history of supporting legal services, others have shown little interest in the legal needs of the poor. In most areas little or no legal services were available to the poor before federal funding was initiated.

If the LSC were eliminated, there is little chance that the majority of states and municipalities, already hard pressed to meet current budgetary demands, would take on the additional obligation of providing legal services to the poor. If Congress shifts financial responsibility for many social programs to the states, competition for limited resources will be even more fierce. In many regions of the country, especially in primarily poor and rural areas, it is likely that there will be little or no publicly funded legal services available to the poor.

Nor can *pro bono* services from private attorneys replace federally funded Legal Services. Local Legal Services programs are presently required to devote an amount equal to one-eighth of their LSC grants to private attorney involvement. More than 130,000 lawyers are registered and participating as volunteer attorneys in organized *pro bono* programs. The number of *pro bono* volunteers continues to increase with the encouragement of the organized bar and the support of Legal Services programs, which provide essential training and support in specialized areas of poverty law. But even if the present level of *pro bono* services were doubled or tripled, they would fall far short of what would be necessary to replace services now being provided by Legal Services attorneys. Moreover, elimination of the Corporation would eliminate the structure through which most *pro bono* services are provided. Again, the regions of the country that would be hit hardest would be poor and rural areas with few private attorneys.

It should also be emphasized that for low-income Americans, the LSC and its grantees help make government programs work more efficiently and effectively. Many of the services provided to clients involve nothing more than helping individuals unravel the "red tape" created by the complex array of federal and state programs designed to serve the poor. In fact, one of the principal roles of lawyers working in Legal Services is to serve as ombudsmen to protect individuals who have no other resources against the abuses or mistakes of public officials.

2) Given that the goals of the Legal Services Corporation require a federal role in order to be accomplished, should the manner in which they are provided be changed in order to enhance service?

The present structure of the Legal Services delivery system should be preserved fundamentally unchanged. At a time when the federal government is closely scrutinizing the funding and structure of all government programs, the LSC provides a model of a successful, highly efficient, pared-down program for the 1990s.

Under the delivery system created by Congress in the Legal Services Corporation Act, decisions about the allocation of legal services are made not by a bureaucracy in Washington, but locally, by representatives of local bar associations, who make up the majority of the Board of Directors of every local Legal Services program, and individuals eligible for services. Services are provided not by government lawyers but by attorneys working in independent, private, non-profit corporations.

The LSC itself represents a national presence which is necessary to receive and distribute federal funds, to provide technical assistance to grantees, to seek more efficient and effective methods of service delivery, and to ensure that grantees comply with federal restrictions and deliver high quality, effective and efficient legal assistance.

For the size of its appropriation, the Corporation's staff is extraordinarily small. The Corporation's administrative budget anticipates only 129 people on staff by late 1995 and proposes no increase for FY 1996. This staff administers and oversees a Legal Services delivery system that employs 11,000 lawyers, paralegals and support staff to provide legal assistance to clients. Only three percent of the Corporation's budget goes to management and administration; the remaining 97 percent is expended in providing legal services to clients.

Local programs build upon their grants from the LSC with funding from additional sources. In 1994, grantees received an estimated $232,600,000 from state and local governments, the private bar, other private contributors and other federal agencies. Part of the increase in funding requested by the Corporation for FY 1996 will assist local programs in raising additional contributions. Local Legal Services programs further leverage federal funds through *pro bono* programs that involve private attorneys in the delivery of legal services for the poor, as described above.

Moreover, at a time when Americans are concerned about the increasing litigiousness of our society, the Legal Services delivery system offers a model of efficient resolution of disputes and avoidance of unnecessary litigation. LSC grantees closed 1,617,564 cases in 1993. The vast majority were resolved through advice, brief services, administrative proceedings, or negotiated settlements. Only 133,388, or 8 percent of the total, were litigated and ended in a court decision. Of the fraction of cases that were concluded by a court decision, almost two-thirds (65 percent) were family law cases in which court intervention was required under state law, such as divorces, protective orders, and child custody and support decisions.

3) How do Legal Services clients feel about the possible elimination of the program or changes in it? What efforts have been made to obtain client input about the current delivery of Legal Services?

Clients, not just interest groups, have direct involvement at every level of the Legal Services delivery system and a direct investment in high quality, effective and efficient legal services.

The Legal Services Corporation Act requires that the Corporation's Board of Directors include eligible clients. The present Board includes two client members.

As mentioned above, the Act also requires that one-third of the Members of the Boards of local Legal Services programs be client-eligible individuals. Clients thus play a major role at the local level, where decisions about case types and priorities are made.

The Corporation has recently implemented a performance evaluation system to ensure that grantees provide high quality legal services in an effective and economical manner. The system employs peer review techniques, which have proved effective elsewhere in government and in the private sector. Each program will receive a performance evaluation once every 36 months. A team of experts in delivering high quality, effective and efficient legal assistance will visit the grantee after examining relevant program data, test the program's actual representation of clients, and report their findings to the Corporation. Each team will include eligible clients.

For FY 1995, Congress appropriated $785,000 to the Corporation for a new Client Engagement line item, representing an initial step in the development of innovative mechanisms to involve eligible clients in the resolution of problems confronting the client community. For FY 1996, the Corporation has requested an increase of $2 million in this activity to expand on this goal. As part of the development of client involvement and engagement mechanisms, a Client Conference was held in Detroit, Michigan, on November 17-20, 1994. Among those attending were clients, Legal Services program staff, community-based organization leaders, academics, and LSC Board and staff members. Although a final report and recommendations for LSC Board action have not been completed, the consensus reached at the Conference was that the 1995 appropriation should be allocated to a range of client engagement activities organized by local programs through a competitive grant award process.

General and special funds—Continued

SALARIES AND EXPENSES—Continued

Law 101–379 to study the economic and social status of Alaska Natives. A report on the study, together with recommendations, was issued in March 1994. The Commission's activities ceased upon publication of its report.

Object Classification (in thousands of dollars)

Identification code 48–1950–0–1–452	1994 actual	1995 est.	1996 est.
12.1 Civilian personnel benefits	23		
25.2 Other services	96		
99.9 Total obligations	119		

Trust Funds

JOINT FEDERAL-STATE COMMISSION ON POLICIES AND PROGRAMS AFFECTING ALASKA NATIVES

TRUST FUND

Program and Financing (in thousands of dollars)

Identification code 48–8321–0–7–452	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations	436		
Financing:			
17.00 Recovery of prior year obligations	–11		
21.90 Unobligated balance available, start of year: Fund balance	–426	–1	
24.90 Unobligated balance available, end of year: Fund balance	1		
25.00 Unobligated balance expiring		1	
60.27 Budget authority (appropriation) (trust fund, indefinite)			
Relation of obligations to outlays:			
71.00 Total obligations	436		
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	40	2	
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	–2		
78.00 Adjustments in unexpired accounts	–11		
90.00 Outlays	463	2	

The Commission is authorized by Public Law 101–379 to accept gifts of property, services, or donations from the Federal Government, the State of Alaska, private corporations or foundations to carry out its activities.

Object Classification (in thousands of dollars)

Identification code 48–8321–0–7–452	1994 actual	1995 est.	1996 est.
12.1 Civilian personnel benefits	36		
21.0 Travel and transportation of persons	43		
23.1 Rental payments to GSA	28		
23.3 Communications, utilities, and miscellaneous charges	22		
24.0 Printing and reproduction	82		
25.3 Purchases of goods and services from Government accounts	218		
26.0 Supplies and materials	7		
99.9 Total obligations	436		

LEGAL SERVICES CORPORATION

Federal Funds

General and special funds:

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, [$415,000,000] *$440,000,000*; of which [$350,700,000] *$364,471,000* is for basic field programs; [$9,390,000] *$9,752,000* is for Native American programs; [$13,830,000] *$14,363,000* is for migrant programs; [$1,435,000] *$1,491,000* is for law [school clinics] *schools*; [$1,305,000] *$1,355,000* is for supplemental field programs; [$870,000] *$904,000* is for regional training centers; [$10,800,000] *$11,216,000* is for national support; [$11,585,000] *$12,032,000* is for State support; [$785,000] *$2,815,000* is for client initiatives; [$1,145,000] *$1,189,000* is for the Clearinghouse; [$655,000] *$680,000* is for computer assisted legal research [regional centers]; *$1,000,000 is for implementation of government auditing standards in recipient audits; $1,200,000 is for improving recipient techniques for services to individuals; $1,200,000 is for improving services for the elderly; $2,000,000 is for local resource development; $950,000 is for technical assistance to recipients; $400,000 is for the C t of Veterans Appeals pro bono project;* and [$12,500,000] *$12,982,000* is for Corporation management and administration. *(Departments of Commerce, Justice, and State, the Judiciary, and Related A ies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 20–0501–0–1–752	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations (object class 41.0)	400,650	415,000	440
Financing:			
39.00 Budget authority	400,650	415,000	440,000
Budget authority:			
40.00 Appropriation	400,000	415,000	440,000
42.00 Transferred from other accounts	650		
43.00 Appropriation (total)	400,650	415,000	440,000
Relation of obligations to outlays:			
71.00 Total obligations	400,650	415,000	440,000
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	30,372	56,082	93,650
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	–56,082	–93,650	–98,000
89.00 Budget authority (net)	400,650	415,000	440,000
90.00 Outlays	374,940	377,432	435,650

The Legal Services Corporation distributes appropriated funds to local, State, and national non-profit organizations that provide free civil legal assistance, according to locally-determined priorities, to people living in poverty. The Congress chartered the corporation as a private, non-profit entity outside of the Federal government.

In 1996, new funding would support improved client and grantee self-sufficiency programs, enhanced information technology, improved methods for advising clients, new services for the elderly, a veterans pro bono project, and helping grant recipients meet the corporation's performance standards.

ADMINISTRATIVE PROVISION—LEGAL SERVICES CORPORATION

SEC. [403] *402.* (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year [1995] *1996*, pursuant to the number of poor people determ by the Bureau of the Census to be within its geographical area, shall be distributed in the following order:

(1) Grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under 1006(a)(1) of the Legal Services Corporation Act, as amended, shall be maintained in fiscal year [1995] *1996* at not less than the annual level at which each grantee and contractor was funded in fiscal year [1994] *1995* pursuant to Public Law 103–121.

(2) 50 percent of new basic field funds shall be awarded to grantees and contractors funded at the lowest levels per-poor-pe (calculated for each grantee or contractor by dividing each such grantee or contractor's fiscal year [1994] *1995* grant level by the number of poor persons within its geographical area under the 1990 census) so as to fund the largest number of programs possible at an equal per-poor-person amount.

(3) 50 percent of new basic field funds shall be allocated to grantees and contractors in an amount that is proportionate to

the number of poor people in such grantee or contractor's service area as enumerated in the 1990 census.

(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) section 607 of Public Law 101–515, and that all funds appropriated for the Legal Services Corporation shall be subject to the same terms and conditions as set forth in section 607 of Public Law 101–515, except that the funding formulas and provisos 15, 20 and 22 shall not apply, and all references to "1991" in section 607 of Public Law 101–515 shall be deemed to be ["1995"] *"1996"*, unless subparagraph (2) applies; and

(2) authorizing legislation for fiscal year [1995] *1996* for the Legal Services Corporation that is enacted into law. *(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995.)*

MARINE MAMMAL COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, [$1,384,000] *$1,425,000*. *(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 95–2200–0–1–302	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations	1,289	1,384	1,425
Financing:			
25.00 Unobligated balance expiring	1		
40.00 Budget authority (appropriation)	1,290	1,384	1,425
Relation of obligations to outlays:			
71.00 Total obligations	1,289	1,384	1,425
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	280	241	249
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	–241	–249	–256
77.00 Adjustments in expired accounts	–7		
90.00 Outlays	1,321	1,376	1,418

The Commission recommends national and international marine mammal policies; develops scientific and management programs; reviews the status of marine mammal populations; recommends to the Secretaries of Commerce, Interior, and State steps to conserve marine mammals domestically and internationally; and manages a research program.

Object Classification (in thousands of dollars)

Identification code 95–2200–0–1–302	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	582	612	637
11.3 Other than full-time permanent	75	100	105
11.9 Total personnel compensation	657	712	742
12.1 Civilian personnel benefits	118	122	125
21.0 Travel and transportation of persons	56	65	65
23.1 Rental payments to GSA	106	109	106
23.3 Communications, utilities, and miscellaneous charges	47	48	53
24.0 Printing and reproduction	19	20	20
25.2 Other services	212	234	236
25.3 Purchases of goods and services from Government accounts	47	40	42
26.0 Supplies and materials	19	24	26
31.0 Equipment	8	10	10
99.9 Total obligations	1,289	1,384	1,425

Personnel Summary

Identification code 95–2200–0–1–302	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	10	12	12

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98–399, as amended, [$300,000] *$350,000*. *(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 76–0600–0–1–808	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations	499	300	350
Financing:			
40.00 Budget authority (appropriation)	500	300	350
Relation of obligations to outlays:			
71.00 Total obligations	499	300	350
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance		150	110
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	–150	–110	–120
90.00 Outlays	349	340	340

The Martin Luther King, Jr. Federal Holiday Commission, created by Public Law 98–399 on August 27, 1984, was extended through 1999 last August by P.L. 103–304. With the new legislation, the Commission's mandate was expanded to include community service initiatives and legislatively linked to the Corporation for National Service through its grant approval of community service activities related to the King holiday. The legislation also added interracial cooperation and youth against violence initiatives to the original mission of promoting the holiday as an occasion to reflect on the principles of racial equality and nonviolent social change as espoused by Dr. King. Other original goals carried forward include encouraging appropriate King holiday ceremonies and activities and coordinating efforts with Americans of diverse backgrounds and with government and private organizations. The commission markets the holiday through print and electronic media; the distribution of information packets and reports to the President and Congress; functions as a clearinghouse of information; sponsors planning, education and information conferences, workshops, seminars and special events; distributes holiday observance guidelines; conducts youth against violence symposiums; and "I Have A Dream" National Youth Assemblies.

Object Classification (in thousands of dollars)

Identification code 76–0600–0–1–808	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	135	110	130
11.8 Special personal services payments	30		
11.9 Total personnel compensation	165	110	130
12.1 Civilian personnel benefits	20	25	35
21.0 Travel and transportation of persons	69	70	71
22.0 Transportation of things	5		
23.2 Rental payments to others	1	5	
23.3 Communications, utilities, and miscellaneous charges	28	27	32
24.0 Printing and reproduction	51	21	25
25.2 Other services	77	29	37

Clinton Presidential Records
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Divider Title: E

STATE JUSTICE INSTITUTE

DESCRIPTION: The State Justice Institute was established by Congress in 1984 as a private, non-profit corporation, to make grants and undertake other activities designed to improve the administration of justice in the United States, facilitate better coordination and information sharing between State and Federal courts, and foster innovative, efficient solutions to common problems faced by all courts.

FY 1996 BUDGET PROPOSAL: Proposed FY 96 budget authority is $ 7 million, a decrease of $ 6.55 million from the FY 95 budget. An additional $600,000 was made available for FY 96 through the Violent Crime Control and Law Enforcement Act of 1994. Proposed FY 96 FTE is 25, no change in FTE from FY 95.

AGENCY PROPOSAL: SJI has not recommended any changes to their overall funding or program. It has requested funds directly from Congress totaling $13.55 million for FY 96 - the same amount authorized for FY 95. SJI has proposed legislation that would reduce its appropriation request by diverting $3.2 million of the Crime Victims Fund in the U.S. Treasury to the Institute to provide an ongoing source of funding to help State courts improve their performance in the areas of family violence, rape, sexual assault, stalking, and other violent crimes.

DECISION OPTIONS:

A. No change. Follow FY 96 budget recommendation.

B. Terminate Institute by FY 97

ADVISORY GROUP RECOMMENDATION: B.

RATIONALE: The Institute does not appear to have a compelling federal role. Activities under the Victims of Crime initiative could be contracted out. OMB has tried to terminate the Institute over the last three years. Establishing a clear path now to close the agency by FY 97 will allow orderly completion of the existing grants made by the Institute.

STEERING COMMITTEE RECOMMENDATION

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State Justice Institute

February 24, 1995

Jerry Nikolaus
Desk Officer
National Performance Review
750 17th Street, N.W., Suite 200
Washington, DC 20006

Dear Mr. Nikolaus:

Please find enclosed a copy of SJI's Congressional budget request for FY 1996 as well as the most recent issue of SJI NEWS. The budget request presents a current summary of SJI's innovative grant program and the article, "A Grant Model for the New Congress," found on page 6 of SJI NEWS highlights many of the features that make SJI a truly responsive, "reinvented" governmental organization. On behalf of SJI, I would like to take this opportunity, however, to explain the Institute's mission and activities in a little more detail. Because SJI is probably one of the smallest and least well known of all the items in the Commerce, Justice, State, and the Judiciary appropriations bill, I am particularly pleased to have the chance to tell you about our program.

The State Justice Institute is a non-profit corporation established by Federal law in 1984 to award grants to improve the quality of justice in the State courts, facilitate better coordination and information sharing between State and Federal courts, and foster innovative, efficient solutions to common problems faced by all courts. See 42 U.S.C. 10701, et seq. The Institute is authorized through FY 1996. SJI fulfills its mission at an annual cost that has never exceeded $13.55 million (its annual appropriation level from FY 1992 through FY 1995), and with a professional staff that has never exceeded 25 people. In this era of Federal fiscal responsibility and restored political balance between Federal and State governments, a small, efficient, non-Federal institute like SJI may be an excellent model for future Federal grant programs that serve important national purposes.

Unique National Mission

SJI is unique in both its mission and the ways it seeks to fulfill its numerous statutory duties. Only SJI has the authority to assist all State courts -- criminal, civil, juvenile, family, and appellate -- and only SJI has the mandate to share the success of one State's innovations with every State and Federal court system. The Institute's small appropriation, its efficient responsiveness to the most critical needs of the State courts, and the lack of "strings" tied to its awards further distinguish it from Federal grant agencies.

SJI carries out its mission by --

Underwriting national evaluations of promising State and local approaches;

Serving as an information clearinghouse to assure that any one State court's successful innovations can be quickly and economically shared with every other State's courts;

Establishing national resource centers where State and local judges and court officials can, on an ongoing basis, test new technologies, observe new approaches, and sit in classroom settings to learn from each other;

Facilitating national "grassroots" meetings of key players from every State to exchange good ideas, identify continuing problem areas, and propose effective and efficient local, State, and national solutions; and

Delivering national State-to-State "technical assistance" targeted at a jurisdiction's specific problems.

Important Criminal and Civil Justice Responsibilities

The Institute plays an important role in the Federal response to crime by educating judges about the nature and impact of family violence, drugs, rape, sexual assault, juvenile crime, and other crimes of violence; demonstrating the effectiveness of new trial and sentencing approaches; and collaborating, where appropriate, with the Department of Justice and other Federal agencies on important efforts to improve the criminal justice system and enhance public protection.

SJI has also been a leader in fostering improvements in the civil justice system by supporting efforts to coordinate the adjudication of mass tort cases; evaluate innovative procedures to reduce litigation delay; and demonstrate the effectiveness of alternative dispute resolution programs.

Not A Federal Agency

SJI is also unique in its structure: it is not a Federal agency but a non-profit corporation governed by an 11-member, uncompensated Board of Directors appointed by the President and confirmed by the Senate. The Institute's enabling legislation assures that its leadership will be responsive to the needs of the State courts, and politically balanced. The President must appoint six State court judges and one State court administrator to the Board from a list of three candidates for each position nominated by the Conference of State Chief Justices. Of the remaining four "public" members of the Board, no more than two may be of the same political party.

Efficient Administration of Highly Competitive Program

From the time the Institute became operational in FY 1987 through FY 1994, Congress appropriated sums totaling approximately $95,000,000. Of that amount, 87% (about $82,500,000) was awarded as grants; only about 13% was spent on program administration. The competition for SJI grants has been intense since its inception. The amount awarded fulfilled less than 25% of the more than $350,000,000 requested from SJI from FY 1987 to 1994.

In response to its FY 1995 Grant Guideline, the Institute received concept papers seeking more than $36,000,000. Adding the sums that will be requested in a special grant cycle following up on last November's National Mass Tort Litigation Conference, and funds that will be sought for projects that do not require concept papers (i.e., applications for renewal grants, curriculum adaptation grants, technical assistance grants, and education scholarships), the demand for SJI assistance in FY 1995 should exceed $50 million. Just over $11 million will be available for grants.

Deficit Reduction Initiative

Because SJI has authority to request funds directly from Congress (see 42 U.S.C. § 10704 (c)), the amount of our request differs from that contained in the President's budget. The request also refers to a legislative proposal that would reduce SJI's appropriated amount by $3.2 million. While I cannot speak for representatives from the Office of Management and Budget (OMB), I am confident that had we secured concurrence from key victim advocacy groups that currently receive funds from the Crime Victims Fund in time, OMB would have supported our request as submitted. You may wish to contact Vernetta Tanner, the OMB Budget Examiner, at 202-395-3494 to solicit her views on this.

The Board of Directors, which, as noted above, is comprised exclusively of State government officials and members of the public, is keenly aware of the need to reduce Federal spending. To that end, it decided to seek Congressional support for this legislation because it presented an opportunity to reduce SJI's appropriation request by diverting a small portion of the Crime Victims Fund in the U.S. Treasury to the Institute to provide an ongoing source of funding to help State courts improve their performance in the areas of family violence, rape, sexual assault, stalking, and other violent crimes. The following section provides additional information on this approach.

Legislative Proposal

Background

The Victims of Crime Act of 1984 (VOCA), 42 U.S.C. 10601, et seq., established the Crime Victims Fund to be the repository of almost all financial payments received from convicted Federal defendants. As amended by last year's crime bill, beginning in FY 1996, the first $3 million collected in the Fund each year reimburses the Administrative Office of the U.S. Courts (AO) for its administration of Federal fine collection. The next $10 million goes to HHS for child sexual abuse grants. The remaining funds are split up as follows: 48.5% to be allocated by the Justice Department for formula grants to State crime victim compensation programs; 48.5% to be allocated by DOJ for formula grants to State victim assistance programs; and 3% to be spent by the DOJ Office for Victims of Crime (OVC) for training, demonstration, and technical assistance grants, and aid to victims of Federal crimes.

From FY 1992 to 1995, the AO received $6.2 million off the top of the Fund each year to reimburse it for the costs of establishing a fine collection center and collecting fines. As noted above, VOCA provides that the AO's share is to be reduced to $3 million beginning in FY 1996.

Purpose

The proposed legislation would give SJI the $3.2 million reduction from the AO's share of the Fund. In this manner, there would be no detrimental impact to those who receive the DOJ formula grants or OVC training funds. The funds to be provided SJI would complement those programs by supporting judicial training and court improvement projects in the areas of family violence, rape, sexual assault, stalking, and other violent crimes.

SJI has already awarded numerous grants supporting projects in these areas, including a landmark 1993 National Conference on Family Violence and the Courts. If the proposed legislation were enacted, the Institute would ask Congress to reduce its FY 1996 appropriations request from $13.55 million to $10.35 million; the $3.2 million reduction would equal the amount the legislation would transfer from the Victims Fund to SJI.

We believe this legislative strategy reflects the Institute's commitment to reduce its reliance on appropriated Federal funds, and assures that it will be able to carry out its increasingly important Federal mission.

We would be delighted if you and the National Performance Review (NPR) would endorse SJI's reinvented grant model and innovative programs by supporting SJI's FY 1996 request. Thank you again for the opportunity to inform you about SJI. If you or others at NPR would like any further information, please call me or David Tevelin, the Executive Director of the Institute, at any time at (703) 684-6100.

Sincerely,

Steven J. Parent
Chief
Finance and Management
Division

Enclosures

General and special funds—Continued

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS—Continued

SALARIES AND EXPENSES—Continued

Program and Financing (in thousands of dollars)—Continued

Identification code 33–0400–0–1–503		1994 actual	1995 est.	1996 est.
24.40	Unobligated balance available, end of year: Treasury balance			
25.00	Unobligated balance expiring	306		
39.00	Budget authority	6,352	9,878	10,070
	Budget authority:			
40.00	Appropriation	6,352	9,878	10,070
	Relation of obligations to outlays:			
71.00	Total obligations	6,317	9,878	10,070
72.40	Obligated balance, start of year: Unpaid obligations: Treasury balance	1,930	2,005	3,754
74.40	Obligated balance, end of year: Unpaid obligations: Treasury balance	-2,005	-3,754	-3,827
78.00	Adjustments in unexpired accounts	-59		
90.00	Outlays	6,183	8,129	9,997

The Woodrow Wilson Center facilitates scholarship of the highest quality in the social sciences and humanities and communicates that scholarship to a wide audience within and beyond Washington. This is accomplished through a resident body of fellowship awardees, through conferences, publication and dialog.

Object Classification (in thousands of dollars)

Identification code 33–0400–0–1–503		1994 actual	1995 est.	1996 est.
11.1	Personnel compensation: Full-time permanent	2,085	2,159	2,250
12.1	Civilian personnel benefits	502	540	563
21.0	Travel and transportation of persons	11	10	10
22.0	Transportation of things	4	6	6
23.1	Rental payments to GSA			1,852
23.2	Rental payments to others	389	464	328
23.3	Communications, utilities, and miscellaneous charges	99	109	112
24.0	Printing and reproduction	18	20	20
25.2	Other services	1,194	1,222	1,652
25.3	Purchases of goods and services from Government accounts	50	2,341	117
26.0	Supplies and materials	61	60	60
31.0	Equipment	139	1,101	1,176
41.0	Grants, subsidies, and contributions	1,765	1,846	1,924
99.9	Total obligations	6,317	9,878	10,070

Personnel Summary

Identification code 33–0400–0–1–503		1994 actual	1995 est.	1996 est.
1001	Total compensable workyears: Full-time equivalent employment	45	43	43

Trust Funds

CANAL ZONE BIOLOGICAL AREA FUND

Program and Financing (in thousands of dollars)

Identification code 33–8190–0–7–503		1994 actual	1995 est.	1996 est.
	Program by activities:			
10.00	Total obligations	176	150	150
	Financing:			
21.40	Unobligated balance available, start of year: Treasury balance	-21	-66	-66
24.40	Unobligated balance available, end of year: Treasury balance	66	66	66
60.27	Budget authority (appropriation) (trust fund, indefinite)	222	150	150
	Relation of obligations to outlays:			
71.00	Total obligations	176	150	[illegible]
72.40	Obligated balance, start of year: Unpaid obligations: Treasury balance	5	12	[illegible]
74.40	Obligated balance, end of year: Unpaid obligations: Treasury balance	-12	-12	[illegible]
90.00	Outlays	170	150	[illegible]

Donations, subscriptions, and fees are appropriated ar[illegible] used to defray part of the expenses of maintaining and opera[illegible] ing the Canal Zone biological area (60 Stat. 1101; 20 U.S.[illegible] 79, 79a).

Object Classification (in thousands of dollars)

Identification code 33–8190–0–7–503		1994 actual	1995 est.	1996 est.
11.1	Personnel compensation: Full-time permanent	131	124	[illegible]
12.1	Civilian personnel benefits	18	17	[illegible]
25.2	Other services	16	9	[illegible]
26.0	Supplies and materials	6		
31.0	Equipment	5		
99.9	Total obligations	176	150	[illegible]

Personnel Summary

Identification code 33–8190–0–7–503		1994 actual	1995 est.	1996 est.
1001	Total compensable workyears: Full-time equivalent employment	6	6	[illegible]

STATE JUSTICE INSTITUTE

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authoriz[illegible] by The State Justice Institute Authorization Act of 1992 (Public L[illegible] 102–572 (106 Stat. 4515–4516)), [$13,550,000] *$7,000,000*, to rema[illegible] available until expended: *Provided*, That not to exceed $2,500 sh[illegible] be available for official reception and representation expenses. *(I[illegible] partment of Justice and Related Agencies Appropriations Act, 199[illegible]*

Program and Financing (in thousands of dollars)

Identification code 48–0052–0–1–752		1994 actual	1995 est.	1996 est.
	Program by activities:			
00.01	General administration	2,185	2,328	[illegible]
00.02	Grants	10,030	13,022	[illegible]
10.00	Total obligations	12,215	15,350	[illegible]
	Financing:			
21.40	Unobligated balance available, start of year: Treasury balance	-3,672	-5,007	[illegible]
24.40	Unobligated balance available, end of year: Treasury balance	5,007	3,207	
40.00	Budget authority (appropriation)	13,550	13,550	[illegible]
	Relation of obligations to outlays:			
71.00	Total obligations	12,215	15,350	[illegible]
72.40	Obligated balance, start of year: Unpaid obligations: Treasury balance	12,457	13,093	[illegible]
74.40	Obligated balance, end of year: Unpaid obligations: Treasury balance	-13,093	-14,893	[illegible]
90.00	Outlays	11,578	13,550	[illegible]

The State Justice Institute was established by the Congre[illegible] in 1984 as a private, non-profit corporation, to make grar[illegible] and undertake other activities designed to improve the admi[illegible] istration of justice in the United States. Appropriations [illegible] 1996 are intended to provide for continuation of Institu[illegible] operations at a reduced level. An additional $600,000 for 19[illegible] was made available through the Violent Crime Control a[illegible]

Law Enforcement Act of 1994 to educate judges about: stalking, rape, and sexual assault; sentencing in gender-related violent crime cases; the use of self-defense and provocation defenses by battered women; adjudicate and monitor child abuse and neglect; and the effective use and enforcement of protective orders.

Object Classification (in thousands of dollars)

Identification code 48-0052-0-1-752	1994 actual	1995 est.	1996 est.
11.1 Personnel compensation: Full-time permanent	1,177	1,255	1,324
12.1 Civilian personnel benefits	321	335	350
21.0 Travel and transportation of persons	154	165	171
23.2 Rental payments to others	220	228	237
23.3 Communications, utilities, and miscellaneous charges	96	99	102
24.0 Printing and reproduction	51	53	55
25.2 Other services	82	97	100
26.0 Supplies and materials	29	39	35
31.0 Equipment	55	57	63
41.0 Grants, subsidies, and contributions	10,030	13,022	7,770
99.9 Total obligations	12,215	15,350	10,207

Personnel Summary

Identification code 48-0052-0-1-752	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	10	25	25

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by section 40413 of Public Law 103–322, $600,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

Program and Financing (in thousands of dollars)

Identification code 48-8140-0-1-754	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Gender-based Violence Training Grants			600
10.00 Total obligations (object class 41.0)			600
Financing:			
42.00 Budget authority (transferred from other accounts)			600
Relation of obligations to outlays:			
71.00 Total obligations			600
90.00 Outlays			600

Amounts for the State Justice Institute's portion of Crime Control Programs are derived from transfers from the Violent Crime Reduction Trust Fund (VCRTF) as authorized by the Crime Control and Law Enforcement Act of 1994. These funds are provided to enable the Institute ensure that model training programs are developed, tested, and disseminated for the education and training of judges and court personnel in State courts on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SUSQUEHANNA RIVER BASIN COMMISSION

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), [$318,000] *$332,000. (Energy and Water Development Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 46-0500-0-1-301	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations	216	318	332
Financing:			
25.00 Unobligated balance expiring	92		
40.00 Budget authority (appropriation)	308	318	332
Relation of obligations to outlays:			
71.00 Total obligations	216	318	332
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	14	11	32
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	−11	−32	−33
90.00 Outlays	218	297	331

The Susquehanna River Basin Commission, created by compact (Public Law 91–575) among the basin States, participates jointly in the development of water and related resources of the region drained by the Susquehanna River and its tributaries.

This appropriation provides for the expenses of the U.S. Commissioner and staff.

Object Classification (in thousands of dollars)

Identification code 46-0500-0-1-301	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	126	182	189
11.3 Other than full-time permanent		3	3
11.9 Total personnel compensation	126	185	192
12.1 Civilian personnel benefits	22	53	54
21.0 Travel and transportation of persons	8	6	10
23.1 Rental payments to GSA	26	27	28
23.3 Communications, utilities, and miscellaneous charges	1	5	5
24.0 Printing and reproduction		4	4
25.3 Purchases of goods and services from Government accounts	32	34	35
26.0 Supplies and materials	1	4	4
99.9 Total obligations	216	318	332

Personnel Summary

Identification code 46-0500-0-1-301	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	2	2	2

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), [$288,000] *$360,000. (Energy and Water Development Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 46-0501-0-1-301	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations (object class 41.0)	298	288	360
Financing:			
40.00 Budget authority (appropriation)	298	288	360
Relation of obligations to outlays:			
71.00 Total obligations	298	288	360
90.00 Outlays	298	288	360

This appropriation provides for the Federal share of the annual expenses of the Commission.

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Divider Title: F

FEDERAL HOUSING FINANCE BOARD

DESCRIPTION: The Board is an independent executive agency established by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The duties of the Finance Board are: (1) to ensure that the twelve Federal Home Loan Banks operate in a safe and sound manner;(2) to supervise all lending and related operations of the Banks; (3) to ensure that the Banks fulfill their mission to the housing finance industry; (4) to ensure that the Banks remain adequately capitalized; and (5) to ensure that the Banks are able to raise funds in the capital markets. The Finance Board succeeded the former Federal Home Loan Bank Board with respect to the Banks.

The Board has the power to: (1) supervise the Banks and promulgate and enforce such regulations and orders as are necessary; (2) suspend or remove for cause a director, officer, employee, or agent of any Bank or joint office; (3) determine necessary expenditures of the Finance Board and the manner in which the expenditures shall be incurred, allowed, and paid; (4) use U.S. mails in the same manner and under the same conditions as a department or agency of the United States.

FY 1996 BUDGET PROPOSAL: The Budget for FY 1996 calls for 120 FTE and makes no appropriation to the Board, which is funded by assessments from the Banks.

AGENCY PROPOSAL: The Finance Board should remain responsible for ensuring the safety and soundness of the Banks. The Finance Board should devolve the business management and corporate governance of the Banks to the Banks. Each Bank already operates with management oversight of its own Board of Directors.

DECISION OPTIONS:

A. No change. Proceed with funding in the proposals in the '96 Budget. Await developments in the legislative initiatives of U.S. Treasury and HUD regarding the Federal Home Loan Bank.

B. Combine some or all of the Board's regulatory responsibilities with the Office of Federal Housing Enterprise Oversight (OFHEO). OFHEO is currently responsible for overseeing the safety and soundness of Fannie Mae and Freddie Mac.

C. Eliminate the Board.

ADVISORY GROUP RECOMMENDATION: A.

RATIONALE: To ensure the Administration has the opportunity to employ a cohesive and consistent approach to this Board, it is recommended that ReGo II await Treasury's and HUD's legislative initiatives. The Board is clearly proceeding under phase I of reinvention to empower, decentralize, and devolve management responsibilities while maintaining its responsibility for regulatory oversight.

STEERING COMMITTEE RECOMMENDATION:

Federal Housing Finance Board
1777 F Street, N.W., Washington, D.C. 20006
Telephone: (202) 408-2500 Facsimile: (202) 408-1435

February 27, 1995

Mr. Jay Friedman
National Performance Review Team
750 17th Street, NW, Suite 200
Washington, DC 20006

Dear Mr. Friedman:

As you may know, the Departments of Treasury and Housing and Urban Development are developing legislation for the Administration on the Federal Home Loan Bank System (Bank System) that is expected to have a significant impact on the 12 Federal Home Loan Banks (FHLBanks). It is not known at this stage what impact any legislation, if enacted, will have on the Federal Housing Finance Board (Finance Board). The attached option paper does not address System functions; rather, it focuses on the Finance Board's current responsibilities, namely, regulatory and oversight, as well as business management and corporate governance, of the FHLBanks.

Although the Finance Board has been operating without a quorum for almost 14 months, I am pleased to say that this has not prevented the Finance Board's on-going efforts to serve better and empower the FHLBanks, who are our customers, and to separate the Finance Board's regulatory oversight responsibilities from business management and corporate governance.

As pointed out in the attached Option Paper, a comprehensive effort to "reinvent" the way the Finance Board and the FHLBanks conduct business actually began in 1992. During 1993 and 1994, joint meetings were held, public hearings were conducted throughout the country and discussions with pertinent constituency groups were initiated. These joint efforts have resulted in the devolution of several functions to the FHLBanks in 1994, with others still under discussion. Additional responsibilities, currently performed by the Finance Board, have been identified that could be devolved to the FHLBanks. However, before that could be implemented, approval by a quorum of the Finance Board's Directors would be required.

Even though the Finance Board continues in a period of transition, as we await the appointment of additional members to achieve a quorum and the outcome of legislative action on the Bank System, we continue to make efforts to reduce overhead costs and streamline the agency, while maximizing the effectiveness of the Bank System. To this end, although funded by assessments from the FHLBanks and not through an appropriation, the Finance Board has elected to comply with the President's Executive Order 12837 to reduce administrative expenses and improve productivity over the next several years. Operating expenses in 1994 were 16 percent below budget, and FTE usage was 18 percent below budget. (Please note 7 percent of this was directly related to vacant Finance Board director positions.) Also, the 1995 Finance Board budget was 3 percent below 1994.

I have enclosed, for your reference, copies of two earlier letters to the Office of Management and Budget discussing the streamlining efforts of the Finance Board, pending appointments to the Finance Board, and impending legislative changes. We will continue in 1995 to seek improved productivity and reduced spending.

If you would like further information, please contact Rita I. Fair, Managing Director of the Finance Board at 408-2890.

I appreciate the opportunity to present this information.

Sincerely,

Nicolas P. Retsinas
HUD Secretary's
Designee to the Board

Enclosures

Federal Housing Finance Board
National Performance Review
<u>Phase II Option Paper</u>

In establishing the Federal Housing Finance Board (Finance Board) in 1989, Congress gave the agency both regulatory and management oversight of the 12 Federal Home Loan Banks (FHLBanks). The Finance Board continues to carry out its duties as mandated. However, in its April 1993 report to Congress, the Finance Board recommended that these responsibilities be separated. Also recommended, in its System 2000 report submitted to the Congress in June 1993, the Finance Board emphasized that one of the System's goals was to clarify the relationship between the Finance Board and the FHLBank Boards.

To this end, a comprehensive joint effort between the Finance Board and the FHLBanks has been underway for some time, to examine the structure and role of the System. One of the areas under review is the governance structure of the System, which includes the responsibilities of the Finance Board.

The National Performance Review (NPR) Phase II suggests that each function currently performed by a Federal agency should be reviewed and analyzed to determine if it is critical to the agency's mission based on customer input. For this review, we have broken the agency's functions into two major categories--(1) regulatory oversight and (2) business management and corporate governance. We have analyzed these functions using the Decision Tree provided by the NPR team.

1. <u>Regulatory Oversight Responsibilities</u>

The regulatory oversight responsibilities of the Finance Board are critical to the System's mission. As a "government-sponsored enterprise," the Bank System must fulfill a public policy purpose. In view of this, federal oversight of the System's activities, and supervision to assure safe and sound operations, are fundamental. It has been agreed by the FHLBanks and the Finance Board that the Finance Board should remain responsible for ensuring the safety and soundness of the Bank System, compliance with statutory requirements and the accomplishment of the Bank System's public policy mission.

These responsibilities cannot be met at the state or local level since, by law, while the 12 FHLBanks operate separately, they are federally chartered and part of a National System with joint responsibilities and obligations. Centralized oversight is critical to the safety and soundness, as well as the success, of the System.

In 1994, Finance Board operating costs were 16 percent below budget and FTE usage was 18 percent below budget. The 1995 budget was reduced in anticipation of legislative changes and is 3 percent below the 1994 budget.

Option 1 - Terminate Regulatory Oversight Functions

Because of the Bank System's national role, federal charter, and public policy mission, and the Finance Board's statutory responsibility to assure the safe and sound operation of the System, federal oversight is required. This function cannot be performed by the FHLBanks, since each of the Banks are a part of the System. (The funding of the Finance Board is provided by the FHLBanks in the form of an assessment.)

Option 2 - Major Restructuring of Regulatory Oversight Functions

As indicated in Nicolas P. Retsinas' June 23, 1994 letter to Christopher Edley, Jr. (copy attached), continuing efforts are being made to streamline the functions of the agency focusing on enhancing regulatory oversight responsibility. Several realignments have been effected to utilize current staff to fill vacancies, several positions have been eliminated, and other belt-tightening strategies to reduce operating expenses have been implemented. The Finance Board ended 1994 16 percent below budget.

2. Management and Corporate Governance Responsibilities

The Finance Board and the FHLBanks agree that it is not necessary for the regulator (Finance Board) to have responsibility for the business management and corporate governance functions of the FHLBanks. While these functions are critical to the Bank System, it is not critical that the functions be centralized. Most of these responsibilities could be devolved to the FHLBanks. Each FHLBank operates with management oversight of its own Board of Directors, composed of eight elected by shareholders and six appointed by the Finance Board.

Option 1 - Terminate Business Management and Corporate Governance Functions

Joint efforts between the FHLBanks and the Finance Board senior staff have identified several activities and authorities to be devolved to the FHLBanks. To date, three of the FHLBanks top ten priority activities have been devolved to the FHLBanks--the Affordable Housing Program (AHP) applications for modification, the applications for System membership, and the execution and administration of the external audit contract. Others await action by a Finance Board quorum, while work continues on those that can be accomplished without a quorum. This effort is on-going and most likely will result in additional activities and authorities being devolved to the FHLBanks.

Option 2 - Major Restructuring of Business Management and Corporate Governance Functions

The major restructuring of the business management and corporate governance functions will result in devolving most of these functions to the FHLBanks and should improve efficiency, provide the FHLBanks the flexibility to better serve their customers, while the System continues to fulfill its mission.

Cost Summary

The 1996 President's budget reflects a reduction of three FTEs and associated costs. However, the budget will be reduced further by $500,000.00 because the execution and administration responsibility of the annual financial audit of the System has been recently devolved to the FHLBanks.

With the pending Finance Board appointments expected to be confirmed this year and the anticipated 1995 legislation, it would not be practical, at this time, to project the cumulative FTE and cost savings over the next five years.

Federal Housing Finance Board

1777 F Street, N.W., Washington, D.C. 20006
Telephone: (202) 408-2500 Facsimile: (202) 408-1435

June 23, 1994

Mr. Christopher Edley, Jr.
Office of Management and Budget
Old Executive Office Building
17th Street & Pennsylvania Avenue, NW
Washington, DC 20503

Dear Chris:

This is in response to your May 25 memorandum on FY 1996 Budget Planning and FTE Guidance.

In my letter of January 5, 1994, I outlined the status of appointments to the Board. At this time three board member positions, including the Chairperson, have not been filled. In addition, the five studies required by the Housing and Community Development Act of 1992 on the structure and role of the Federal Home Loan Bank System have been completed and submitted to the Congress. The recommendations contained in these reports will provide a framework for the Administration's legislative initiative on the System, which is expected to be submitted to Congress early next year. One of the areas under review is the governance structure of the System, and this would have a major impact on the organization.

The Federal Housing Finance Board is fully supportive of the President's commitment to making Federal organizations more effective and responsive to their customers. While the Housing Finance Board remains in a period of transition, I believe it is prudent to defer making any major organizational decisions. I have, however, taken a number of steps to streamline operations and reduce agency overhead which I would like to outline.

I am pleased to report that the Agency's current staffing level is down to 104 from the FY 1994 ceiling of 123. Further, as reported to the Office of Personnel Management, the Agency's FY 1994 FTE usage through May 28 was 75.56. Based on current staffing levels, we can expect the Finance Board's operating expenses for 1994 to be under budget by $1.2 million or 7.33 percent. Of this amount, $542,989 or 3.78 percent is attributable to the vacant Director positions and the expenses associated with those vacancies.

Mr. Christopher Edley, Jr.
Office of Management and Budget
Page Two

We currently have a project underway to examine whether any of the activities currently performed by the Housing Finance Board can be decentralized to the Federal Home Loan Banks. This would include activities not related to the safety and soundness responsibilities of the Board. I expect that this may result in further opportunities for staff reductions or redeployment of staff to support our core functions.

A hiring freeze remains in effect, and I have instructed the staff to meet the targets specified in Executive Order 12837 in preparing the budgets for 1995 and 1996 to achieve a reduction of 6 and 9 percent, respectively. In preparing these budgets we will conduct a thorough review to determine whether additional cost savings can be achieved.

I would be pleased to provide updated information as we progress. If you or your staff would like further information, please have them contact Rita Fair, Acting Managing Director of the Housing Finance Board at 408-2890.

I appreciate the opportunity to present this information.

Sincerely,

Nicolas P. Retsinas

Federal Housing Finance Board
1777 F Street, N.W., Washington, D.C. 20006
Telephone: (202) 408-2500 Facsimile: (202) 408-1435

January 5, 1994

Mr. Leon E. Panetta
Director
Office of Management and Budget
Old Executive Office Building
17th Street & Pennsylvania Ave. NW
Washington, DC 20503

Dear Mr. Panetta:

The Federal Housing Finance Board (Finance Board) is fully supportive of the National Performance Review (NPR) and the President's September 11th memorandum requesting agencies to streamline their organizations and operations. At the present time, however, the Finance Board is in a period of transition which makes it prudent to defer making organizational decisions until the President has appointed and the Senate has confirmed a new Chairperson.

I would like to take this opportunity to review the current status of the Board of Directors of the Finance Board. At the present time there are three vacant Director positions. By statute, the Secretary of Housing and Urban Development serves on the Board. One of those directors, Daniel F. Evans, Jr., who also was the Chairman of the Board, resigned effective November 22, 1993. That responsibility has been delegated to me, by the Secretary, in my capacity as Assistant Secretary for Housing--Federal Housing Commissioner. Upon the resignation of the Chairman, the Board delegated to me the responsibility for the overall management of the Agency.

The statute vests the management of the Board in the Secretary to HUD and four other individuals appointed by the President and confirmed by the Senate who are appointed for seven-year terms. Until December 31, 1993, the appointed directors served on a part-time basis, but the statute requires full-time status as of January 1, 1994. The initial Directors' terms of office were staggered. The first appointment expired on February 27, 1993, but the director, William C. Perkins, continued to serve until December 31, 1993, the effective date of his resignation. A second director, Marilyn R. Seymann, has elected not to serve on a full-time basis and has resigned effective January 1, 1994. The remaining director, Lawrence U. Costiglio, has elected to remain on the Board in full-time status. The expiration date of his term is February 27, 1995.

When I assumed the responsibility for the overall management of the Agency at the end of November, the preparation of the 1994 budget was near completion, and the Board approved the budget at the December Board meeting. The budget from 1993 to 1994 reflected only a modest increase of 2.3%, with one notable exception. The statutory provision requires four full-time (as opposed to part-time) Board Members, and the necessary staff support and office space requirements is projected to cost an additional $1 million. It may be appropriate to revisit the issue of the composition of the Board when we address the legislative agenda for the Federal Home Loan Bank System (Bank System).

As you are aware, the Housing and Community Development Act of 1992 required five separate studies on the structure and role of the Bank System. The final HUD study is currently in the clearance process at OMB and is expected to be released in early January. The study findings will most likely be the platform for the Administration's legislative agenda for the Bank System. The outcome of the legislative initiative will have a significant impact on the organizational structure of the Finance Board.

In the context of these organizational and legislative uncertainties, I have begun an organizational review of the Finance Board to identify opportunities for streamlining the current organization. Although the Finance Board operates on non-appropriated funds, in the spirit of the NPR and the President's memorandum, I intend to work with the staff to achieve cost reductions and to present a plan to the new Chairperson when that vacancy is filled. While it may be prudent to delay final organizational implementation, we will have completed the analysis necessary to achieve the goals of the Bank System in a cost-effective manner while still providing high quality service to our customers.

I would be pleased to provide updated information as we progress. If your staff would like further information, please have them contact Rita Fair, my assistant at the Finance Board, at 408-2890.

I appreciate the opportunity to present this information.

Sincerely,

Nicolas P. Retsinas

General and special funds—Continued

REGISTRY FEES—Continued

Object Classification (in thousands of dollars)—Continued

Identification code 95–5026–0–2–376	1994 actual	1995 est.	1996 est.
31.0 Equipment	7	13	13
41.0 Grants, subsidies, and contributions	509	495	515
99.9 Total obligations	1,471	1,578	1,627

Personnel Summary

Identification code 95–5026–0–2–376	1994 actual	1995 est.	1996 est.
1001 Total compensable workyears: Full-time equivalent employment	9	9	9

FEDERAL HOUSING FINANCE BOARD

Federal Funds

Public enterprise funds:

FEDERAL HOUSING FINANCE BOARD

Program and Financing (in thousands of dollars)

Identification code 95–4039–0–3–371	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Capital investments	566	....	....
00.02 Operating expenses	14,111	15,222	15,252
10.00 Total obligations	14,677	15,222	15,252
Financing:			
21.90 Unobligated balance available, start of year: Fund balance	-3,465	-4,964	-4,850
24.90 Unobligated balance available, end of year: Fund balance	4,964	4,850	4,500
68.00 Budget authority (gross): Spending authority from offsetting collections	16,176	15,107	14,902
Relation of obligations to outlays:			
71.00 Total obligations	14,677	15,222	15,252
72.90 Obligated balance, start of year: Fund balance	595	1,015	750
74.90 Obligated balance, end of year: Fund balance	-1,015	-750	-1,000
87.00 Outlays (gross)	14,257	15,487	15,002
Adjustments to gross budget authority and outlays:			
88.40 Offsetting collections from: Non-Federal sources	-16,176	-15,107	-14,902
89.00 Budget authority (net)	....	....	....
90.00 Outlays (net)	-1,919	380	100

The Federal Housing Finance Board (Finance Board), an independent executive agency, was established by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 which amended the Federal Home Loan Bank Act. The duties of the Finance Board are: (1) to ensure that the twelve Federal Home Loan Banks (Banks) operate in a safe and sound manner; (2) to supervise all lending and related operations of the Banks; (3) to ensure that the Banks fulfill their mission to the housing finance industry; (4) to ensure that the Banks remain adequately capitalized; and (5) to ensure that the Banks are able to raise funds in the capital markets. The Finance Board succeeded the former Federal Home Loan Bank Board with respect to the Banks.

The management of the Finance Board is vested in a five-member Board of Directors. The Directors are the Secretary of Housing and Urban Development and four other individuals appointed by the President, with the advice and consent of the Senate. The President designates one of the appointed Directors as the Chairperson of the Board of Directors. The term of a Director is seven years.

The Finance Board has the power to: (1) supervise the Banks and promulgate and enforce such regulations and orders as are necessary; (2) suspend or remove for cause a director, officer, employee, or agent of any Bank or joint office; (3) determine necessary expenditures of the Finance Board and the manner in which such expenditures shall be incurred, allowed, and paid; and (4) use the United States mails in the same manner and under the same conditions as a department or agency of the United States.

Statement of Operations (in thousands of dollars)

Identification code 95–4039–0–3–371	1993 actual	1994 actual	1995 est.	1996 est.
0101 Revenue	12,145	16,176	15,107	14,902
0102 Expense	-13,118	-13,667	-14,471	-14,252
0109 Net income	-973	2,509	636	650

Balance Sheet (in thousands of dollars)

Identification code 95–4039–0–3–371	1993 actual	1994 actual	1995 est.	1996 est.
ASSETS:				
1101 Federal assets: Fund balances with Treasury	4,061	5,984	5,714	5,850
1206 Non-Federal assets: Receivables, net	27	3	3	
1803 Other Federal assets: Property, plant and equipment, net	10	9	1	....
1999 Total assets	4,098	5,996	5,718	5,853
LIABILITIES:				
2101 Federal liabilities: Accounts payable	628	937	950	988
2201 Non-Federal liabilities: Accounts payable	595	362	450	400
2999 Total liabilities	1,223	1,299	1,400	1,388
NET POSITION:				
3300 Cumulative results of operations	2,875	4,697	4,318	4,465
3999 Total net position	2,875	4,697	4,318	4,465
4999 Total liabilities and net position	4,098	5,996	5,718	5,853

Object Classification (in thousands of dollars)

Identification code 95–4039–0–3–371	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	5,729	6,268	6,300
11.3 Other than full-time permanent	583	683	600
11.5 Other personnel compensation	1,142	1,175	1,300
11.8 Special personal services payments	9	10	[illegible]
11.9 Total personnel compensation	7,463	8,136	8,210
12.1 Civilian personnel benefits	1,766	1,851	1,900
21.0 Travel and transportation of persons	307	330	331
22.0 Transportation of things	80	86	86
23.2 Rental payments to others	1,657	1,784	1,787
23.3 Communications, utilities, and miscellaneous charges	383	412	413
24.0 Printing and reproduction	368	396	397
25.1 Advisory and assistance services	145	156	156
25.2 Other services	1,470	954	852
25.3 Purchases of goods and services from Government accounts	266	286	287
26.0 Supplies and materials	123	132	133
31.0 Equipment	649	699	700
99.9 Total obligations	14,677	15,222	15,252

Personnel Summary

Identification code 95–4039–0–3–371	1994 actual	1995 est.	1996 est.
Total compensable workyears:			
5001 Full-time equivalent employment	108	118	120
5005 Full-time equivalent of overtime and holiday hours	1	2	[illegible]

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Divider Title: **G**

NEIGHBORHOOD REINVESTMENT CORPORATION

DESCRIPTION: The Corporation is authorized to engage in neighborhood reinvestment activities by the Neighborhood Reinvestment Corporation Act . The major activities of the Corporation include: establishing neighborhood programs known as NeighborhoodWorks Organizations (NWO's); assisting in the expansion of NWO's to additional neighborhoods; providing training and technical assistance; identifying, evaluating, supporting and replicating successful neighborhood preservation projects that show promise for reversing neighborhood decline; promoting a national secondary market and other financing mechanisms for NWO's; and granting lending and equity capital to promote home ownership and other affordable housing.

FY 1996 BUDGET PROPOSAL:
The Corporation receives both Federal and non-Federal funding to finance its program activities. For 1996, a program level of $55,000,000 is requested along with 239 FTE. In 1995, $38,667,000 was authorized with 226 FTE.

AGENCY PROPOSAL:
The Corporation suggests that it be left in tact because its programs and goals promote a horizontal relationship between local institutions, community, local government and business, rather than the top down vertical relationship associated with other Federal programs.

DECISION OPTIONS:
A. No change; proceed with the funding in the '96 Budget.
B. Terminate funding; rely on unsupported market mechanisms.

ADVISORY GROUP RECOMMENDATION:

A. No change. Fund at FY 1996 levels.

RATIONALE:
The Corporation's access to financial resources and its enabling approach make it the most promising and effective option for reinvigorating the country's older neighborhoods.

STEERING COMMITTEE RECOMMENDATION:

Neighborhood Reinvestment Corporation

Memorandum

TO: Mark Voskhul, Jay Friedman and Jerry Nikolaus
Desk Officers for the National Performance Review

FROM: Hubert E. Guest, Deputy Executive Director/Treasurer
Neighborhood Reinvestment Corporation

DATE: March 2, 1995

SUBJECT: OPTION PAPER/NATIONAL PERFORMANCE REVIEW

ATTENTION: Laurie Lyons

Attached is Neighborhood Reinvestment's option paper.

NEIGHBORHOOD REINVESTMENT CORPORATION

I. Introduction

Neighborhood Reinvestment is a public, nonprofit corporation established by an act of Congress (Public Law 95-557) with the principal purpose of promoting "reinvestment in older neighborhoods by local financial institutions working cooperatively with community people and local government, and which will continue the nonbureaucratic approach of the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs."

The Neighborhood Reinvestment Corporation promotes the reinvestment in distressed communities through resident-led, public-private partnership organizations known collectively as the NeighborWorks® network. The NeighborWorks® network revitalizes communities and generates affordable housing and home ownership opportunities. Responsible residents living in NeighborWorks ® communities gain access to non-conventional financial credit as well as conventional market mechanisms.

The Corporation currently provides funding, financing mechanisms, training, technical assistance and program oversight to 184 NeighborWorks® organizations, keeping them strong and viable.

II. Mission Statement

The mission of the Neighborhood Reinvestment Corporation is:

- to create and support a national network of community based partnerships
- to research and identify reinvestment strategies that will have a lasting impact on neighborhoods of limited resources, and
- to develop and implement solutions that contribute to the broader field of community development and housing.
- to support a national secondary market for non-conventional loans , Neighborhood Housing Services of America, Inc. (NHSA)

Integral to this mission are the following goals:

- to create local partnerships of community residents, business and government whose mission is to revitalize neighborhoods and communities, provide affordable housing and offer choice and hope for the future

- to support the NeighborWorks® network by providing financial and technical assistance to the NeighborWorks® organizations

- to support Neighborhood Housing Services of America by providing financial and technical assistance

- to stimulate access to capital and credit

- to educate and enhance the ability of people to become active and responsible participants in the well being of their community

- to contribute to the vitality of community-based development by collaborating with other community development and affordable housing leaders and

- to monitor and evaluate the results.

In implementing its mission, the Neighborhood Reinvestment Corporation must exercise care to preserve and improve the environment in which the community based development has matured.

III. Neighborhood Reinvestment Programmatic Functions

Neighborhood Reinvestment operational activities are classified by functions. These functions are:

1. Creating Community-based Partnership Organizations
2. Building Capacity of the NeighborWorks® Network
3. Preserving Affordable Housing
4. Setting and Monitoring Standards of Operation
5. Providing Quality Training
6. Expanding Access to Credit, and
7. Corporate Administration

A detailed description of the substance of these activities is attached.

IV. National Performance Review - Issues

Duplication of function by other federal agencies - No other federal agency has the purpose or responsibilities which have been assigned to Neighborhood Reinvestment. Members of the NeighborWorks® network utilize many of the programs of other federal agencies, such as HOME, Youth Build, CDBG and others.

State and local governments have not invested in the development and maintenance of a network of community-based nonprofit partnerships. Duplication of the function served by Neighborhood Reinvestment would considerably expand the funds needed to support the administration of this effort at the state and local level.

Many of the needed programs and initiatives may not be continued as smaller jurisdictions make funding priorities of limited resources. The goals for the programs would change as the funding agent changes. Neighborhood Reinvestment has a system in place that requires the influence and management from the local environment, the advantage of local influence already exists.

Organizing Financial Support - a major thrust of Neighborhood Reinvestment is to find ways to make the market mechanisms of community development and housing development work in distressed communities. These resources are more and more being organized by region or with a national focus. Without Neighborhood Reinvestment, many of the local programs would not be continued because smaller jurisdictions and rural areas do not have access to the capital and credit markets.

Neighborhood Reinvestment's program and goals promote a horizontal relationship between local institutions, community, local government and business, rather than the top down vertical relationship associated with other federal programs. Promoting reinvestment in local communities requires understanding the organizational framework of the financial and business community.

NHSA is a vehicle for expanding the impact of local resources by providing liquidity at the local level and opportunities for social investors such as State Farm, Allstate, and Great Western Bank at the national level.

Transfer of Technical Skills - increasing the capacity of active NeighborWorks® organizations is at the core of Neighborhood Reinvestment's mission. Our concern is the effectiveness and longevity of the NeighborWorks® network and the NeighborWorks® organizations.

Our capacity building efforts are shared with community-based organizations which are not a part of the NeighborWorks® network. Roughly 50% of the participants attending our week long training institutes are representative of other organizations and, in some cases, local government and financial institutions.

Regardless of funding sources, the effectiveness and efficiency of organizations should be monitored. Resources which address the capacity of these organizations must also be available in an efficient manner.

Our experience leads us to believe that many local jurisdictions, including some states, do not have the resources needed to ensure effective and efficient community-based partnerships.

Focus on a National Priority - The Administration has made home ownership and local decision making a priority. Neighborhood Reinvestment is organized to promote decision making at the local level, through the NeighborWorks® organizations, a partnership of residents from the community, the effective local government and the local business and financial community. At the same time, Neighborhood Reinvestment acts as a bridge between the community development and housing development financial systems and the local distressed communities - communities lacking access to capital and credit.

As a bridge between the community development and affordable housing industry and communities in need, Neighborhood Reinvestment organizes and connects need with resources: capital and credit are extended to communities which currently have no real access to capital and credit markets, technical resources are extended through training, technical assistance and information sharing is made available to communities that have limited to technical resources, investments in public services are made to communities that have seen disinvestment in the past, companies with jobs and other resources are working with the local community to create employment. Federal funds appropriated to Neighborhood Reinvestment are catalytic to this process.

Neighborhood Reinvestment's program and goals promote a horizontal relationship between institutions within the local community rather than a top down vertical relationship associated with other federal programs. We promote reinvestment in local communities by the local residents, local financial institutions and local government.

Currently, the NeighborWorks® network production amounts to approximately $250 million invested in low and moderate income communities per year. The federal appropriation is $38 million. This production is achieved without a large bureaucracy.

The congressional mandate of Neighborhood Reinvestment's enabling statute seems to be best met by the current structure and methods of achievement as adjusted from time to time to meet the evolving community renewal needs of our nation's distressed areas.

NEIGHBORHOOD REINVESTMENT CORPORATION

Distressed urban and rural communities are caused by lack of investment. When families cannot, or do not wish to, buy homes in a particular neighborhood, disinvestment begins. The downward spiral accelerates when private and civic institutions such as banks, hospitals, grocery stores and churches leave neighborhoods. This process is difficult to reverse -- especially when the goal is to revitalize communities for the benefit of current residents. However, as difficult as it may be, Neighborhood Reinvestment's 20 years of experience have proven that community revitalization is possible. Neighborhood Reinvestment's enabling legislation states that the purpose of Neighborhood Reinvestment is to:

> "promote reinvestment in older neighborhoods by local financial institutions working cooperatively with community people and local government . . . relying largely on local initiative for the specific design of local programs."
> [P.L. 95-557, Section 602(b)]

Local leadership, backed up by technical support, secondary financing and seed grants, develop solutions that can be sustained without massive long-term government subsidies. In order to knit together diverse communities and provide flexible capital to encourage innovative, results-oriented activity at the local level, Neighborhood Reinvestment carries out several functions. These are outlined in this section.

Creating Community-based Partnership Organizations

Neighborhood Reinvestment's partnership approach ensures tailored strategies and tools that utilize available resources, capitalize on existing strengths and encourage widespread participation. These formal partnerships are led by residents and include private-sector participants (typically from financial and insurance institutions) and representatives of local governments and agencies.

Requests for new NeighborWorks® organizations usually come from neighborhood groups, state or city agencies, businesses or financial institutions. After the Corporation assesses local resources, a commitment may be made to develop a new partnership. At the end of this development process, the organization becomes an autonomous, state-chartered, tax-exempt, nonprofit corporation. Once able to meet the programmatic and financial standards set by Neighborhood Reinvestment, the organization is chartered as a member of the NeighborWorks® network. This requires ongoing, responsible programmatic and financial performance. In addition, becoming a member of the network ensures access to NHSA, technical assistance and the right to use the NeighborWorks® registration mark.

Most NeighborWorks® organizations work in a targeted geographic area until that neighborhood is sufficiently stable, with a reasonably sound real estate market, visible, physical improvements and an organized local leadership capable of maintaining and monitoring the community's progress. At this point, direct services are shifted to serve additional communities. Chart 2 diagrams this multi-year, complex organizational process.

Building Capacity of the NeighborWorks® Network

Neighborhood Reinvestment field staff and the staff of local NeighborWorks® affiliates are essential catalysts in revitalizing communities. These individuals must have expertise in several areas such as construction and rehabilitation, lending, fundraising, insurance, and organizational development. They work extensively to develop enterprising solutions for each particular community being served, recognizing that what functions well in one part of the country may not work in another.

Technical assistance is critical to building the capacity of NeighborWorks® organizations, because most are very small. Half of the organizations have annual budgets of less than $162,000. Years of experience have shown that capital resources are of little value if staff are not available to leverage and manage these funds in keeping with community priorities. Thus, building the capacity of resident board members is a major emphasis of the Corporation's efforts.

Preserving Affordable Housing

Community renewal depends on access to safe, affordable housing, and every responsible individual who desires to own or improve a home should have the opportunity to do so. In distressed neighborhoods, preserving affordable housing stock through property rehabilitation and repair is vital to the health and well-being of residents. The method used by NeighborWorks® organizations to preserve housing depends on the specific needs of the occupants. Chart 3 shows how one NeighborWorks® organization, Baltimore Neighborhood Housing Services, tailored its financing to provide home ownership to three families with different needs and incomes.

However, not everyone can own a home. The development of mutual housing associations is an example of the Corporation's commitment to preserving housing affordability through innovative approaches. Mutual housing is a step up from rental housing and an alternative to traditional home ownership. It offers residents security of tenure, long-term affordability, a voice in management, quality housing and an opportunity to be part of a stable community. Mutual housing associations are able to serve populations living well below an area's median income. In 1994, 44 percent of the residents of mutual housing units had incomes below 50 percent of the median; another 42 percent were between 50 percent and 80 percent of the median income.

CHART 2

NEIGHBORHOOD REVITALIZATION - DEVELOPMENT STAGES

NEIGHBORHOOD REINVESTMENT

- Organize partnership
- Seed Revolving Loan Fund
- Assist in hiring Executive Director
- Provide general accounting system, rehab system, loan servicing

NEIGHBORHOOD

Typical Neighborhood
82% very low/low income
52% white, 48% minority population
44% home ownership (64% in U.S.)

NEIGHBORHOOD

NEIGHBORWORKS® ORGANIZATION

NEIGHBORHOOD REINVESTMENT

- Through Neighborhood Housing Services of America, purchase loans
- Train board of directors
- Assist in fundraising campaigns
- Assist in geographical expansion
- Assist rehab & sale strategy

Package, catalyze conventional lending

Provide loans at flexible rates& terms

Provide rehab construction monitoring

Manage rental properties

Numerous community services

Purchase abandoned structures, rehab & sell to homeowners

Various other home preservation services

NEIGHBORHOOD REINVESTMENT

- Assist expansion to across town
- Train expanded board
- Conduct self-reliance planning workshop

NEIGHBORHOOD

NEIGHBORWORKS® ORGANIZATION

NEIGHBORHOOD

All this effort results in revitalized self-reliant neighborhoods. Neighborworks® organization services focused across town

AVERAGE PRODUCTION PER PROGRAM IN 1994

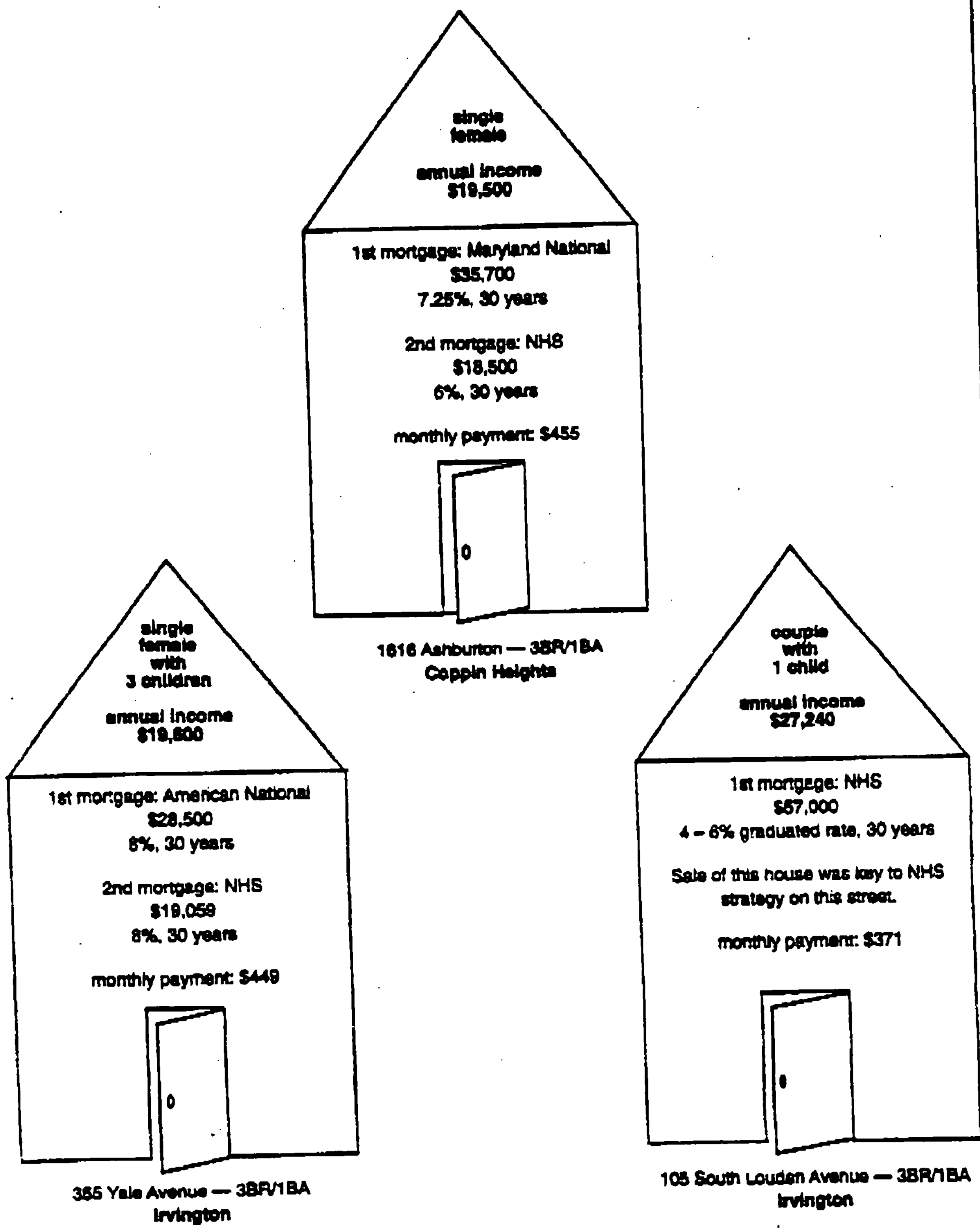
- $1.6 million directly invested
- $179,000 in revolving loans
- 46 units affordable housing (including 20 first-time home buyers)
- 45 housing units repaired
- 97 pre-purchase homebuyers counseling
- 20 house code inspections
- 27 security/safety counseling
- Numerous other community services

Production date:

CHART 3

BALTIMORE NHS: COMMUNITY DEVELOPMENT LENDING

Baltimore Median Family Income
$28,217
1990 Census



Production date: 1/94

Setting nd Monitoring Standard of Operation

The Corporation publishes standards of performance for NeighborWorks® organizations. These standards ensure high-quality services, sound financial management, and dedication to the mission of community renewal for the benefit of lower-income households. The Corporation's membership chartering process ensures that all members of the NeighborWorks® network understand and adhere to these standards. Neighborhood Reinvestment also monitors the financial and programmatic health and progress of NeighborWorks® organizations by regularly conducting on-site program reviews. Designed to be much more than a financial audit, program reviews help local boards assess their efforts, set future goals, and identify successes, vulnerabilities and challenges for future development.

NeighborWorks® organizations submit quarterly programmatic reports and annual financial audits. Approximately every 24 months, a comprehensive, on-site review of each organization is conducted. Quarterly, each NeighborWorks® organization is risk-ranked by senior staff serving on a risk analysis committee. These evaluations become the basis for corrective action plans and the provision of focused technical assistance. With many hundred million dollars in outstanding loans and property, continued solid performance is crucial to ongoing stability of the organizations and the network.

Providing Quality Training

To help organizations achieve stability and produce greater results, the Corporation provides a wide range of training. Training formats vary: they may be comprehensive five-day national training institutes offering several dozen courses, or they may be one-day sessions focused on specific local strategies. All training emphasizes practical, hands-on instruction. The curriculum is grouped in the following broad topic areas:

- Developing communities;
- Leading and managing organizations;
- Developing and managing affordable housing;
- Rejuvenating community commerce;
- Managing lending;
- Managing construction; and
- Reinvesting in communities.

Expanding Access to Credit

Providing credit opportunities is a critical function of both local NeighborWorks® organizations and Neighborhood Reinvestment. Virtually all NeighborWorks® organizations operate a revolving loan fund that extends credit to responsible families unable to borrow in the conventional market. The revolving loan funds use public, private and foundation funds. Loans made through these revolving loan funds are eligible for sale to Neighborhood Housing Services of America.

During the past several years, many financial institutions working closely with one or more NeighborWorks® organizations have established lending pools to expand the availability of credit. Some lenders have worked directly with NHSA to expand the availability of first mortgage capital. Many financial institutions have created their own in-house operations. They use the NeighborWorks® network to market their products and conduct preliminary counseling and underwriting. The mutually supportive relationship between Neighborhood Reinvestment, NHSA and the NeighborWorks® network allows the impact of Neighborhood Reinvestment funding to be multiplied many times over.

Corporate Administration

Responsibility for the overall administration of programs and activities as prescribed by the board of directors and for the activities and implementation of policies to meet corporate and congressional goals is based at Neighborhood Reinvestment's headquarters in Washington, D.C. The office of the Executive Director, Finance and Budget, the office of the General Counsel, Human Resources, Information Resources Management and Administration, which includes such services as procurement and the mail room, are all corporate administrative functions.

The Opportunity for Greater Impact

Since its inception in 1978, Neighborhood Reinvestment's goal of fostering community renewal has been achieved through measured and deliberate growth. The Corporation and the NeighborWorks® network have been able to improve skills, enhance capacity, become established institutions, and accumulate results in a steady, responsible fashion. However, several factors make this the right time to accelerate the Corporation's pace of activity.

In the last five years alone, the NeighborWorks® network has produced 32,300 units of affordable housing and stimulated $844 million of direct reinvestment in distressed communities across the country. In addition, banks, thrift institutions and other private-sector lenders, insurance companies, pension funds, and businesses are seeking sound investment opportunities in ways that also respond to ever-growing community need and demand. They are seeking the kind of tested, seasoned system that Neighborhood Reinvestment provides.

	1994 actual	1995 est.	1996 est.
Relation of obligations to outlays:			
71.00 Total obligations	37,105	37,392	38,774
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	2,389	3,814	4,121
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	-3,814	-4,121	-4,289
77.00 Adjustments in expired accounts	879		
90.00 Outlays	36,559	37,085	38,606

The National Transportation Safety Board, as an independent nonregulatory agency, is charged with promoting transportation safety through the investigation of accidents, the conduct of special studies, the development of recommendations to prevent accidents, the evaluation of the effectiveness of other Government agencies in preventing transportation accidents, and the review of appeals of adverse certificate and civil penalty actions taken by the Administrators of agencies of the Department of Transportation involving airman and seaman certificates and licenses.

SELECTED WORKLOAD DATA

	1994 actual	1995 est.	1996 est.
Major accident investigation reports	22	21	21
Other accident investigation reports	2,319	2,270	2,270
Safety recommendations	345	328	328
Safety studies and Special investigations	2	3	3
Certificate and license appeals	518	500	500

Object Classification (in thousands of dollars)

Identification code 95–0310–0–1–407	1994 actual	1995 est.	1996 est.
Personnel compensation:			
11.1 Full-time permanent	20,180	21,472	22,312
11.3 Other than full-time permanent	499	257	304
11.5 Other personnel compensation	602	628	640
11.8 Special personal services payments	13	14	14
11.9 Total personnel compensation	21,294	22,371	23,270
12.1 Civilian personnel benefits	4,335	4,757	5,079
21.0 Travel and transportation of persons	1,792	1,695	1,722
22.0 Transportation of things	66	67	66
23.1 Rental payments to GSA	4,900	4,857	4,998
23.2 Rental payments to others	195	202	207
23.3 Communications, utilities, and miscellaneous charges	855	850	834
24.0 Printing and reproduction	326	330	331
25.2 Other services	1,949	1,655	1,657
26.0 Supplies and materials	336	266	264
31.0 Equipment	998	281	283
42.0 Insurance claims and indemnities	59	61	63
99.9 Total obligations	37,105	37,392	38,774

Personnel Summary

Identification code 95–0310–0–1–407	1994 actual	1995 est.	1996 est.
Total compensable workyears:			
1001 Full-time equivalent employment	[illegible]6	350	350
1005 Full-time equivalent of overtime and holiday hours		5	5

EMERGENCY FUND

For necessary expenses of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefore, as authorized by law (5 U.S.C. 5901–5902); $360,802 to remain available until expended.

Program and Financing (in thousands of dollars)

Identification code 95–0311–0–1–407	1994 actual	1995 est.	1996 est.
Financing:			
21.40 Unobligated balance available, start of year: Treasury balance	-639	-639	-639
24.40 Unobligated balance available, end of year: Treasury balance	639	639	1,000
40.00 Budget authority (appropriation)			361
Relation of obligations to outlays:			
71.00 Total obligations			
90.00 Outlays			

The National Transportation Safety Board is mandated by Congress to investigate all catastrophic transportation accidents and, therefore, has no control over the frequency of costly accident investigations. The emergency fund provides a funding mechanism by which periodic accident investigation cost fluctuations can be met without delaying critical phases of the investigations.

NEIGHBORHOOD REINVESTMENT CORPORATION

Federal Funds

General and special funds:

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), **[$38,667,000]** *$55,000,000. (Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 82–1300–0–1–451	1994 actual	1995 est.	1996 est.
Program by activities:			
10.00 Total obligations (object class 41.0)	33,875	38,667	55
Financing:			
21.40 Unobligated balance available, start of year: Treasury balance	-1,875		
24.40 Unobligated balance available, end of year: Treasury balance			
40.00 Budget authority (appropriation)	32,000	38,667	55
Relation of obligations to outlays:			
71.00 Total obligations	33,875	38,667	55
90.00 Outlays	33,875	38,667	55,000

The major activities of the Corporation include: establishing neighborhood partnership programs known as NeighborWorks Organizations (NWO's); assisting in the expansion of NeighborWorks organizations to additional neighborhoods; providing training and technical assistance; identifying, evaluating, supporting and replicating successful neighborhood preservation projects that show promise for reversing neighborhood decline; promoting a national secondary market and other financing mechanisms for NWO's; and granting lending and equity capital to promote homeownership and other affordable housing.

The Corporation receives both Federal and non-Federal funding to finance its program activities. For 1995, a program level of $55,000,000 is requested. The following tables reflect the total program activity of the Corporation and include all sources of financing, both Federal and non-Federal.

BUDGET ACTIVITY

(In thousands of dollars)

Neighborhood Partnership Programs:	1994 actual	1995 est.	1996 est.
1. Creation of new programs	$1,524	$1,690	$2,090
2. Organizational expansion	7,842	9,439	13,360
3. Preserving affordable housing/equity capital	7,628	12,197	20,135
4. Program reviews	1,571	1,911	2,166
5. Training and informing	6,692	7,641	9,154
6. Secondary market activities	3,851	4,537	6,188
7. General administration	4,597	4,780	5,002

General and special funds—Continued

Payment to the Neighborhood Reinvestment Corporation—Continued

BUDGET ACTIVITY—Continued

(In thousands of dollars)

	1994 actual	1995 est.	1996 est.
Total corporate obligations	$33.705	$42.195	$58.095
Sources of financing:			
1. Federal appropriation	$31.715	$39.065	$55.000
2. Reimbursements for services provided	744	1.499	1.010
3. Other sources	1.436	1.490	1.785
Unused balance, start of year	251	441	300
Net obligations incurred	33.705	42.195	58.095
Unused balance, end of year	441	300	0
Obligated balances, start of year	4.485	3.945	4.100
Obligated balances, end of year	3.945	4.100	4.300
Net corporate outlay	$34.245	$42.040	$57.895

Statement of Operations (in thousands of dollars)

Identification code 82-1300-0-1-451		1993 actual	1994 actual	1995 est.	1996 est.
0111	Revenue	30.648	33.720	42.054	57.795
0112	Expense	-30.899	-33.290	-41.754	-57.795
0119	Net income or loss (-)	-251	430	300	....
0199	Total income or loss	-251	430	300	....

Balance Sheet (in thousands of dollars)

Identification code 82-1300-0-1-451		1993 actual	1994 actual	1995 est.	1996 est.
	ASSETS:				
	Non-Federal assets:				
1206	Receivables, net	231	267	270	280
1207	Advances and prepayments	172	294	300	310
1601	Net value of assets related to pre-1992 direct loans receivable and acquired defaulted guaranteed loans receivable: Direct loans, gross	1.000	1.000	1.000	1.000
	Other Federal assets:				
1801	Cash and other monetary assets	3.333	2.831	3.080	3.035
1803	Property, plant and equipment, net	541	775	900	1.025
1999	Total assets	5.277	5.167	5.550	5.650
	LIABILITIES:				
2104	Federal liabilities: Resources payable to Treasury	112	398	....	....
	Non-Federal liabilities:				
2201	Accounts payable	1.356	1.329	1.350	1.360
2207	Other	3.017	2.218	2.678	2.768
2999	Total liabilities	4.485	3.945	4.028	4.128
	NET POSITION:				
3300	Cumulative results of operations	792	1.222	1.522	1.522
3999	Total net position	792	1.222	1.522	1.522
4999	Total liabilities and net position	5.277	5.167	5.550	5.650

Object Classification of Corporation Obligations (in thousands of dollars)

	1994 actual	1995 est.	1996 est.
Salaries and benefits	$12.058	$14.000	$15.146
Occupancy	1.522	1.535	1.751
Professional services	1.254	1.914	2.063
Travel and transportation of persons	1.517	1.859	2.065
Conferences and workshops	459	693	800
Grants and grant commitments	14.225	19.785	33.250
Other operating costs	2.670	2.709	3.020
Total obligations	$33.705	$42.495	$58.095

Personnel Summary

Non-Federal employees: Total compensable workyears:			
Full-time equivalent employment	204	226	[illegible]
Full-time equivalent of overtime and holiday hours	7	7	

NUCLEAR REGULATORY COMMISSION

Federal Funds

General and special funds:

Salaries and Expenses

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out t purposes of the Energy Reorganization Act of 1974, as amende and the Atomic Energy Act of 1954, as amended, including the en ployment of aliens; services authorized by section 3109 of title United States Code; publication and dissemination of atomic inform tion; purchase, repair, and cleaning of uniforms, official represent tion expenses (not to exceed $20,000); reimbursements to the (er Services Administration for security guard services; hire of passeng motor vehicles and aircraft, [$520,501,000] *$520,300,000*, to rema available until expended, of which $22,000,000 shall be ved fro the Nuclear Waste Fund: *Provided*, That from this appropriatio transfer of sums may be made to other agencies of the Governme for the performance of the work for which this appropriation is mac and in such cases the sums so transferred may be merged w the appropriation to which transferred: *Provided further*, That mo eys received by the Commission for the cooperative nuclear safe research program, services rendered to foreign governments a international organizations, and the material and information acce authorization programs, including criminal history checks un s tion 149 of the Atomic Energy Act of 1954, as amended, may retained and used for salaries and expenses associated with the activities, notwithstanding [the provisions of section 3302 of t 31, United States Code] *31 U.S.C. 3302*, and shall remain availa until expended: *Provided further*, That revenues from licensing fe inspection services, and other services and collections estimated [$498,501,000] *$498,300,000* in fiscal year [1995] *1996* shall be tained and used for necessary salaries and expenses in this accou notwithstanding [the provisions of section 3302 of title 31, Uni States Code] *31 U.S.C. 3302*, and shall remain available until pended: *Provided further*, That the sum herein appropriated sh be reduced by the amount of revenues received during fiscal y [1995] *1996* from licensing fees, inspection services and other se ices and collections, excluding those moneys received for the coope tive nuclear safety research program, services rendered to fore governments and international organizations, and the material information access authorization programs, so as to result in a fi fiscal year [1995] *1996* appropriation estimated at not more t $22,000,000. *(Energy and Water Development Appropriations 1995.)*

Program and Financing (in thousands of dollars)

Identification code 31-0200-0-1-276		1994 actual	1995 est.	1996 est.
	Program by activities:			
	Direct program:			
00.01	Reactor	27[illegible].896	2[illegible]6.291	[illegible]
00.02	Nuclear Materials and Nuclear Waste	88.[illegible]11	[illegible].298	[illegible]
00.03	Management and Support	169.2[illegible]	175.908	[illegible]
00.91	Total direct program	537.722	571.497	[illegible]
01.01	Reimbursable program	3.534	20.128	[illegible]
10.00	Total obligations	541.256	591.625	[illegible]
	Financing:			
17.00	Recovery of prior year obligations	-13.535	....	....
21.40	Unobligated balance available, start of year: Treasury balance	-53.056	-58.124	....
24.40	Unobligated balance available, end of year: Treasury balance	58.124	....	....
39.00	Budget authority (gross)	532.789	533.501	[illegible]
	Budget authority:			
	Current:			
40.00	Appropriation	7.924	...	

Clinton Presidential Records
Digital Records Marker

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

This marker identifies the place of a tabbed divider. Given our digitization capabilities, we are sometimes unable to adequately scan such dividers. The title from the original document is indicated below.

Divider Title: **H**

NATIONAL TRANSPORTATION SAFETY BOARD

DESCRIPTION: The National Transportation Safety Board was established as an independent nonregulatory agency by act of Congress in 1975. It is charged with promoting transportation safety through the investigation of accidents, the conduct of special studies, the development of recommendations to prevent accidents, the evaluation of the effectiveness of other Government agencies in preventing transportation accidents, and the review of appeals of adverse certificate and civil penalty actions taken by the Administration of agencies of the Department of Transportation involving airman and seaman certificates and licenses.

FY 1996 BUDGET PROPOSAL: Proposed FY 96 budget authority is $38.774 million, an increase of $1.382 million from the FY 95 budget. An additional $361,000 was made available for FY 96 through the Emergency Fund. Proposed FY 96 FTE is 350, no change in FTE from FY 95.

AGENCY PROPOSAL: No changes recommended. NTSB explains that transportation can be properly overseen only on the Federal level and only by an independent entity that can do its work without deference to existing policies or regulations. NTSB argues that it is uniquely suited to its role of accident investigation and oversight of DOT agencies and related industries.

DECISION OPTIONS:

A. No change. Follow FY 96 budget recommendation.
B. Terminate funding.

ADVISORY GROUP RECOMMENDATION: A.

RATIONALE: The Federal government has an important and appropriate role in enhancing transportation safety. As an independent nonregulatory agency, the NTSB is intentionally and properly structured to perform its tasks objectively Through its accident investigations, safety studies, and the development of recommendations to avert accidents, the NTSB provides an invaluable service to Federal, State, and local government agencies as well as to the transportation industry, thereby acting as a catalyst for transportation accident prevention.

STEERING COMMITTEE RECOMMENDATION

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National Transportation Safety Board

Washington, D.C. 20594

Office of the Chairman

March 1, 1995

The Honorable Albert Gore, Jr.
The Vice President
Old Executive Office Building
Washington, D.C. 20501

Dear Vice President Gore: Dear Al

Attached is the National Transportation Safety Board's analysis of its programs using the guidance provided in the "decision tree" and the "Agency Option Paper." The NTSB is an independent agency charged with determining the probable cause(s) of transportation accidents and promoting transportation safety. The Board investigates accidents, conducts safety studies, evaluates the effectiveness of other government agencies' programs for preventing transportation accidents, and reviews appeals of adverse certificate and civil penalty actions by the Administrators of agencies of the Department of Transportation involving airman and seaman licenses.

Most importantly, the Safety Board makes safety recommendations, based on its investigations and studies, to Federal, State, and local government agencies and to the transportation industry regarding actions that should be taken to prevent accidents. Below is a brief response to the three questions in your January 3, 1995, memorandum.

1. If your agency were eliminated, how would the goals or programs of your agency be undertaken -- by other agencies, by states or localities, by the private sector, or not at all?

The Safety Board is uniquely suited to its role of accident investigation and oversight of DOT agencies and related industries. Transportation is a national asset, one that, with few exceptions, can be overseen properly only on the Federal level. Unlike other Federal agencies that might be viewed as potential substitutes for part or all of the Board's functions, the Safety Board has no substantive regulatory authority, nor is it directly involved in the operation of any mode of transportation. As such, it can exercise its investigative and oversight responsibilities from a totally objective viewpoint and can make recommendations for needed safety improvements without deference to existing policies or regulations.

The Board is respected by the industry and government agencies alike for its impartial and thorough procedures, which the NTSB has developed over the years by marshaling its own resources and those of others in as efficient a process as possible.

Others might focus on their enforcement responsibilities, such as determining if a company has violated existing regulations; the Safety Board looks to see if the regulations themselves, or the lack of vigilant enforcement of those regulations, might have contributed to the accident.

2. **If there are goals or programs of national importance that will remain undone and require a Federal role in order to be accomplished, should they be done differently than they are being done today in order to enhance service to the customers?**

Over the years, the Safety Board has found its unique relationship with the transportation community to be the best combination of competition, cooperation and independence to accomplish enhanced transportation safety. One area of change that is often suggested is making NTSB recommendations mandatory. We strongly disagree for two reasons. First, the 80 percent acceptance rate of our recommendations by those entities in the position to effect improvements in transportation safety results in the best balance between an accident-free world and the economic realities of the transportation systems. Second, making mandatory our recommendations would put the Safety Board in the undesirable position of investigating itself, thus undermining the Board's independence and, in turn, its credibility and effectiveness.

3. **How do your customers (not just interest groups) feel about the possible eliminations or changes? This would build on your ongoing efforts to get customer input about the services they want, and how to improve satisfaction with the services we provide. Throughout the review we have to continue to put customers first and to deliver on our published customer service standards.**

Our most important customers are the traveling public. They rely on our objectivity and independence in ensuring the safety of a system on which they place their trust every day. Their confidence in that safety is manifest in the billions of trips taken by Americans every week. Any diminution of our objectivity or independence would detract from our customers' confidence in that system.

The attendance and active participation of more than 400 representatives from government and industry groups at the Board's aviation accident investigation symposium last spring underscored the importance our other "customers" place on the Board's vital transportation safety role. These included participants from airframe and engine manufacturers, airlines, aviation associations and unions, government officials, and other interested parties. Also in attendance were representatives from 24 foreign investigative authorities and manufacturers. We can think of no other government agency that opened itself up to its customers for criticism of its procedures, as we did last year, or, for that matter, as we did in 1983 and in 1972! On all three occasions, the Board responded to industry recommendations in a published report. There were 169 recommendations emanating from the 1994 forum.

The greatest sign of confidence in the Board's value is the number of state, Federal and international bodies that have been established in the NTSB's image, such as the New York State Public Transportation Safety Board and the Canadian Transportation Safety Board.

In summary, the Safety Board provides a service to the public that would be very difficult (if not impossible) and expensive to replicate in another organization. For less than 15 cents a year per American the Safety Board helps to rebuild the public's confidence in the transportation industry following catastrophic accidents, helps prevent accidents from recurring, and helps establish a level playing field in the transportation industry where public safety cannot be compromised to gain a competitive cost advantage. Our objectivity in investigating domestic aviation accidents, for example, enables foreign entities to maintain confidence in our aerospace industries, which provide a positive balance of payments for the U.S. of about $30 billion a year.

Our message is simple, downsizing government is a laudable objective; downsizing transportation safety is not.

Sincerely,

Jim Hall
Chairman

Enclosure

AGENCY OPTION PAPER
NATIONAL TRANSPORTATION SAFETY BOARD

General Outline of Agency Programs and/or Functions:

The National Transportation Safety Board is a small independent agency tasked with improving transportation safety in all five modes of transportation primarily through accident investigation. Its budget is approximately $38 million and 350 FTE. Below is a description of the Board's major programs using the NPR Phase II decision tree analysis.

ACCIDENT INVESTIGATION PROGRAM:

Is this Program/Function Critical to the Agency's Mission based on "customers" input? - YES

Basically the Safety Board has four primary purposes: 1) preventing accidents from recurring; 2) monitoring and providing oversight of public and private persons who are responsible for transportation safety; 3) rebuilding confidence in the transportation industry following catastrophic accidents; and 4) helping to establish a level playing field in the transportation industry where public safety cannot be compromised to gain a competitive cost advantage.

The Safety Board accomplishes its mission by investigating catastrophic transportation accidents in all five modes of transportation - aviation, highway, rail, marine, and pipeline. These investigations result in the issuance of safety recommendations to correct any safety problems uncovered. The Safety Board gets involved when there is a breakdown in a transportation system via a catastrophic accident. By independently investigating these accidents, the Board helps restore public confidence in the nation's transportation systems following a catastrophe. The speed by which the Board can act was demonstrated last fall when, within a week of the Roselawn, Indiana plane crash, the NTSB issued safety recommendations to restrict the use (during icing conditions) of the aircraft-type involved.The Board is also proactive in addressing chronic safety problems by conducting Safety Studies, and bringing the industry and regulators together, such as our commuter airline forum, aviation accident investigation symposium, pipeline excavation workshop, and fatigue symposium.

The Board has no power to force its recommendations on the industry. However, it has been able to convince the recipients of its recommendations to implement approximately 80% of them. This is because of the technical competence of its investigations, which include industry participation. All Safety Board accident reports are public and disseminated to as wide an audience as possible so that the lessons learned from one accident can be used to prevent future tragedies.

The Board serves a variety of customers including the traveling public, the transportation industry, and government agencies with an interest in transportation safety. The Congress and the public have consistently shown strong support for an independent, competent assessment of the cause of transportation accidents.

Can it be done as well or better at the State or Local Level ?

- YES, TO A LIMITED DEGREE

The investigation of transportation accidents is not necessarily an exclusive federal function. For example, most highway accidents are investigated at the state and local level. However, because so much of the nation's transportation systems and companies are national in scope, many of the major accidents involve transportation systems that must be reviewed on the federal level. This is especially true in the aviation, rail, pipeline, and marine modes. Common safety standards deter companies from compromising safety as a cost saving measure and prevents them from gaining an unfair competitive advantage. Most transportation industry representatives embrace this "leveling of the playing field" approach when it comes to safety and would prefer a coordinated national approach to safety standards rather than fragmented state by state requirements.

As the United States economy becomes more global, transportation safety has become more international in scope. This is especially true in aviation where the Board's assistance in international aviation accidents helps promote United States exports of aviation products and maintain the United States dominance of this industry.

The Safety Board does however, delegate accidents with lesser accident prevention potential to other government agencies. This multiplies the use of its limited accident investigation resources and allows the Board to concentrate on larger national issues. For example, the Board currently delegates the investigation of aviation accidents involving agricultural, experimental, and home-built aircraft to the Federal Aviation Administration, while retaining only the determination of the probable cause of these accidents. The Board investigates the most serious railroad accidents, leaving the remainder for investigation by state or other Federal authorities. In the marine area, the Board independently investigates only about eight percent of the major marine accidents, requesting the Coast Guard to investigate the others for the Board. In the pipeline mode, the Board requests that state and Federal pipeline authorities investigate all but 25 percent of the accidents each year. By selecting only those accidents/issues with national significance and the most accident prevention potential, while delegating the investigation of other accidents, the Safety Board achieves the maximum safety benefit from its limited resources.

However, the Board is judicious in its delegations. Investigations conducted by regulatory agencies are often viewed by the public as biased toward finding only rule infractions. For example, few travelers would feel comfortable relying on the Federal Aviation Administration to investigate mid-air collisions since the FAA also operates the air traffic control system.

Finally, the independent structure of the Safety Board has become the model for state, local, federal, and foreign governments performing similar safety oversight functions. For example, New York established an independent New York Public Transportation Safety Board to investigate transit accidents, and Canada is but one of many foreign governments that have established transportation accident investigative agencies modeled after the Safety Board.

Is There a Way to Introduce Competition? - NO

The mission of the Safety Board as the entity responsible for independent oversight of transportation Safety is a uniquely governmental responsibility. In order to exercise this responsibility, the Board must maintain its reputation of independence and expertise as the preeminent accident investigation authority. The entrepreneurial options that are considered for some other government agencies are simply not workable as a model for the Safety Board.

How can NPR Principles be Applied to Put Customers First, Cut Red Tape, and Empower Employees?

In its response to NPR phase I the Board provided a detailed plan of our efforts to implement the various aspects of NPR, including analyzing our mission, reducing management layers, restructuring the organization, reducing internal regulations, increasing the use of technology, empowering employees through partnerships, and improving customer service.

In many ways the Safety Board already operates in accordance with the goals of Phase II of the National Performance Review by: addressing real world tangible problems, allowing full industry participation in our work, delegating activities to the state and local level wherever practical, making recommendations instead of regulations, and disseminating all our reports and findings to as wide a customer base as possible. In addition, we are a small, manageable organization that can react quickly to changes in the transportation environment to meet our customers needs. This small, nimble, customer service oriented agency is what the public expects from our "New Government".

General and special funds—Continued

EDUCATION AND HUMAN RESOURCES—Continued

Program and Financing (in thousands of dollars)—Continued

Identification code 49–0106–0–1–251	1994 actual	1995 est.	1996 est.
78.00 Adjustments in unexpired accounts	–623		
87.00 Outlays (gross)	460,676	546,252	582,309
Adjustments to gross budget authority and outlays.			
88.00 Offsetting collections from: Federal sources	–10,341	–16,000	–16,000
89.00 Budget authority (net)	5[illegible]00	605,974	599,000
90.00 Outlays (net)	4[illegible]35	530,252	566,309

Education and Human Resources (EHR) activities provide a comprehensive set of programs across all levels of education in science, mathematics and technology. These programs will further NSF's goal of achieving excellence in U.S. science, mathematics, engineering, and technology education at all levels. These efforts also address the participation of groups underrepresented in science and engineering. At the precollege level, EHR provides for new instructional material and techniques, and enrichment activities for teachers and students. Undergraduate initiatives support curriculum improvement (including laboratory instruction), faculty enhancement, and advanced technological education. (The latter is also supported at the pre-college level.) Graduate level support is directed primarily to research fellowships and traineeships. Human resources activities focus on women, persons with disabilities, minorities, and minority institutions. Emphasis is given to systemic reform through components that address urban, rural, and state-wide efforts in precollege education, and the Experimental Program to Stimulate Competitive Research (EPSCoR), which seeks to broaden the participation of States and regions in science and engineering. Education research, evaluation and dissemination activities are supported across the science and mathematics education spectrum.

Object Classification (in thousands of dollars)

Identification code 49–0106–0–1–251	1994 actual	1995 est.	1996 est.
21.0 Travel and transportation of persons	2,980	4,000	3,800
24.0 Printing and reproduction	288	400	390
25.1 Advisory and assistance services	466	1,000	1,000
25.2 Other services	7,578	7,000	6,600
25.3 Purchases of goods and services from Government accounts	59	100	100
25.5 Research and development contracts	13,108	13,000	13,000
26.0 Supplies and materials	38	50	50
31.0 Equipment	39	40	50
41.0 Grants, subsidies, and contributions	544,477	588,441	574,010
99.0 Subtotal, direct obligations	569,033	614,031	599,000
99.9 Total obligations	579,374	630,031	615,000

Trust Funds

DONATIONS

Program and Financing (in thousands of dollars)

Identification code 49–8960–0–7–251	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Ocean drilling programs	16,447	18,000	18,000
00.02 Gifts and donations	161	500	500
00.04 U.S. Japan scientific and technological program	1,458	3,000	3,000
00.05 NATO Fellowships	1,283	2,251	2,000
00.06 Gemini Telescope	16,518	15,000	15,000
10.00 Total obligations	35,867	38,751	38,500
Financing:			
17.00 Recovery of prior year obligations	-2,5		
21.40 Unobligated balance available, start of year: Treasury balance	–6,616	–7,751	
24.40 Unobligated balance available, end of year: Treasury balance	7,751		
60.27 Budget authority (appropriation) (trust fund, indefinite)	36,727	31,000	38,500
Relation of obligations to outlays:			
71.00 Total obligations	35,867	38,751	38,500
72.40 Obligated balance, start of year: Unpaid obligations: Treasury balance	13,275	6,442	
74.40 Obligated balance, end of year: Unpaid obligations: Treasury balance	–6,442		
78.00 Adjustments in unexpired accounts	–275		
90.00 Outlays	42,425	45,193	38,500

Activities funded are:

U.S. dollars which are advanced from foreign governments as contributions to the cost of the international participation in major projects, including ocean drilling under the National Science Foundation ocean drilling programs.

Gifts and donations are used for costs associated with meetings for visiting foreign scientists and certain special functions of the National Science Board. These funds are not otherwise available.

Agreements between the United States and foreign countries are to promote cooperative efforts in basic research between these countries. Principal activities supported include: cooperative research, joint seminars, exchange of senior scientists, and short-term research development visits.

Object Classification (in thousands of dollars)

Identification code 49–8960–0–7–251	1994 actual	1995 est.	1996 est.
21.0 Travel and transportation of persons	29	50	50
24.0 Printing and reproduction	79	100	100
25.5 Research and development contracts	16,121	18,000	18,000
26.0 Supplies and materials	21	25	25
31.0 Equipment	2	10	10
41.0 Grants, subsidies, and contributions	19,615	20,566	20,315
99.9 Total obligations	35,867	38,751	38,500

NATIONAL TRANSPORTATION SAFETY BOARD

Federal Funds

General and special funds:

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), [$37,392,000] *$38,774,000*, of which not to exceed $1,000 may be used for official reception and representation expenses. *(Department of Transportation and Related Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 95–0310–0–1–407	1994 actual	1995 est.	1996 est.
Program by activities:			
00.01 Policy and direction	5,688	5,879	6,097
00.02 Aviation safety	12,781	12,859	13,334
00.03 Surface transportation safety	9,677	9,782	10,143
00.04 Research and engineering	5,337	5,411	5,611
00.05 Administration	2,676	2,680	2,779
00.06 Administrative law judges	946	781	810
10.00 Total obligations	37,105	37,392	38,774
Financing:			
40.00 Budget authority (appropriation)	37,105	37,392	38,774

		1994 actual	1995 est.	1996 est.
	Relation of obligations to outlays:			
71.00	Total obligations	37,105	37,392	38,774
72.40	Obligated balance, start of year: Unpaid obligations: Treasury balance	2,389	3,814	4,121
74.40	Obligated balance, end of year: Unpaid obligations: Treasury balance	-3,814	-4,121	-4,289
77.00	Adjustments in expired accounts	879		
90.00	Outlays	36,559	37,085	38,606

The National Transportation Safety Board, as an independent nonregulatory agency, is charged with promoting transportation safety through the investigation of accidents, the conduct of special studies, the development of recommendations to prevent accidents, the evaluation of the effectiveness of other Government agencies in preventing transportation accidents, and the review of appeals of adverse certificate and civil penalty actions taken by the Administrators of agencies of the Department of Transportation involving airman and seaman certificates and licenses.

SELECTED WORKLOAD DATA

	1994 actual	*1995 est.*	*1996 est.*
Major accident investigation reports	22	21	21
Other accident investigation reports	2,319	2,270	2,270
Safety recommendations	345	328	328
Safety studies and Special investigations	2	3	3
Certificate and license appeals	518	500	500

Object Classification (in thousands of dollars)

Identification code 95–0310–0–1–407		1994 actual	1995 est.	1996 est.
	Personnel compensation:			
11.1	Full-time permanent	20,180	21,472	22,312
11.3	Other than full-time permanent	499	257	304
11.5	Other personnel compensation	602	628	640
11.8	Special personal services payments	13	14	14
11.9	Total personnel compensation	21,294	22,371	23,270
12.1	Civilian personnel benefits	4,335	4,757	5,079
21.0	Travel and transportation of persons	1,792	1,695	1,722
22.0	Transportation of things	66	67	66
23.1	Rental payments to GSA	4,900	4,857	4,998
23.2	Rental payments to others	195	202	207
23.3	Communications, utilities, and miscellaneous charges	855	850	834
24.0	Printing and reproduction	326	330	331
25.2	Other services	1,949	1,655	1,657
26.0	Supplies and materials	336	266	264
31.0	Equipment	998	281	283
42.0	Insurance claims and indemnities	59	61	63
99.9	Total obligations	37,105	37,392	38,774

Personnel Summary

Identification code 95–0310–0–1–407		1994 actual	1995 est.	1996 est.
	Total compensable workyears:			
1001	Full-time equivalent employment	356	350	350
1005	Full-time equivalent of overtime and holiday hours	5	5	5

EMERGENCY FUND

For necessary expenses of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefore, as authorized by law (5 U.S.C. 5901–5902); $360,802 to remain available until expended.

Program and Financing (in thousands of dollars)

Identification code 95–0311–0–1–407		1994 actual	1995 est.	1996 est.
	Financing:			
21.40	Unobligated balance available, start of year: Treasury balance	-639	-639	-639
24.40	Unobligated balance available, end of year: Treasury balance	639	639	1,000
40.00	Budget authority (appropriation)			361
	Relation of obligations to outlays:			
71.00	Total obligations			
90.00	Outlays			

The National Transportation Safety Board is mandated by Congress to investigate all catastrophic transportation accidents and, therefore, has no control over the frequency of costly accident investigations. The emergency fund provides a funding mechanism by which periodic accident investigation cost fluctuations can be met without delaying critical phases of the investigations.

NEIGHBORHOOD REINVESTMENT CORPORATION

Federal Funds

General and special funds:

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), [$38,667,000] *$55,000,000. (Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995.)*

Program and Financing (in thousands of dollars)

Identification code 82–1300–0–1–451		1994 actual	1995 est.	1996 est.
	Program by activities:			
10.00	Total obligations (object class 41.0)	33,875	38,667	55,000
	Financing:			
21.40	Unobligated balance available, start of year: Treasury balance	-1,875		
24.40	Unobligated balance available, end of year: Treasury balance			
40.00	Budget authority (appropriation)	32,000	38,667	55,000
	Relation of obligations to outlays:			
71.00	Total obligations	33,875	38,667	55,000
90.00	Outlays	33,875	38,667	55,000

The major activities of the Corporation include: establishing neighborhood partnership programs known as NeighborWorks Organizations (NWO's); assisting in the expansion of NeighborWorks organizations to additional neighborhoods; providing training and technical assistance; identifying, evaluating, supporting and replicating successful neighborhood preservation projects that show promise for reversing neighborhood decline; promoting a national secondary market and other financing mechanisms for NWO's; and granting lending and equity capital to promote homeownership and other affordable housing.

The Corporation receives both Federal and non-Federal funding to finance its program activities. For 1995, a program level of $55,000,000 is requested. The following tables reflect the total program activity of the Corporation and include all sources of financing, both Federal and non-Federal.

BUDGET ACTIVITY

[In thousands of dollars]

Neighborhood Partnership Programs:	*1994 actual*	*1995 est.*	*1996 est.*
1. Creation of new programs	$1,524	$1,690	$2,090
2. Organizational expansion	7,842	9,439	13,360
3. Preserving affordable housing/equity capital	7,628	12,197	20,135
4. Program reviews	1,571	1,911	2,166
5. Training and informing	6,692	7,641	9,154
6. Secondary market activities	3,851	4,537	6,188
7. General administration	4,597	4,780	5,002