

The original documents are located in Box 27, folder “Public Works (3)” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

file

THE WHITE HOUSE

WASHINGTON

October 1, 1976

MEMORANDUM TO: ART QUERN
FROM: JIM CANNON *Jm*
SUBJECT: Public Works/Countercyclical

Would you prepare, either for the President's signature or my signature on his behalf, memos to the appropriate departments (Commerce, EPA, other?) directing them to carry out the audits in the latter part of his signing statement?

Perhaps we should have a report from each department in about one week on how they will go about this.

These instructions should go out today.

Many thanks.



I am today signing H.R. 15194, the Public Works Employment Appropriations Act of 1976.

In July I vetoed the authorizing legislation which made this \$3.95 billion appropriation necessary. I said then, and I still believe, that these funds will not create lasting jobs but will create new inflationary pressures.

I said then and I still believe that the best and most effective way to create new jobs is to pursue balanced economic policies that encourage the growth of the private sector without risking a new round of inflation.

Congress rejected my veto. This Congress has not recognized the fallacy of having the American taxpayer finance pork-barrel projects and make-work jobs. Congress refuses to recognize the inflationary risk in this Public Works Appropriation.

However, another confrontation with Congress on this bill is pointless.

We must nevertheless continue to challenge the Congress on the underlying principle of this pork-barrel, make-work legislation.

I am therefore signing H.R. 15194 and directing the appropriate departments of this Administration to make, over the next year, a careful month-by-month audit of

expenditures under this Appropriation to determine just how many jobs are created, how much it costs the taxpayer to create each job, and just what impact there is on inflation.

In accepting this Appropriation, I call upon the Congress to request the General Accounting Office to conduct a parallel audit of the results of this legislation. This is an expensive test but Congress will not see the fallacy of its approach until we can show through an audit what we know to be the facts.

John F. Kennedy

*file
Public wts*

THE WHITE HOUSE

WASHINGTON

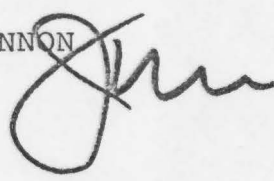
October 2, 1976

MEMORANDUM TO:

PAUL O'NEILL

FROM:

JIM CANNON



Bill Simon, on page 3 of his memorandum in response to the President's direction on Countercyclical, indicates it may be two months before Countercyclical payments can be made. My own feeling is that we will be subjected to severe criticism if we do not send most of the Countercyclical checks before November.



THE WHITE HOUSE

WASHINGTON

TO SECRETARIES:
SIMON
RICHARDSON
TRAIN

DRAFT

October 2, 1976

Dear Mr. Secretary:

The President has today signed H.R. 15194 which appropriates funds for the Public Works Employment Act of 1976. A copy of his signing statement is attached.

As you know, the President opposed the authorizing legislation on the sound basis that the temporary jobs created would be fewer and yet more costly than the bill's proponents claimed. The President remains convinced that the bill runs the risk of stimulating inflation and thereby threatening the nation's economic growth. It is clear, however, that the majority in Congress do not recognize this risk. The President signed the appropriation to avoid prolonged and pointless debate and to remove the uncertainty for State and local officials.

In signing H.R. 15194 the President directed the Department of the Treasury, the Department of Commerce and the Environmental Protection Agency to carefully monitor the effects of this bill. He has called upon Congress to conduct a similar and parallel review.

The President, therefore, requests that:

1. You and all in your department responsible for the implementation of this legislation do everything possible to efficiently, expeditiously and fully implement the bill's programs in the most positive fashion. Every effort must be made to do the best possible job here.
2. You designate a special top level team to conduct a month by month monitoring of this legislation.
3. You submit each month a report on the progress of the programs you are implementing including your best and most objective estimates of how many jobs are created, how much it costs to create these jobs and what kind of jobs are created.

Dan Carney, Associate Director of OMB, will oversee this work.

Sincerely,

Paul O'Neill

Chiron

THE WHITE HOUSE
WASHINGTON

September 7, 1976

MEMORANDUM TO: THE HONORABLE WILLIAM E. SIMON
SECRETARY OF THE TREASURY

FROM: JIM CANNON *Jain*

SUBJECT: Countercyclical Payments

To follow-up on our conversation this morning, the President would like appropriate preparation to begin now to make countercyclical payments promptly, if and when Congress passes the legislation. Max Friedersdorf says Congress may pass this appropriation late this week, but more likely next week.

The President has not yet decided whether to sign or not sign the appropriation bill. But in the eventuality it does become law, he asked that the Treasury Department put whatever resources may be necessary toward moving the payments with dispatch.

Steve McConahey, the President's Special Assistant for Intergovernmental Affairs, has already received a large number of inquiries from governors, mayors and others about these prospective payments. Steve and his staff are available to work with the Treasury staff in handling inquiries from state and local officials.

Many thanks.

cc: James T. Lynn



THE SECRETARY OF THE TREASURY

WASHINGTON 20220

1976 SEP 21 AM 11 53

SEP 20 1976

MEMORANDUM FOR THE HONORABLE JAMES M. CANNON
ASSISTANT TO THE PRESIDENT
FOR DOMESTIC AFFAIRS

SUBJECT: Payments under Title II (Countercyclical
Provisions) of the Local Public Works
Employment Act.

In response to your memorandum of September 7, 1976, I would like to take this opportunity to provide you with some detail on the Treasury Department's preparations to administer the countercyclical program, should its proposed appropriation become law. For several months we have been monitoring the legislative progress of Title II. Since the override of the President's veto in July, the Office of Revenue Sharing (ORS) at the direction of Under Secretary Thomas has been planning how to best meet Treasury's responsibilities should that be necessary.

A summary of the preparations under way is as follows:

- (1) Draft interim regulations are currently being reviewed by the Labor Department, the Office of Management and Budget, the Advisory Commission on Intergovernmental Relations, and the Comptroller General. We expect to publish these shortly after an appropriation act becomes law. They would then be open for comment for thirty days before becoming final.
- (2) Arrangements have been made for the Labor Department's Bureau of Labor Statistics (BLS) to provide all necessary unemployment data for the first two quarterly payments by October 4. However, we feel some concern about the certainty of this date. Any delay beyond October 4 could hold up timely payments under Title II.



092105

The Treasury Department and Bureau of Labor Statistics have concluded that county unemployment rates (or county unemployment data minus data for governments with known rates) should be applied to jurisdictions within these counties for which BLS does not have specific rates.

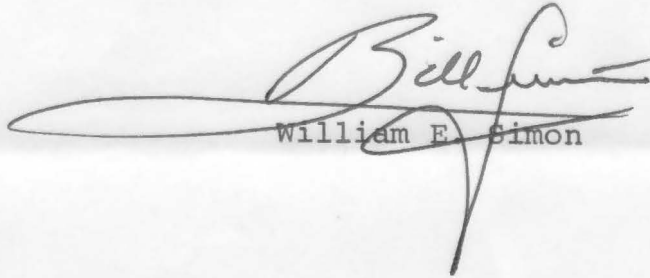
It appears that use of such county rates would be on the whole more equitable in these situations than the "balance of State" rate (the Statewide data minus data for jurisdictions with known rates), the other alternative procedure permitted by the statute. The Labor Department seems prepared to provide Treasury with a general certification that this statement is accurate. It will take BLS approximately three weeks to provide such rates.

It should be noted, however, that Title II calls for allocation of funds to many more governments than those which currently have specific unemployment rates. The need to use one or another surrogate rate is bound to be a cause for complaint by a number of recipients.

- (3) Forms for the execution of statutory assurances are being prepared. It is hoped that these and a letter of instruction to recipients will be ready to go to the printer shortly after any appropriation becomes law. After their return from the printer, these and copies of the Act and regulations would be mailed to recipient governments.
- (4) Treasury has worked out with interested parties most of the operational issues left unclear by the statute. These efforts should, for example, permit us to apply the allocation formula quickly and correctly once unemployment data is in hand.

In conclusion, should the appropriation act for the Local Public Works Employment Act become law, Treasury is prepared to move ahead expeditiously to make payments under

Title II. The Department feels that it would really require about two months from the time when an appropriation is final before payments could be made for the first two quarters of the program. While some compression of this period might be possible, several weeks are required for the return of assurance forms by recipient units. Payment cannot legally be made without these assurances.


William E. Simon



OCTOBER 2, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have signed H.R. 15194, the Public Works Employment Appropriations Act of 1976.

In July I vetoed the authorizing legislation which made this \$3.95 billion appropriation necessary. I said then, and I still believe, that these funds will not create lasting jobs but will create new inflationary pressures.

I said then, and I still believe, that the best and most effective way to create new jobs is to pursue balanced economic policies that encourage the growth of the private sector without risking a new round of inflation.

Congress rejected my veto. This Congress has not recognized the fallacy of having the American taxpayer finance pork-barrel projects and make-work jobs. Congress refuses to recognize the inflationary risk in this Public Works Appropriation.

However, another confrontation with Congress on this bill is pointless.

We must nevertheless continue to challenge the Congress on the underlying principle of this pork-barrel, make-work legislation.

I am therefore signing H.R. 15194 and directing the appropriate departments of this Administration to make, over the next year, a careful month-by-month audit of expenditures under this Appropriation to determine just how many jobs are created, how much it costs the taxpayer to create each job, and just what impact there is on inflation.

In accepting this Appropriation, I call upon the Congress to request the General Accounting Office to conduct a parallel audit of the results of this legislation. This is an expensive test but Congress will not see the fallacy of its approach until we can show through an audit what we know to be the facts.

OCTOBER 2, 1976

Office of the White House Press Secretary

NOTICE TO THE PRESS

The President has signed H. R. 15194--Public Works Employment Appropriations Act. This bill appropriates a total of \$3,732,433,000 in new budget authority for certain activities of the Department of Commerce (Economic Development Administration), the Department of the Treasury (Office of Revenue Sharing), and the Environmental Protection Agency.

The bill provides specifically:

(in thousands of dollars)

<u>Agency/activity</u>	<u>Amount</u>
Department of Commerce:	
Economic Development Administration:	
Local public works.....	2,000,000
Department of the Treasury:	
Office of Revenue Sharing:	
Antirecession financial assistance fund....	1,250,000
Salaries and expenses.....	1,633
Environmental Protection Agency:	
Construction grants.....	480,000
Abatement and Control.....	800
Total.....	3,732,433

#

THE WHITE HOUSE

WASHINGTON

October 6, 1976

MEMORANDUM FOR:

JIM CANNON

FROM:

DICK PARSONS *D.*

SUBJECT:

Public Works and Prison
Rehabilitation

I think the dedication of some of the construction funds available under Title I of the Public Works Employment Act of 1976 to rehabilitation and for construction of State and local correctional facilities is a good idea.

As Judge Tyler points out in his memo, the need in this area is clear. It makes sense. Moreover, LEAA could start making grants within 90 days, there is that much already identified demand.

I am advised that LEAA has already discussed this subject with Commerce, but that a White House nudge is necessary to close the deal.

Recommendation

I suggest you and Jim Lynn raise this with the President.



Last Day: October 12

THE WHITE HOUSE
WASHINGTON

October 11, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON *J. Cannon*

SUBJECT: S. 2228 - Public Works and Economic
Development Act Amendments of 1976

Attached for your consideration is S. 2228, sponsored by Senator Randolph and three others.

THE BILL

S. 2228 would, among other things:

- Extend the Public Works and Economic Development Act ("PWEDA") program authority for three years through FY 1979.
- Authorize a total of \$4.7 billion for the 1977-1979 period, as opposed to your \$2.4 billion request.
- Establish a new revolving fund program of interest free loans for about 1,600 qualified redevelopment areas, with a \$375 million authorization in 1977-1979.
- Authorize a new interest subsidy program for the current business development loan guarantee program.
- Reestablish on a permanent basis the Job Opportunities public works program of Title X of PWEDA, with a \$975 million total potential authorization in 1977-1979.

The bill is more fully described in the OMB enrolled bill report at Tab A.

S. 2228 passed the House with a vote of 372-5 and passed the Senate with a vote of 79-2.

STAFF AND AGENCY RECOMMENDATIONS

Friedersdorf, Commerce, Labor, SBA, EPA, and the Appalachian Regional Commission recommend that you sign S. 2228.

OMB, CEA (Greenspan), Seidman, and Treasury recommend that you veto S. 2228. Counsel's Office (Kilberg) defers to OMB.

HUD defers to OMB and Commerce.

RECOMMENDATION

I recommend that you veto S. 2228 because of the large increase in your authorization request, the objectionable new programs, and the fact that a veto will not prevent the Economic Development Administration from operating in 1977 under current authorities and appropriations.

DECISION

Sign S. 2228 at Tab B.

Veto S. 2228 and sign Memorandum of Disapproval at Tab C which has been cleared by Doug Smith.

DOMESTIC COUNCIL

FROM:

Parsons/Quern/Brown

SUBJECT:

Public Works and Prison Rehabilitation

Date: 10/16

COMMENTS:

Attached draft memo to the President
has been circulated to senior staff.



OK
I want to
see all the
copies of comments
as they come
in

ACTION:

Date:

Commerce Comments
Public Works & Prisons

PS

1976 OCT 21 PM 5:49
OCT 21 1976

Mr. James Cannon
Assistant to the President
for Domestic Affairs
The White House
Washington, D. C. 20500

Dear Mr. Cannon:

This is in reply to your request for comments regarding your Draft Memorandum transmitting the Department of Justice proposal that the President direct that up to 25% of the \$2 billion appropriation for Title I of the Public Works Employment Act of 1976 ("LPW") be expended for State and local correctional facilities. In the alternative you propose for the President's consideration: (1) encouragement of State and local government to submit LPW requests for correctional facilities, with EPA to give high priority to these applications, or (2) calling upon such governments to give priority attention to such facilities when applying for Title I funds.

It is our position that the LPW Act does not authorize this Department (a) to set aside a portion of LPW funds for a specified type of facility, or (b) to set a high priority for correctional facilities. Therefore of the three opinions presented by you, the last option remains as the only one without legal objection.

The LPW requires grants to be for public works projects submitted by State or local governments when the projects are related to existing plans and programs of a local or regional nature. (Section 108(d) and (g) of LPW.) The only priority authorized for projects by LPW is for the minimum and maximum amounts to be granted within a State (§108(a)) and for local government projects (§108(b)). Because of the time constraints contained in LPW, the projects of necessity and design are those that have been planned but have not been built because of lack of funding. Consequently the statute



Does not authorize the Federal government to set aside funds for specified facilities or to create a priority for such facilities.

While we would not of course question the legality of the third suggested option, calling upon State and local governments to give priority attention to construction, renovation, and repair of correctional facilities in applying for Title I funds, we do question the wisdom of involving the President in such a move at this late date. Notice has already been published in the Federal Register that EDA will begin receiving applications under the LPW program on October 26, 1976. Our communications with prospective applicants strongly indicate that applications already prepared or now in final stages of completion and involving requests for many times the amount of program resources available will be filed in the very early days of the program. We urgently suggest that any effort toward a dramatic change in the program at this late date would not be well received by the many thousands of State and local officials who have developed their proposals and kindled their expectations on the freedom of choice which is now implicit in the program.

Attached for your information are the published LPW regulations and a copy of the LPW application.

Sincerely,

ELLIE

Elliot L. Richardson

Enclosure

EDA/CC-20

RONALD/HARVEY/em/10-19-76

cc: subject, reading, chron, Ronald, Harvey, Clinger,
Ex. Sec., Roche, Richardson

THE WHITE HOUSE

WASHINGTON

October 16, 1976

MEMORANDUM FOR:

PHIL BUCHEN ✓
ROBERT T. HARTMANN
JACK MARSH
MAX FRIEDERSDORF
ALAN GREENSPAN
JIM LYNN
BILL SEIDMAN

FROM:

JAMES CANNON 

SUBJECT:

Public Works and Prison Rehabilitation

Attached is a draft memo to the President regarding a proposal by the Department of Justice to allocate a specific portion of public works construction funds for the renovation of State and local penal institutions. The funds would be administered by the Economic Development Administration under Title I of the Public Works Employment Act of 1976.

I would appreciate your comments on the proposal by Wednesday, October 20.

Attachment

THE WHITE HOUSE
WASHINGTON

October 16, 1976

MEMORANDUM FOR

THE SECRETARY OF COMMERCE

Attached is a draft memo to the President regarding a proposal by the Department of Justice to allocate a specific portion of public works construction funds for the renovation of State and local penal institutions. The funds would be administered by the Economic Development Administration under Title I of the Public Works Employment Act of 1976.

I would appreciate your comments on the proposal by Wednesday, October 20.



James Cannon
Assistant to the President
for Domestic Affairs

Attachment

THE WHITE HOUSE
WASHINGTON

DRAFT MEMORANDUM

October 15, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: Jim Cannon

SUBJECT: Public Works and Prison Rehabilitation

This memorandum seeks your guidance on a proposal by the Department of Justice for the dedication of public works construction funds for construction and renovation of State and local penal institutions.

BACKGROUND

On July 22, 1976, the Congress enacted into law (over your veto) the Public Works Employment Act of 1976. The ostensible purpose of the Act was to stimulate employment through the creation of public works jobs. Title I of the Act specifically provided for the funding of projects for the construction, renovation and repair of public facilities.

On October 2, 1976, you signed into law H. R. 15194, the Public Works Employment Appropriations Act of 1976, appropriating some \$3.95 billion for public works projects under the authorization act. Of this amount, up to \$2 billion is available under Title I for construction and renovation projects.

The Economic Development Administration in the Department of Commerce is responsible for administration of this program.

PROPOSAL

The Department of Justice has recommended that you direct the Secretary of Commerce to dedicate up to one-fourth of the funds available under Title I of the Act to be expended on construction, renovation or repair of State and local correctional facilities.

DISCUSSION

The need for more prisons and for rehabilitation of existing prisons is clear and compelling. As you pointed out in a speech before the Florida Chapter of the Federal Bar Association last

February: "... America still has the same prison capacity as in 1960, although crime has doubled and the population has burgeoned."

Because of overcrowding and dilapidation, many judges are reluctant to send convicted prisoners to certain jails. In fact, several Federal courts have ordered certain State and local governments to stop accepting prisoners into their jails and to begin expensive renovations. Moreover, many believe the corollary to mandatory minimum prison sentences, as you and other responsible leaders have advocated, is more prisons. Finally, as a practical matter, dedication of up to one-fourth of the public works construction funds to building new prisons and renovating old ones would put "teeth" in your anticrime program.

On the other hand, it should be noted that Title I funds are available for prison construction projects now and if a State or local government deems construction or repair of a correctional facility to be a priority it may apply to EDA for public works funds for the project. It could be argued, therefore, that by dedicating a set percentage of these funds to construction or repair of correctional facilities you are limiting the flexibility of State and local governments to set their own priorities. Secondly, dedicating a portion of the funds to one purpose would inevitably create pressures for similar dedications for other purposes.

Additional background materials are attached at Tab A.

OPTIONS

If you are inclined to take action on this problem, three options present themselves.

1. Direct the Secretary of Commerce to dedicate up to one-fourth of the funds available under Title I to be expended on construction, renovation or repair of State and local correctional facilities. (Department of Justice proposal.)
2. Publicly encourage State and local governments to submit applications for Title I funds for construction, renovation or repair of correctional facilities and direct the Assistant Secretary for Economic Development to give "high priority" to these applications.

3. Call upon State and local governments to give priority attention to construction, renovation and repair of correctional facilities in applying for Title I funds.

RECOMMENDATIONS

DECISION

- _____ Option 1 -- Dedicate one-fourth of Title I funds to prison projects.
- _____ Option 2 -- Direct Assistant Secretary for Economic Development to give prison projects "high priority"
- _____ Option 3 -- Encourage State and local governments to use Title I funds for prison projects.

THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

September 7, 1976



D-
file please
6

MEMORANDUM FOR JAMES T. LYNN, DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: The Public Works Employment Act of 1976

It appears that the Administration may have been presented with an opportunity to accomplish something of significance in regard to the problem of crime.

Ken Lazarus has inquired of the Departments of Commerce and Justice whether the provisions of Title I of the Public Works Employment Act of 1976 permit part of the authorized \$2 billion to be expended on state and local penal facilities, thereby helping to resolve a problem identified by the President in his Crime Message.

As you can see from the attached memorandum, the Department of Justice believes that some portion (about one-fourth) of these funds can be expended, efficiently and effectively, in carrying out a stated aim of the Administration -- adequate penal and correctional facilities. The funds realistically are available from no other source. The planning is well advanced. The need is clear. In his speech last February in Miami before the Florida Chapter of the Federal Bar Association, the President stated:

Unbelievably, America still has the same prison capacity as in 1960, although crime has doubled and the population has burgeoned. The need for more prisons is obvious and very, very urgent.

The impact of such a program would go far beyond alleviating unemployment -- the primary purpose of the Act. It would result in an increased deterrent effect, reduced litigation as to jail conditions, and reduced future spending on federal correctional facilities.

I hope you can take the time to peruse the memorandum and to let me know your thoughts on the subject. Time is of the essence since the temporal strictures of the Act are so severe and since, as page 1 of today's "Wall Street Journal" indicates, the scramble to use these funds (for such projects as landscaping trolley tracks) has begun.

Viewed in file
HAROLD R. TYLER, JR.

Attachment

Funding State and Local Penal and Correctional Facilities under the Public Works Employment Act of 1976

This memorandum addresses the issue whether the Public Works Employment Act of 1976 can be of assistance in helping state and local governments meet their requirements for adequate penal facilities.

Summary

The funds authorized by the Act can be used to aid local governments in constructing new jails and in renovating old ones. Such expenditures would be within the purposes of the Act, and the funds could be used quickly and efficiently within the allotted time limits. Such use of the funds could not only have a potential effect in reducing the level of the nation's crime, but could result in substantial savings to the federal government by obviating a considerable amount of proposed federal jail construction.

Discussion

I. The Public Works Employment Act of 1976.

A. The Statute.

On July 22, 1976, Congress enacted the Public Works Employment Act of 1976 (P.L. 94-369), an intended anti-recession measure under which federal funds will be distributed to state and local governments under the auspices of the Economic Development Administration of the Department of Commerce. Title I of the Act is intended to produce greater employment through the funding of projects for the construction, renovation, and repair of public facilities. 1/ (A copy of the Act is appended at Tab A.)

1/ Only Title I of the Act is directly relevant to the subject of this memorandum. Title II, which seeks to avoid recessionary budget cuts by providing grants to local governmental units to be used for the maintenance of basic governmental services, may have some marginal relevance. Title III (amending the Federal Pollution Control Act) is irrelevant.

Section 111 of Title I of the Act authorizes an appropriation of up to \$2 billion for the period ending September 30, 1977. 2/ The money is to be distributed in the form of grants of 100 percent of the cost of the projects funded (Section 103(b)). The money may also be distributed as increased contributions to projects initiated under other federal legislation, raising the federal share of such projects to 100 percent (Section 104), and to projects initiated under state or local laws requiring a contribution (Section 105).

The money is to be expended for construction, renovation, repair, or improvement of public works projects (Section 103(a)), or to produce plans, specifications, and designs for such projects (Section 103(a)). It may not be used for site acquisition (Section 106(b)), for building certain water projects (Section 106(a)), or for maintenance of projects constructed with funds from the Act (Section 106(c)). Since the purpose of the Act is to provide needed employment promptly, grants are to be conditioned upon assurances that the projects can be started with on-site labor within 90 days of approval (Section 106(d)).

The money is to be allocated to projects throughout the nation (Section 108(a)), with preference to areas of high unemployment (70 percent, preferentially, to those areas where unemployment exceeds 6 1/2 percent and the national average and 30 percent to those areas where the rate is below the national average but in excess of 6 1/2 percent) (Section 108(c)). Priority is to be given to projects of local, as opposed to state, governments (Section 108(b)).

B. The Implementing Regulations

Under Section 107 of the Act, the Secretary of Commerce is to issue implementing regulations within 30 days of passage. Those regulations were issued on August 20, 1976, under the signature of the Assistant Secretary for

2/ On August 25, by a vote of 311-72, the House of Representatives passed a bill (H.R. 15194) appropriating \$2 billion for Title I projects. The next day the Senate Appropriations Committee reported the House bill to the floor of the Senate, increasing the appropriation for the whole bill by \$500 million. It is likely that a conference will be required after Senate passage.

Economic Development, and were published in the Federal Register on Monday, August 23 (41 F.R. 35670). (A copy is appended at Tab B.)

The regulations are not restrictive. For the most part, they merely provide detail to the eligibility aspects of the Act. However, Section 316.11(c) of those regulations requires that any detention facilities funded under Title I must be in compliance with the provisions of Part E of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750b(1), (4)-(9)). Those provisions require that applications include a comprehensive statewide program, an emphasis on community based corrections, advanced design features, regional sharing (where feasible and desirable), advanced correctional practices, personnel standards, and drug and alcohol treatment. Since only the first of these requirements would be particularly burdensome, and since it would already have been met by state planning agencies in earlier applications to LEAA for funds for penal or correctional purposes, these requirements do not appear to be a serious bar to the effective use of Title I funds for such purposes. 3/

Conclusion: Funds under the Act may be used to build penal and correctional facilities and to renovate existing facilities. The strictures of the Act, however, indicate that the bulk of this money would go to local communities, and thus that the funds used for such purposes would most likely be available for jails rather than penitentiaries.

II. The Need for Jail Construction and Renovation.

There is an urgent, demonstrable need for construction and renovation of jails. The nature of the specific need varies with the size of the community.

3/ The regulations (§316.10(g)) limit project costs to \$5 million but permit the Assistant Secretary to waive the limit for "good cause." This provision would affect only a limited number of large, metropolitan jail construction projects, and "good cause" in those cases would seem to be apparent.

Jails located in or near large metropolitan areas are commonly overcrowded. 4/ The jail in Prince Georges County is operating at 297% above capacity. Florida is using tents and airplane hangars to house prisoners. Maryland has purchased a "mothballed" freighter to use as a prison. The Law Enforcement Assistance Administration has recently resorted to authorizing the purchase of hundreds of trailers for use as substitute facilities.

Most rural jails, although small (75 percent have capacities of 20 or less), are still large enough to handle existing and projected near-term needs. However, the conditions of many of these jails have been described by knowledgeable authorities as anywhere from "despicable" to "abominable." Six percent are more than 100 years old; 12 percent are more than 75 years old; 25 percent are more than 50 years old. Eighty percent have no recreational facilities available and many have no visitation facilities. Some have totally inadequate sanitation facilities. Many present safety hazards -- to both inmates and staff -- as a result of non-locking cell doors and antiquated security features.

These overcrowded and substandard conditions have a drastic effect on the criminal justice system. Judges are understandably reluctant to detain persons prior to trial where such facilities exist, and, although evidence suggests incarceration of convicted offenders deters crime, 5/ in the last few years an increasingly number of serious offenders has been sentenced only to probation, frequently because judges are unwilling to send offenders to overcrowded

4/ The 1972 census stated that five percent (or 167) of the nation's jails were then overcrowded. Many experts now allege that all urban jails are overcrowded and that rural and county jails are nearing a crisis point.

5/ For a general discussion of the subject, see James Q. Wilson, Thinking About Crime (New York, Basic Books, 1975); Norval Morris, The Future of Imprisonment (Chicago, University of Chicago Press, 1974); and Ernest van den Haag, Punishing Criminals (New York, Basic Books, 1975).

or substandard jail facilities. Indeed, in recent years the conditions in some penal facilities have been found so poor that federal courts have ruled that being sentenced to them constitutes cruel and unusual punishment under the Eighth Amendment of the Constitution. 6/ The states of Alabama and Louisiana currently have all their jails under either court attack or court order. It is acknowledged by all who have studied the field that these local jails are in serious need of renovation, both for humanitarian and correctional purposes.

Other detrimental consequences can be found where overcrowded or poorly designed jails exist, since most jails are multi-use facilities. Thirty percent of jails house juveniles with adult offenders. Ten percent do not segregate mental patients awaiting commitment. Some sixty percent do not segregate pretrial detainees.

Conclusion: There is a pressing and widely-recognized need for jail construction and renovation. (A copy of a recent GAO study that is in agreement with this conclusion is attached at Tab C. See pp. 19-27).

6/ See, e.g., Costello v. Wainwright, 525 F.2d 1239 (5th Cir. 1976); Finney v. Arkansas Bd. of Corrections, 505 F.2d 194 (8th Cir. 1974); Gates v. Collier, 501 F.2d 129 (5th Cir. 1974).

III. The Need for Federal Funds for Such Purposes.

Penal and correctional facilities have never ranked high in the priorities of taxpayers. Even where some local funds are available, they are usually inadequate to permit the construction of modern facilities. For example, while correctional experts are in general agreement that single inmate cells should be the rule (for safety and privacy purposes), local authorities are reluctant to build such facilities because of their cost.

State funding may be a more realistic means of providing adequate jails than local funding. Yet those states which have inadequate jails are also likely to have inadequate penitentiaries, and consequently statewide systems can be expected to continue to receive higher priority.

Past efforts at federal funding have not been particularly successful because of two principal shortcomings. First, the total federal funds available have been inadequate for the purpose. The LEAA funds available for jail construction and repair, under Part E of the Safe Streets Act, total \$37 million for FY 1977 and \$41 million for FY 1978. Yet LEAA has projected a figure of \$300 million as necessary merely to bring those correctional facilities now under federal court orders into compliance with court standards, and a joint ABA/LEAA study estimates the cost of bring all correctional facilities up to such standards at \$3.5 to \$4.7 billion. (A copy of the ABA/LEAA study is appended at Tab D.) Second, problems have been encountered as a result of the requirement that, as a requisite to obtaining LEAA funds, the local governments supply up to 50 percent of the costs of such projects. Some locales, even where under court order, have simply been unable to raise the necessary revenue. Some are reluctant to expend the required matching funds because of the view that the proposed facilities are too expensive as a result of what they perceive as unnecessarily high LEAA standards (e.g., single occupant cells). Others, under pressure from federal courts to renovate their jail systems, quite naturally resent being forced to expend local funds at federal direction.

The availability of federal funds an order of magnitude greater than those previously available for penal facilities, dispensed under a program that places no burden upon states and localities to produce matching funds, should resolve most of the funding problems previously encountered.

A further rationale for the use of federal funds for such purposes is the long-term savings that can accrue to the federal government. The Bureau of Prisons contracts with local jails for housing of federal prisoners (there are some 6,100 federal prisoners, about one-fourth of the total, in non-federal facilities). The inadequacies of many local jails, however, has led to the construction by the Bureau of three federal Metropolitan Correctional Centers (MCC's). The Bureau has determined that there is an immediate need for construction of MCC's in three more metropolitan areas ^{7/}, and is studying the need for construction of MCC's in ¹⁷ additional cities. ^{8/} There is much to be said for aiding in the improvement of local jails and avoiding the construction of at least some of these MCC's, especially since the MCC's already constructed have served the purpose of providing models for jail construction. The construction of a dozen more such facilities could be avoided through the use of Title I funds to improve local jails. ^{9/}

Conclusion: There does not appear to be any other adequate, practicable source of funds for the building of local penal facilities, and the use of Title I funds for this purpose may result in substantial savings from other parts of the federal budget.

^{7/} These metropolitan areas are Baltimore-Washington, Detroit, and Phoenix.

^{8/} These cities are Atlanta, Boston, Houston, Los Angeles, Miami, New Orleans, Philadelphia, St. Louis, East St. Louis, San Antonio, San Francisco, Sacramento, Tampa, Tucson, and Orlando.

^{9/} The 17 cities indicated include some within the same state. The strictures of the Public Works Act would probably limit construction to one jail per state, thus reducing to 12 the total of MCC's that could be obviated.

IV. The Ability to Plan and Execute a Program of Construction Within the Stated Time Limits.

Since the Public Works Employment Act is designed as an immediate anti-recession measure, it is replete with provisions requiring the prompt expenditure of the funds authorized. Intelligent spending for penal facilities can, in fact, be accomplished promptly. 10/

The federal government is in a unique position to plan and execute an expidited program of construction of penal and correctional facilities. The Bureau of Prisons has had long, high-level experience with planning such facilities. Its National Institute of Corrections is designed to provide technical assistance to local penal and correctional authorities, and the Bureau's task force on jails is nearing completion of its work. Moreover, the National Clearinghouse for Criminal Justice Planning and Architecture (an LEAA-funded group at the University of Illinois) has developed comprehensive plans not only for general application but for specific application as well; it has plans for renovating all correctional facilities in Nevada, Illinois, New Jersey, Hawaii, and Oklahoma, among others, and has specific plans for a number of local jails. 11/ (An example of one such plan is attached at Tab E. See pages 67-93.)

The above groups can readily be formed into a task force to set specific standards for applicants. Although, in the past, local authorities have opposed national standards because of the cost of their implementation, with 100 percent federal funding such objections should be avoided.

10/ Such a utilization of Title I funds would help in other ways to achieve the purpose of the legislation. Section 316.10(a)(2)(i)(C) of the implementing regulations states a strong preference for labor intensive projects. Experts on penal and correctional architecture have advised the Department of Justice that jail facilities are more labor intensive than other public works projects because they require little capital for special equipment or expensive frills, they are not subject to prefabrication, and they use a wide variety of labor skills.

11/ These include at least five county jails in Texas, Indiana, and Nebraska. State and county plans are being developed for Oregon, Colorado, New Hampshire, Tennessee, and New Mexico. Kentucky and Kansas have completed their own plans, and other states are working on plans of their own.

Conclusion: If some portion of the Title I funds are earmarked for correctional purposes, they can be expended within the timetable of the Act with a substantial level of efficiency.

V. The Amount of Funds Needed.

Using as a base figure the \$300 million that LEAA has projected as necessary merely to comply with existing court orders, and adding to that figure approximately \$180 million estimated as necessary for construction, expansion, and renovation in a dozen large cities where the federal needs are greatest 12/ and an additional \$100 million for renovation of small jails not presently under court order, the sum of \$580 million would be an appropriate benchmark. Of course these figures are estimates, and the need for funds is greater than is reflected by these figures. Moreover, it cannot be determined which areas of the country would be eligible for funds under the unemployment formula used in the Act. Nevertheless, \$580 million appears to be a reasonable working estimate. A substantially smaller program would do no more than enable localities to comply with court orders. A substantially larger program might lead to undesirable inefficiency in expenditure.

Conclusion: A sum of money between \$500 million and \$600 million can effectively be expended for this purpose in the coming year.

VI. Arguments Against Such a Program.

The chief arguments against this program would be anti-prison sentiment and the existence of greater priorities.

The arguments regarding anti-prison sentiment, 13/ can be disposed of on the merits. In any event, the force of any such arguments could be reduced by concentrating initially on renovation of existing facilities since many of those who are opposed to prison expansion are strongly in favor of modernizing existing facilities.

12/ They would be selected from among those cities targeted for MCC construction.

13/ Such sentiment is divided among those who believe that no one should be incarcerated and those who feel that tax money should not be wasted building "country clubs" for criminals.

The arguments regarding priorities are of greater concern, since many localities may indeed have more urgent needs. Certainly institutions for the mentally retarded, hospitals, and the like will to many be more attractive projects than jails. Nevertheless, given the national preoccupation with the problem of crime and the potential of such a construction program for helping indirectly to meet that problem, the expenditure for prison facilities seems clearly justifiable. Moreover, since the sum suggested is only one-fourth of that authorized, other priorities should be able to be dealt with under the Act.

Conclusion: There appears to be no insurmountable arguments against such a program.

Recommendation

The first recorded reference to building a jail in America appears to be a 1632 order by the city of Boston requiring "a people pen to be constructed with all convenient speed." We still tend to address the issue only when, under all the circumstances, we find it convenient. The Public Works Employment Act seems to have made addressing the problem surprisingly convenient at this time, and the opportunity should not be lost.

CLEARANCE SHEET

Hold

DATE: 10/6

JMC ACTION

Required by *11/16*

STAFF RESPONSIBILITY Parsons

SUBJECT: Memorandum re: Public Works and Prison Rehabilitation

RECEIVED FROM: _____

DATE RECEIVED: _____

STAFF COMMENTS:

Dick

QUERN MOORE RECOMMENDATION:

☒ APPROVE

☐ REVIEW & COMMENT

☐ DISCUSS

Jim, I think we can use this to demonstrate positively that we are trying our best to make this program useful.

Parsons
Token
ASAP
Jim

CANNON ACTION:

DATE: _____

Material Has Been:

☐ Signed and forwarded

☐ Changed and signed

☐ Returned per conversation

☐ Noted

JIM CANNON

Comment:

This pkg. was sent back to Dick - he is to prepare memo - per his conversation w/Cannon.

THE WHITE HOUSE

WASHINGTON

October 6, 1976

MEMORANDUM FOR: JIM CANNON
FROM: DICK PARSONS *D.*
SUBJECT: Public Works and Prison
Rehabilitation

I think the dedication of some of the construction funds available under Title I of the Public Works Employment Act of 1976 to rehabilitation and for construction of State and local correctional facilities is a good idea.

As Judge Tyler points out in his memo, the need in this area is clear. It makes sense. Moreover, LEAA could start making grants within 90 days, there is that much already identified demand.

I am advised that LEAA has already discussed this subject with Commerce, but that a White House nudge is necessary to close the deal.

Recommendation

I suggest you and Jim Lynn raise this with the President.

THE WHITE HOUSE

WASHINGTON

September 30, 1976

MEMORANDUM FOR: ALLEN MOORE
FROM: BOBBIE GREENE KILBERG

Bobbie

Per our conversation, attached at Tab A is language which the Justice Department prepared for Ken Lazarus for inclusion in a public works bill signing statement. Ken assumed that there was a likelihood that we would sign the public works bill, and he has been seriously concerned about the law enforcement problem arising out of the overcrowded conditions in many jails. As the attached memo (Tab B) from Deputy Attorney General Tyler to Jim Lynn indicates, Justice thinks that the Administration could make a significant accomplishment in the area of crime by designating one-fourth of the construction funds available under Title I of the bill (about \$500 million) for construction and renovation of penal institutions.

Justice's suggested language is obviously too long, but the speechwriters should be able to cut it down.

Attachment

It is only with reluctance that I sign this appropriation bill into law. It provides some 3.7 billion dollars to fund a construction and governmental services program intended to provide jobs for the unemployed. The goal of the program is a laudatory one, but adequate employment opportunities cannot be assured by makeshift efforts of this kind. It was for that reason that I vetoed the Public Works Employment Act, the program funded by the bill now before me. Congress chose to override that veto, and I see no value in a further veto of the companion appropriation measure.

Despite my opposition to this program I have a duty to see that these funds are expended in the most prudent and productive manner consistent with the employment purposes of the Act. I intend to fulfill that duty.

In my Crime Message of last year I noted the terrible conditions in our nation's jails. These small institutions, intended to house prisoners and defendants for short periods of time, are overcrowded and rundown. Federal courts have ordered many of these state and local institutions to stop accepting prisoners or to begin expensive renovations. The Law Enforcement Assistance Administration estimates that merely to comply with existing court orders will force local governments to spend \$300 million for construction work.

Because of overcrowded conditions, many jails have become increasingly unwilling to accept federal prisoners even for short periods prior to trial or while awaiting transfer to federal institutions. This situation has compelled the Bureau of Prisons to consider a large and costly program of construction of federal jails.

Judges are unwilling or unable to remove the dangerous offender from the community when the place of confinement is itself dangerous or filled to four times its capacity. Modern and adequate facilities would remove this impediment to warranted punishment, and would permit prisoners to be incarcerated under humane conditions and in an atmosphere more conducive to rehabilitation.

In order to aid the local governments in obtaining adequate and decent facilities, and in order to obviate some of the need for a federal construction program, I have directed the Secretary of Commerce, who is assigned to administer these funds, to set aside one-fourth of the construction funds available under Title I, some \$500 million, for construction and renovation of penal institutions.

I expect this program to begin rapidly and with a minimum of waste, and I urge local communities to assess their needs carefully and to apply for such funds as are necessary to bring their penal facilities up to modern standards.



THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

September 7, 1976

*D-
file please
O*

MEMORANDUM FOR JAMES T. LYNN, DIRECTOR
OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: The Public Works Employment Act of 1976

It appears that the Administration may have been presented with an opportunity to accomplish something of significance in regard to the problem of crime.

Ken Lazarus has inquired of the Departments of Commerce and Justice whether the provisions of Title I of the Public Works Employment Act of 1976 permit part of the authorized \$2 billion to be expended on state and local penal facilities, thereby helping to resolve a problem identified by the President in his Crime Message.

As you can see from the attached memorandum, the Department of Justice believes that some portion (about one-fourth) of these funds can be expended, efficiently and effectively, in carrying out a stated aim of the Administration -- adequate penal and correctional facilities. The funds realistically are available from no other source. The planning is well advanced. The need is clear. In his speech last February in Miami before the Florida Chapter of the Federal Bar Association, the President stated:

Unbelievably, America still has the same prison capacity as in 1960, although crime has doubled and the population has burgeoned. The need for more prisons is obvious and very, very urgent.

The impact of such a program would go far beyond alleviating unemployment -- the primary purpose of the Act. It would result in an increased deterrent effect, reduced litigation as to jail conditions, and reduced future spending on federal correctional facilities.

I hope you can take the time to peruse the memorandum and to let me know your thoughts on the subject. Time is of the essence since the temporal strictures of the Act are so severe and since, as page 1 of today's "Wall Street Journal" indicates, the scramble to use these funds (for such projects as landscaping trolley tracks) has begun.

Viewed by [signature]
HAROLD R. TYLER, JR.

Attachment



Funding State and Local Penal and Correctional Facilities
under the Public Works Employment Act of 1976

This memorandum addresses the issue whether the Public Works Employment Act of 1976 can be of assistance in helping state and local governments meet their requirements for adequate penal facilities.

Summary

The funds authorized by the Act can be used to aid local governments in constructing new jails and in renovating old ones. Such expenditures would be within the purposes of the Act, and the funds could be used quickly and efficiently within the allotted time limits. Such use of the funds could not only have a potential effect in reducing the level of the nation's crime, but could result in substantial savings to the federal government by obviating a considerable amount of proposed federal jail construction.

Discussion

I. The Public Works Employment Act of 1976.

A. The Statute.

On July 22, 1976, Congress enacted the Public Works Employment Act of 1976 (P.L. 94-369), an intended anti-recession measure under which federal funds will be distributed to state and local governments under the auspices of the Economic Development Administration of the Department of Commerce. Title I of the Act is intended to produce greater employment through the funding of projects for the construction, renovation, and repair of public facilities. 1/ (A copy of the Act is appended at Tab A.)

1/ Only Title I of the Act is directly relevant to the subject of this memorandum. Title II, which seeks to avoid recessionary budget cuts by providing grants to local governmental units to be used for the maintenance of basic governmental services, may have some marginal relevance. Title III (amending the Federal Pollution Control Act) is irrelevant.

Section 111 of Title I of the Act authorizes an appropriation of up to \$2 billion for the period ending September 30, 1977. ^{2/} The money is to be distributed in the form of grants of 100 percent of the cost of the projects funded (Section 103(b)). The money may also be distributed as increased contributions to projects initiated under other federal legislation, raising the federal share of such projects to 100 percent (Section 104), and to projects initiated under state or local laws requiring a contribution (Section 105).

The money is to be expended for construction, renovation, repair, or improvement of public works projects (Section 103(a)), or to produce plans, specifications, and designs for such projects (Section 103(a)). It may not be used for site acquisition (Section 106(b)), for building certain water projects (Section 106(a)), or for maintenance of projects constructed with funds from the Act (Section 106(c)). Since the purpose of the Act is to provide needed employment promptly, grants are to be conditioned upon assurances that the projects can be started with on-site labor within 90 days of approval (Section 106(d)).

The money is to be allocated to projects throughout the nation (Section 108(a)), with preference to areas of high unemployment (70 percent, preferentially, to those areas where unemployment exceeds 6 1/2 percent and the national average and 30 percent to those areas where the rate is below the national average but in excess of 6 1/2 percent) (Section 108(c)). Priority is to be given to projects of local, as opposed to state, governments (Section 108(b)).

B. The Implementing Regulations

Under Section 107 of the Act, the Secretary of Commerce is to issue implementing regulations within 30 days of passage. Those regulations were issued on August 20, 1976, under the signature of the Assistant Secretary for

^{2/} On August 25, by a vote of 311-72, the House of Representatives passed a bill (H.R. 15194) appropriating \$2 billion for Title I projects. The next day the Senate Appropriations Committee reported the House bill to the floor of the Senate, increasing the appropriation for the whole bill by \$500 million. It is likely that a conference will be required after Senate passage.

Economic Development, and were published in the Federal Register on Monday, August 23 (41 F.R. 35670). (A copy is appended at Tab B.)

The regulations are not restrictive. For the most part, they merely provide detail to the eligibility aspects of the Act. However, Section 316.11(c) of those regulations requires that any detention facilities funded under Title I must be in compliance with the provisions of Part E of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750b(1), (4)-(9)). Those provisions require that applications include a comprehensive statewide program, an emphasis on community based corrections, advanced design features, regional sharing (where feasible and desirable), advanced correctional practices, personnel standards, and drug and alcohol treatment. Since only the first of these requirements would be particularly burdensome, and since it would already have been met by state planning agencies in earlier applications to LEAA for funds for penal or correctional purposes, these requirements do not appear to be a serious bar to the effective use of Title I funds for such purposes. 3/

Conclusion: Funds under the Act may be used to build penal and correctional facilities and to renovate existing facilities. The strictures of the Act, however, indicate that the bulk of this money would go to local communities, and thus that the funds used for such purposes would most likely be available for jails rather than penitentiaries.

II. The Need for Jail Construction and Renovation.

There is an urgent, demonstrable need for construction and renovation of jails. The nature of the specific need varies with the size of the community.

3/ The regulations (§316.10(g)) limit project costs to \$5 million but permit the Assistant Secretary to waive the limit for "good cause." This provision would affect only a limited number of large, metropolitan jail construction projects, and "good cause" in those cases would seem to be apparent.

Jails located in or near large metropolitan areas are commonly overcrowded. 4/ The jail in Prince Georges County is operating at 297% above capacity. Florida is using tents and airplane hangars to house prisoners. Maryland has purchased a "mothballed" freighter to use as a prison. The Law Enforcement Assistance Administration has recently resorted to authorizing the purchase of hundreds of trailers for use as substitute facilities.

Most rural jails, although small (75 percent have capacities of 20 or less), are still large enough to handle existing and projected near-term needs. However, the conditions of many of these jails have been described by knowledgeable authorities as anywhere from "deplorable" to "abominable." Six percent are more than 100 years old; 12 percent are more than 75 years old; 25 percent are more than 50 years old. Eighty percent have no recreational facilities available and many have no visitation facilities. Some have totally inadequate sanitation facilities. Many present safety hazards -- to both inmates and staff -- as a result of non-locking cell doors and antiquated security features.

These overcrowded and substandard conditions have a drastic effect on the criminal justice system. Judges are understandably reluctant to detain persons prior to trial where such facilities exist, and, although evidence suggests incarceration of convicted offenders deters crime, 5/ in the last few years an increasingly number of serious offenders has been sentenced only to probation, frequently because judges are unwilling to send offenders to overcrowded

4/ The 1972 census stated that five percent (or 167) of the nation's jails were then overcrowded. Many experts now allege that all urban jails are overcrowded and that rural and county jails are nearing a crisis point.

5/ For a general discussion of the subject, see James Q. Wilson, Thinking About Crime (New York, Basic Books, 1975); Norval Morris, The Future of Imprisonment (Chicago, University of Chicago Press, 1974); and Ernest van den Haag, Punishing Criminals (New York, Basic Books, 1975).

or substandard jail facilities. Indeed, in recent years the conditions in some penal facilities have been found so poor that federal courts have ruled that being sentenced to them constitutes cruel and unusual punishment under the Eighth Amendment of the Constitution. 6/ The states of Alabama and Louisiana currently have all their jails under either court attack or court order. It is acknowledged by all who have studied the field that these local jails are in serious need of renovation, both for humanitarian and correctional purposes.

Other detrimental consequences can be found where overcrowded or poorly designed jails exist, since most jails are multi-use facilities. Thirty percent of jails house juveniles with adult offenders. Ten percent do not segregate mental patients awaiting commitment. Some sixty percent do not segregate pretrial detainees.

Conclusion: There is a pressing and widely-recognized need for jail construction and renovation. (A copy of a recent GAO study that is in agreement with this conclusion is attached at Tab C. See pp. 19-27).

6/ See, e.g., Costello v. Wainwright, 525 F.2d 1239 (5th Cir. 1976); Finney v. Arkansas Bd. of Corrections, 505 F.2d 194 (8th Cir. 1974); Gates v. Collier, 501 F.2d 129 (5th Cir. 1974).

III. The Need for Federal Funds for Such Purposes.

Penal and correctional facilities have never ranked high in the priorities of taxpayers. Even where some local funds are available, they are usually inadequate to permit the construction of modern facilities. For example, while correctional experts are in general agreement that single inmate cells should be the rule (for safety and privacy purposes), local authorities are reluctant to build such facilities because of their cost.

State funding may be a more realistic means of providing adequate jails than local funding. Yet those states which have inadequate jails are also likely to have inadequate penitentiaries, and consequently statewide systems can be expected to continue to receive higher priority.

Past efforts at federal funding have not been particularly successful because of two principal shortcomings. First, the total federal funds available have been inadequate for the purpose. The LEAA funds available for jail construction and repair, under Part E of the Safe Streets Act, total \$37 million for FY 1977 and \$41 million for FY 1978. Yet LEAA has projected a figure of \$300 million as necessary merely to bring those correctional facilities now under federal court orders into compliance with court standards, and a joint ABA/LEAA study estimates the cost of bring all correctional facilities up to such standards at \$3.5 to \$4.7 billion. (A copy of the ABA/LEAA study is appended at Tab D.) Second, problems have been encountered as a result of the requirement that, as a requisite to obtaining LEAA funds, the local governments supply up to 50 percent of the costs of such projects. Some locales, even where under court order, have simply been unable to raise the necessary revenue. Some are reluctant to expend the required matching funds because of the view that the proposed facilities are too expensive as a result of what they perceive as unnecessarily high LEAA standards (e.g., single occupant cells). Others, under pressure from federal courts to renovate their jail systems, quite naturally resent being forced to expend local funds at federal direction.

The availability of federal funds an order of magnitude greater than those previously available for penal facilities, dispensed under a program that places no burden upon states and localities to produce matching funds, should resolve most of the funding problems previously encountered.

A further rationale for the use of federal funds for such purposes is the long-term savings that can accrue to the federal government. The Bureau of Prisons contracts with local jails for housing of federal prisoners (there are some 6,100 federal prisoners, about one-fourth of the total, in non-federal facilities). The inadequacies of many local jails, however, has led to the construction by the Bureau of three federal Metropolitan Correctional Centers (MCC's). The Bureau has determined that there is an immediate need for construction of MCC's in three more metropolitan areas ^{7/}, and is studying the need for construction of MCC's in ¹⁷ additional cities. ^{8/} There is much to be said for aiding in the improvement of local jails and avoiding the construction of at least some of these MCC's, especially since the MCC's already constructed have served the purpose of providing models for jail construction. The construction of a dozen more such facilities could be avoided through the use of Title I funds to improve local jails. ^{9/}

Conclusion: There does not appear to be any other adequate, practicable source of funds for the building of local penal facilities, and the use of Title I funds for this purpose may result in substantial savings from other parts of the federal budget.

^{7/} These metropolitan areas are Baltimore-Washington, Detroit, and Phoenix.

^{8/} These cities are Atlanta, Boston, Houston, Los Angeles, Miami, New Orleans, Philadelphia, St. Louis, East St. Louis, San Antonio, San Francisco, Sacramento, Tampa, Tucson, and Orlando.

^{9/} The 17 cities indicated include some within the same state. The strictures of the Public Works Act would probably limit construction to one jail per state, thus reducing to 12 the total of MCC's that could be obviated.

IV. The Ability to Plan and Execute a Program of Construction Within the Stated Time Limits.

Since the Public Works Employment Act is designed as an immediate anti-recession measure, it is replete with provisions requiring the prompt expenditure of the funds authorized. Intelligent spending for penal facilities can, in fact, be accomplished promptly. 10/

The federal government is in a unique position to plan and execute an expidited program of construction of penal and correctional facilities. The Bureau of Prisons has had long, high-level experience with planning such facilities. Its National Institute of Corrections is designed to provide technical assistance to local penal and correctional authorities, and the Bureau's task force on jails is nearing completion of its work. Moreover, the National Clearinghouse for Criminal Justice Planning and Architecture (an LEAA-funded group at the University of Illinois) has developed comprehensive plans not only for general application but for specific application as well; it has plans for renovating all correctional facilities in Nevada, Illinois, New Jersey, Hawaii, and Oklahoma, among others, and has specific plans for a number of local jails. 11/ (An example of one such plan is attached at Tab E. See pages 67-93.)

The above groups can readily be formed into a task force to set specific standards for applicants. Although, in the past, local authorities have opposed national standards because of the cost of their implementation, with 100 percent federal funding such objections should be avoided.

10/ Such a utilization of Title I funds would help in other ways to achieve the purpose of the legislation. Section 316.10(a)(2)(i)(C) of the implementing regulations states a strong preference for labor intensive projects. Experts on penal and correctional architecture have advised the Department of Justice that jail facilities are more labor intensive than other public works projects because they require little capital for special equipment or expensive frills, they are not subject to prefabrication, and they use a wide variety of labor skills.

11/ These include at least five county jails in Texas, Indiana, and Nebraska. State and county plans are being developed for Oregon, Colorado, New Hampshire, Tennessee, and New Mexico. Kentucky and Kansas have completed their own plans, and other states are working on plans of their own.

Conclusion: If some portion of the Title I funds are earmarked for correctional purposes, they can be expended within the timetable of the Act with a substantial level of efficiency.

V. The Amount of Funds Needed.

Using as a base figure the \$300 million that LEAA has projected as necessary merely to comply with existing court orders, and adding to that figure approximately \$180 million estimated as necessary for construction, expansion, and renovation in a dozen large cities where the federal needs are greatest ^{12/} and an additional \$100 million for renovation of small jails not presently under court order, the sum of \$580 million would be an appropriate benchmark. Of course these figures are estimates, and the need for funds is greater than is reflected by these figures. Moreover, it cannot be determined which areas of the country would be eligible for funds under the unemployment formula used in the Act. Nevertheless, \$580 million appears to be a reasonable working estimate. A substantially smaller program would do no more than enable localities to comply with court orders. A substantially larger program might lead to undesirable inefficiency in expenditure.

Conclusion: A sum of money between \$500 million and \$600 million can effectively be expended for this purpose in the coming year.

VI. Arguments Against Such a Program.

The chief arguments against this program would be anti-prison sentiment and the existence of greater priorities.

The arguments regarding anti-prison sentiment, ^{13/} can be disposed of on the merits. In any event, the force of any such arguments could be reduced by concentrating initially on renovation of existing facilities since many of those who are opposed to prison expansion are strongly in favor of modernizing existing facilities.

^{12/} They would be selected from among those cities targeted for MCC construction.

^{13/} Such sentiment is divided among those who believe that no one should be incarcerated and those who feel that tax money should not be wasted building "country clubs" for criminals.

The arguments regarding priorities are of greater concern, since many localities may indeed have more urgent needs. Certainly institutions for the mentally retarded, hospitals, and the like will to many be more attractive projects than jails. Nevertheless, given the national preoccupation with the problem of crime and the potential of such a construction program for helping indirectly to meet that problem, the expenditure for prison facilities seems clearly justifiable. Moreover, since the sum suggested is only one-fourth of that authorized, other priorities should be able to be dealt with under the Act.

Conclusion: There appears to be no insurmountable arguments against such a program.

Recommendation

The first recorded reference to building a jail in America appears to be a 1632 order by the city of Boston requiring "a people pen to be constructed with all convenient speed." We still tend to address the issue only when, under all the circumstances, we find it convenient. The Public Works Employment Act seems to have made addressing the problem surprisingly convenient at this time, and the opportunity should not be lost.

file

THE WHITE HOUSE
WASHINGTON

October 18, 1976

MEMORANDUM FOR THE HONORABLE ELLIOT L. RICHARDSON
SECRETARY OF THE DEPARTMENT OF COMMERCE

FROM: JIM CANNON *Jim*
SUBJECT: Distribution Formula for Public Works
Employment Act

Governor Rhodes of Ohio has registered his concern about the way EDA is allocating public works money. Ohio, he says, will lose almost \$30 million.

Would you tell me how this formula was worked out and whether Rhodes's concern is valid.

Many thanks.

attachment





JAMES A. RHODES
GOVERNOR

STATE OF OHIO
OFFICE OF THE GOVERNOR
COLUMBUS 43215

October 12, 1976

1976 OCT 15 AM 11 22

Mr. James M. Cannon
Assistant to the President
for Domestic Affairs
1600 Pennsylvania Avenue, N.W.
Washington D. C. 20500

Dear Jim:

I am enclosing a copy of my comments to the Economic Development Administration regarding the regulations implementing Title I of the Public Works Employment Act of 1976 (PL 94-369). It appears that the State of Ohio will lose nearly 30 million dollars in public construction funds due to administrative decisions.

The legislation states that areas with unemployment rates greater than the national average should receive 70% of the funds, and that priority for the remaining 30% should be given to areas having an unemployment rate between 6.5% and the national average. We agree with this intent.

However, the Department of Commerce's Economic Development Administration, by decision of administrative staff, has decided to consider states as unemployment market areas and intends to allocate the two billion dollar authorization on the following basis: 65% of the appropriation distributed on the basis of each State's share of unemployed workers and 35% of the appropriation distributed on the basis of State unemployment rates in excess of the national average.

The application of this system produces gross inequities, as the following table (using non-seasonally adjusted employment statistics for June, 1976) illustrates:

State	Number of Unemployed	Unemployment Rate (6/76)	Estimate State Allocation (In Millions)	Allocation Per Unemployed Person
Illinois	378,700	7.4%	\$ 64	\$ 168
Indiana	134,300	5.6%	24	178
Michigan	397,400	10.2%	157	395
Minnesota	100,200	5.3%	18.7	187
Ohio	344,800	7.2%	62	180
Wisconsin	124,800	5.8%	22.5	180

As you can see, major disparities result from this system of allocations. Recognizing that some means of distribution must exist for administration of the program, we suggest that the number of unemployed persons, in total and by states, be the basis for allocating funds to the States. The severity and duration of employment should then be determined by areas within states as project selection criteria.

This approach would yield the following results (using non-seasonally adjusted unemployment statistics for May, 1976):

State	Number of Unemployed	Unemployment Rate (6/76)	Estimate State Allocation (In Millions)	Allocation Per Unemployed Person
Illinois	335,200	6.7%	\$ 93.1	\$ 277
Indiana	123,400	5.2%	34.4	278
Michigan	375,300	9.7%	104.3	277
Minnesota	88,200	4.8%	24.5	277
Ohio	324,100	6.9%	90.2	278
Wisconsin	113,500	5.4%	31.5	277

To accomplish the legislative purpose, unemployment must be measured in the kinds of market areas in which it occurs. Severity and duration should be criteria for project selection within states, not as a basis for administrative allocations among states. I am strongly opposed to the distribution system as devised by the Department of Commerce, and I ask your help in changing it.

Sincerely,



GOVERNOR

JAR:lem

Enclosure

cc: Mr. James T. Lynn, Director
Office of Management and Budget

Mr. Elliott Richardson, Secretary
Department of Commerce



STATE OF OHIO
OFFICE OF THE GOVERNOR
COLUMBUS 43215

JAMES A. RHODES
GOVERNOR

September 20, 1976

Mr. John W. Eden
Assistant Secretary for Economic Development
U. S. Department of Commerce
Room 78008
Washington, D. C. 20230

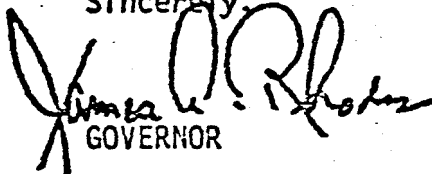
Dear Mr. Eden:

I am writing in regard to 13 C.F.R. 316, as published in the Federal Register, Volume 41 Number 164 - Monday, August 23, 1976. These regulations implement Title I of the Public Works Employment Act of 1976 (PL 94 -369).

I believe that section 316.8 of these regulations, allocating program resources among the states, will work against the intent of the legislation. That intent is to put people to work who are presently without jobs. Congress has therefore directed that areas with rates of unemployment higher than the national average should receive the most assistance. To accomplish this purpose, unemployment must be measured in the kinds of market areas in which it occurs. To consider states as employment market areas and to use state unemployment rates to allocate Title I funds results in gross inequities. Based upon preliminary estimates, this would commit approximately \$395 per unemployed person in Michigan and \$180 per unemployed person in Ohio.

Labor Markets, especially construction industry markets, function on a local basis, not a statewide basis. Severity and duration of unemployment should be determined on a local basis. Since I understand the administrative necessity of establishing some allocation system, I strongly urge that the number of unemployed persons, in total and by states, be the basis for allocating funds to the states. The severity and duration of unemployment should then be determined by areas within states as project selection criteria. This would better implement the intent of the law.

Sincerely,


GOVERNOR



STATE OF OHIO
OFFICE OF THE GOVERNOR
COLUMBUS 43215

JAMES A. RHODES
GOVERNOR

October 12, 1976

Mr. James T. Lynn, Director
Office of Management and Budget
Executive Office Building
Washington D. C. 20503

Dear Jim:

I am enclosing a copy of my comments to the Economic Development Administration regarding the regulations implementing Title I of the Public Works Employment Act of 1976 (PL 94-369). It appears that the State of Ohio will lose nearly 30 million dollars in public construction funds due to administrative decisions.

The legislation states that areas with unemployment rates greater than the national average should receive 70% of the funds, and that priority for the remaining 30% should be given to areas having an unemployment rate between 6.5% and the national average. We agree with this intent.

However, the Department of Commerce's Economic Development Administration, by decision of administrative staff, has decided to consider states as unemployment market areas and intends to allocate the two billion dollar authorization on the following basis: 65% of the appropriation distributed on the basis of each State's share of unemployed workers and 35% of the appropriation distributed on the basis of State unemployment rates in excess of the national average.

The application of this system produces gross inequities, as the following table (using non-seasonally adjusted employment statistics for June, 1976) illustrates:

State	Number of Unemployed	Unemployment Rate (6/76)	Estimate State Allocation (In Millions)	Allocation Per Unemployed Person
Illinois	378,700	7.4%	\$ 64	\$ 168
Indiana	134,300	5.6%	24	178
Michigan	397,400	10.2%	157	395
Minnesota	100,200	5.3%	18.7	187
Ohio	344,800	7.2%	62	180
Wisconsin	124,800	5.8%	22.5	180

Mr. James T. Lynn, Director
October 12, 1976
Page 2

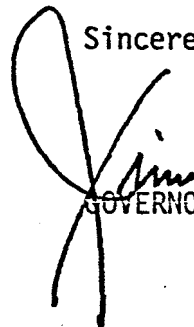
As you can see, major disparities result from this system of allocations. Recognizing that some means of distribution must exist for administration of the program, we suggest that the number of unemployed persons, in total and by states, be the basis for allocating funds to the States. The severity and duration of employment should then be determined by areas within states as project selection criteria.

This approach would yield the following results (using non-seasonally adjusted unemployment statistics for May, 1976):

<u>State</u>	<u>Number of Unemployed</u>	<u>Unemployment Rate (6/76)</u>	<u>Estimate State Allocation (In Millions)</u>	<u>Allocation Per Unemployed Person</u>
Illinois	335,200	6.7%	\$ 93.1	\$ 277
Indiana	123,400	5.2%	34.4	278
Michigan	375,300	9.7%	104.3	277
Minnesota	88,200	4.8%	24.5	277
Ohio	324,100	6.9%	90.2	278
Wisconsin	113,500	5.4%	31.5	277

To accomplish the legislative purpose, unemployment must be measured in the kinds of market areas in which it occurs. Severity and duration should be criteria for project selection within states, not as a basis for administrative allocations among states. I am strongly opposed to the distribution system as devised by the Department of Commerce, and I ask your help in changing it.

Sincerely,


GOVERNOR

JAR:lem

Enclosure

cc: Mr. James M. Cannon, Assistant to the
President for Domestic Affairs

Mr. Elliott Richardson, Secretary
Department of Commerce



STATE OF OHIO
OFFICE OF THE GOVERNOR
COLUMBUS 43215

JAMES A. RHODES
GOVERNOR

October 12, 1976

Mr. Elliott Richardson
Secretary of Commerce
U. S. Department of Commerce
Fourteenth Street Between Constitution
Avenue and E Street, N.W.
Washington D. C. 20230

Dear Mr. Richardson:

I am enclosing a copy of my comments to the Economic Development Administration regarding the regulations implementing Title I of the Public Works Employment Act of 1976 (PL 94-369). It appears that the State of Ohio will lose nearly 30 million dollars in public construction funds due to administrative decisions.

The legislation states that areas with unemployment rates greater than the national average should receive 70% of the funds, and that priority for the remaining 30% should be given to areas having an unemployment rate between 6.5% and the national average. We agree with this intent.

However, the Department of Commerce's Economic Development Administration, by decision of administrative staff, has decided to consider states as unemployment market areas and intends to allocate the two billion dollar authorization on the following basis: 65% of the appropriation distributed on the basis of each State's share of unemployed workers and 35% of the appropriation distributed on the basis of State unemployment rates in excess of the national average.

The application of this system produces gross inequities, as the following table (using non-seasonally adjusted employment statistics for June, 1976) illustrates:

State	Number of Unemployed	Unemployment Rate (6/76)	Estimate State Allocation (In Millions)	Allocation Per Unemployed Person
Illinois	378,700	7.4%	\$ 64	\$ 168
Indiana	134,300	5.6%	24	178
Michigan	397,400	10.2%	157	395
Minnesota	100,200	5.3%	18.7	187
Ohio	344,800	7.2%	62	180
Wisconsin	124,800	5.8%	22.5	180

As you can see, major disparities result from this system of allocations. Recognizing that some means of distribution must exist for administration of the program, we suggest that the number of unemployed persons, in total and by states, be the basis for allocating funds to the States. The severity and duration of employment should then be determined by areas within states as project selection criteria.

This approach would yield the following results (using non-seasonally adjusted unemployment statistics for May, 1976):

<u>State</u>	<u>Number of Unemployed</u>	<u>Unemployment Rate (6/76)</u>	<u>Estimate State Allocation (In Millions)</u>	<u>Allocation Per Unemployed Person</u>
Illinois	335,200	6.7%	\$ 93.1	\$ 277
Indiana	123,400	5.2%	34.4	278
Michigan	375,300	9.7%	104.3	277
Minnesota	88,200	4.8%	24.5	277
Ohio	324,100	6.9%	90.2	278
Wisconsin	113,500	5.4%	31.5	277

To accomplish the legislative purpose, unemployment must be measured in the kinds of market areas in which it occurs. Severity and duration should be criteria for project selection within states, not as a basis for administrative allocations among states. I am strongly opposed to the distribution system as devised by the Department of Commerce, and I ask your help in changing it.

Sincerely,


GOVERNOR

JAR:lem

Enclosure

cc: Mr. James M. Cannon, Assistant to the President for Domestic Affairs

Mr. James T. Lynn, Director
Office of Management and Budget

DOMESTIC COUNCIL

Richardson note

FROM: GOVERNOR RHODES

SUBJECT: Distribution formula for Public Works
Employment Act

----- Date: 10/14/76 -----

COMMENTS:

Gov. Rhodes takes issue with the distribution formula for this program which concentrates funds on those parts of the country with the highest rates of unemployment.

He would prefer a formula which distributes funds on the basis of number of unemployed.

I believe the law provides no latitude here, but the letter has gone to Quern, Leach, and McConahey for clarification

A.M.

A-



ACTION:

Date:

THE WHITE HOUSE

WASHINGTON

October 19, 1976

MEMORANDUM FOR: JIM CANNON
THROUGH: PHIL BUCHEN *P.*
FROM: KEN LAZARUS *K*
SUBJECT: Public Works and Prison
Rehabilitation

We have reviewed your draft memorandum to the President on the subject noted above and offer the following:

(1) We would suggest that you merge Options 2 and 3, which would appear to logically supplement, rather than supplant, one another.

(2) Three additional points should be made in support of the proposal:

(a) Approximately \$300 million would be required merely to bring various correctional facilities now under federal court order into compliance with federal court standards.

(b) This proposal is entirely consistent with the Public Works Employment Act, in that it suggests employment programs which are labor intensive as required by the legislation.

(c) There is no other source of funding for the needs of our court systems.

(3) Under the Act, the 25 percent set aside recommendation advanced by Justice could be done on either a state-by-state basis or in the aggregate. In our view, the latter would be preferable.

(4) Counsel's Office supports Option 1.



OCT 16 1976

THE WHITE HOUSE
WASHINGTON

October 16, 1976

MEMORANDUM FOR:

PHIL BUCHEN
ROBERT T. HARTMANN
JACK MARSH
MAX FRIEDERSDORF
ALAN GREENSPAN
JIM LYNN
BILL SEIDMAN ✓

FROM:

JAMES CANNON *HC Cannon*

SUBJECT:

Public Works and Prison Rehabilitation

Attached is a draft memo to the President regarding a proposal by the Department of Justice to allocate a specific portion of public works construction funds for the renovation of State and local penal institutions. The funds would be administered by the Economic Development Administration under Title I of the Public Works Employment Act of 1976.

I would appreciate your comments on the proposal by Wednesday, October 20.

RECOMMEND OPTION 1

Attachment



DOMESTIC COUNCIL

FROM: Governor Rhodes

SUBJECT:

cc: of letter to EDA re: funding for
public works project

----- Date: 10/22/76 -----

COMMENTS:

The Governor is requesting that the Regional
EDA administrator consider granting an
exception to funding and timing requirements
in order to finance a Cleveland State Office
Building project.



ACTION:

Date:



JAMES A. RHODES
GOVERNOR

STATE OF OHIO
OFFICE OF THE GOVERNOR
COLUMBUS 43215

976 OCT 28 PM 3 02

October 22, 1976

Mr. George Muller
Acting Director
Economic Development
Administration-Midwest Region
U. S. Department of Commerce
32 West Randolph Street
Room 1025
Chicago, Illinois 66601

Dear Mr. Muller:

The enclosed application for Title I Funds is of the highest importance to the State of Ohio. Recognizing that the application must be considered as an exception to the construction period and project funding limit, the purpose of this letter is to emphasize the reasons I believe an exception is in order.

The construction of a Cleveland State Office Building, containing 430,000 square feet, will produce more than 350 jobs in the construction trades over the life of the project. Approximately 8300 man weeks of manufacturing and fabricating work such as steel and concrete will be generated in related construction industries in the Cleveland area.

Approximately 210 man months of professional employment, such as architects and engineers, will be produced during the project. The creation of those jobs will significantly alleviate the 30% unemployment rate among architects and engineers in the Cleveland area. And the construction of a State Office Building will act as a catalyst for other development in the area immediately surrounding the building site and the community along the Cuyahoga River.

The construction of a Cleveland Office Building would also produce long-term benefits for the conduct of State business in Cuyahoga County. It would enable us to eliminate the scattering throughout the County of the offices of 20 State agencies that should be centralized. It would place State offices close to County and Federal offices thereby reducing trip costs of transportation of many citizens who are required to conduct business with more than one agency.

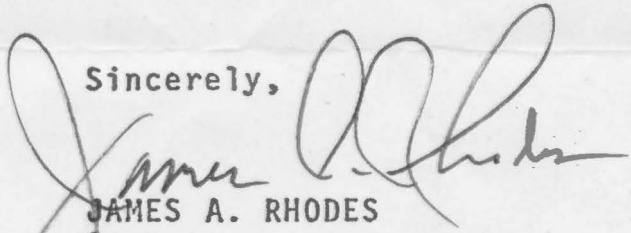


102802

It would be a particular benefit to the elderly, the youth, and those central city persons on welfare for whom the expense of traveling may be a burden. Approximately 60,000 square feet of space will be offered for the use of City, County, and Federal offices to expedite the public business of many citizens. I should also give special emphasis to the fact that the building will be located close to the Rapid Transit Terminal, thereby encouraging the use of public transportation by more of the citizens of Cuyahoga County.

For the foregoing reasons and for the reasons stated in the application submitted by the Ohio Building Authority, I urge you to give the application your most serious consideration.

Sincerely,



JAMES A. RHODES
Governor

bcc: Elliot L. Richardson, Secretary
U. S. Department of Commerce
14th Bet. E and Constitution Ave., N.W.
Washington, D.C. 20001

John Eden, Assistant Secretary for
Economic Development
Economic Development Administration
U. S. Department of Commerce
14th Bet. E. and Constitution Avenue, N.W.
Washington, D.C. 20001

Phillip Lavelle, Economic Development
Representative
Economic Development Administration
U. S. Department of Commerce
405 Security Building
Athens, Ohio 45701

James M. Cannon
Assistant to the President for
Domestic Affairs
The White House
Washington, D.C. 20500

