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Testimony before the House Committee on Education and Labor: Elementary, Secondary and Vocational Education Subcommittee; by Henry Eschwege, Director, Community and Economic Development Div.

Issue Area: Food (1700).

Contact: Community and Economic Development Div.

Budget Function: Health: Prevention and Control of Health Problems (553).

Organization Concerned: Food and Nutrition Service.

Congressional Relevance: House Committee on Education and Labor: Elementary, Secondary and Vocational Education Subcommittee.

The problems which occurred in the 1976 Summer Food Service Program for Children were similar to those noted in prior years by the Department of Agriculture's auditors and in the GAO February 1975 report on the program. Typical reported abuses included food waste, consumption of meals by adults, offsite consumption of meals by children, indications of kickbacks and bribes to sponsors from vendors supplying meals to the program, improper bidding procedures which resulted in contracts awarded at the maximum allowable rates, overpayments to sponsors based on improper claims for reimbursement, and maintenance of incomplete and inaccurate data on the number of meals delivered and the number of children fed. Generally, all of the serious program abuses involved private sponsors. About 75% of the sponsors operating the 1976 Summer Food Service Program were private organizations. Legislative changes that could help eliminate or minimize the extent of program abuses and improve operations in future years should be considered. These include: changes in the law with regard to sponsor eligibility, establishing program eligibility, meal services, reimbursable State administrative expenses, reimbursable sponsor administrative costs, advance payments to sponsors, publication of program regulations, and limitation on program sponsorship to public agencies, schools, and residential camps for needy children. (SC)

00523

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STATEMENT OF
HENRY ESCHWEGE, DIRECTOR
COMMUNITY AND ECONOMIC DEVELOPMENT DIVISION

BEFORE THE
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION
HOUSE COMMITTEE ON EDUCATION AND LABOR
ON
THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE ARE HERE TODAY AT THE REQUEST OF THE SUBCOMMITTEE TO DISCUSS THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN ADMINISTERED BY THE FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE. OUR OFFICE IS COMPLETING A REVIEW OF VARIOUS ASPECTS OF THIS PROGRAM PURSUANT TO YOUR AUGUST 1976 REQUEST, MR. CHAIRMAN. MY STATEMENT TODAY WILL SUMMARIZE OUR PROPOSALS AND SUGGESTIONS FOR ADMINISTRATIVE AND LEGISLATIVE CHANGES TO IMPROVE THE OPERATION OF THE PROGRAM.

THE SUMMER FEEDING PROGRAM IS ONE OF SEVERAL CHILD-FEEDING PROGRAMS WHICH THE CONGRESS AUTHORIZED TO SAFEGUARD THE HEALTH AND WELL-BEING OF THE NATION'S CHILDREN. IT IS DESIGNED TO FEED, DURING THE SUMMER VACATION, CHILDREN FROM AREAS IN WHICH POOR ECONOMIC CONDITIONS EXIST. BELOW THE FEDERAL LEVEL, THE PROGRAM IS GENERALLY ADMINISTERED BY THE STATE EDUCATION AGENCY WHICH ENTERS INTO AGREEMENTS WITH LOCAL SPONSORS TO OPERATE THE PROGRAM AT APPROVED FEEDING SITES. SPONSORS, IN TURN, ENTER INTO AGREEMENTS WITH FOOD VENDORS FOR DELIVERY OF FOOD TO THE FEEDING SITES. IF THE STATE AGENCY CANNOT OR WILL NOT ADMINISTER THE

PROGRAM, THE FOOD AND NUTRITION SERVICE ADMINISTERS IT IN THAT STATE IN THE SAME MANNER AS A STATE AGENCY WOULD. ALL PROGRAM COSTS ARE PAID BY THE FEDERAL GOVERNMENT.

IN RECENT YEARS, THE PROGRAM HAS SUBSTANTIALLY INCREASED IN TERMS OF PARTICIPATION AND COST. DURING THE SUMMER OF 1975, A REPORTED 2.4 MILLION CHILDREN WERE FED AT OVER 16,000 SITES MAINTAINED BY 1,200 SPONSORS. THE FEDERAL COST OF THE 1975 PROGRAM WAS ABOUT \$65 MILLION. FOR THE SUMMER OF 1976, IT IS ESTIMATED THAT 3.7 MILLION CHILDREN WERE FED AT NEARLY 25,000 SITES MAINTAINED BY OVER 2,100 SPONSORS. FEDERAL COSTS FOR THE 1976 PROGRAM ARE ESTIMATED AT ABOUT \$169 MILLION.

THE MAJOR OBJECTIVE OF OUR REVIEW HAS BEEN TO IDENTIFY ADMINISTRATIVE AND LEGISLATIVE CHANGES NEEDED TO PREVENT ABUSES WHICH WERE SO PROMINENT IN THIS PROGRAM FROM OCCURRING IN FUTURE YEARS. OUR REVIEW WAS CONDUCTED AT THE FOOD AND NUTRITION SERVICE HEADQUARTERS IN WASHINGTON AND AT TWO OF ITS REGIONAL OFFICES (MID-ATLANTIC--PRINCETON, N.J., AND WESTERN-SAN FRANCISCO). WE CONCENTRATED ON PROGRAM OPERATIONS IN NEW YORK CITY, LOS ANGELES COUNTY, PHILADELPHIA, AND BALTIMORE, AND RELATED STATE AGENCIES.

OUR APPROACH WAS TO OBTAIN INFORMATION ON THE CAUSES OF ABUSES THAT HAD ALREADY BEEN IDENTIFIED BY OTHER GROUPS, PRIMARILY BY THE DEPARTMENTS OF AGRICULTURE AND JUSTICE, AND BY CONGRESSWOMAN HOLTZMAN AND VARIOUS STATE OFFICIALS. AS AGREED WITH THE STAFF OF THIS SUBCOMMITTEE, WE DID NOT ATTEMPT TO IDENTIFY AND DOCUMENT ADDITIONAL ABUSES. WE WERE CAREFUL NOT TO IMPEDE IN ANY WAY THE CRIMINAL INVESTIGATIONS BEING MADE BY THE

TWO DEPARTMENTS. WE WERE TOLD THAT ONE INDICTMENT AND ONE CONVICTION
HAVE RESULTED FROM THESE INVESTIGATIONS, WHICH ARE CONTINUING.

WE ALSO TOOK INTO ACCOUNT THE RESULTS OF OUR EARLIER REVIEW
ON WHICH WE REPORTED TO THE CONGRESS ON FEBRUARY 14, 1975 (RED-75-336).

PROGRAM ABUSES

THE PROBLEMS WHICH OCCURRED IN THE 1976 PROGRAM WERE SIMILAR TO
THOSE NOTED IN PRIOR YEARS BY THE DEPARTMENT'S AUDITORS AND IN OUR
FEBRUARY 1975 REPORT. TYPICAL REPORTED ABUSES WERE

- FOOD WASTE CAUSED BY INADEQUATE STORAGE FACILITIES,
- DELIBERATE DUMPING OF FOOD BY SOME VENDORS, SPONSORS, OR
SITE PERSONNEL,
- FOOD THROWN AWAY BECAUSE IT WAS OF POOR QUALITY AND WAS
UNAPPETIZING,
- CONSUMPTION OF MEALS BY ADULTS,
- OFF SITE CONSUMPTION BY CHILDREN,
- MEALS SERVED DID NOT MEET NUTRITIONAL STANDARDS,
- INDICATIONS OF KICKBACKS AND BRIBES TO SPONSORS FROM VENDORS
SUPPLYING MEALS TO THE PROGRAM,
- IMPROPER BIDDING PROCEDURES WHICH RESULTED IN CONTRACTS
AWARDED AT THE MAXIMUM ALLOWABLE RATES,
- OVERPAYMENTS TO SPONSORS BASED ON IMPROPER CLAIMS FOR
REIMBURSEMENT, AND
- MAINTENANCE OF INCOMPLETE AND INACCURATE DATA ON THE NUMBER
(MEALS DELIVERED AND THE NUMBER OF CHILDREN FED.

GENERALLY, ALL OF THE SERIOUS PROGRAM ABUSES WE ARE AWARE OF INVOLVED PRIVATE SPONSORS. ABOUT THREE-FOURTHS OF THE SPONSORS OPERATING THE 1976 SUMMER FOOD SERVICE PROGRAM WERE PRIVATE ORGANIZATIONS--THE OTHER ONE-FOURTH WERE SCHOOLS OR CITY AND COUNTY GOVERNMENT AGENCIES. THREE OF THE LOCATIONS INCLUDED IN OUR REVIEW USED SUCH PUBLIC AGENCIES AS SPONSORS AND, FROM WHAT WE COULD LEARN, THESE SPONSORS RAN RELATIVELY GOOD PROGRAMS. AS DISCUSSED LATER IN THIS STATEMENT, MANY OF OUR PROPOSALS MIGHT NOT BE NECESSARY FOR PUBLIC AGENCIES.

ON DECEMBER 10, 1976, WE BRIEFED THE DEPARTMENT OF AGRICULTURE AND STAFF OF THIS SUBCOMMITTEE ON OUR PROPOSALS FOR ADMINISTRATIVE CHANGES TO STRENGTHEN THE PROGRAM. THE DEPARTMENT ISSUED PROPOSED REGULATIONS ON DECEMBER 21, 1976, AND SUBSEQUENTLY REVISED THEM BASED ON COMMENTS RECEIVED FROM 126 SOURCES. FINAL REGULATIONS WERE ISSUED ON MARCH 1, 1977. THE NEW REGULATIONS ARE INTENDED TO CORRECT OR ALLEVIATE MANY OF THE PROBLEMS AND ABUSES FOUND IN PAST PROGRAMS. WE BELIEVE, HOWEVER, THAT CERTAIN ADDITIONAL ADMINISTRATIVE REVISIONS ALONG THE LINES WE HAD PROPOSED SHOULD HAVE BEEN MADE. IT MAY BE TOO LATE TO REMEDY THIS FOR THE 1977 PROGRAM YEAR.

SPONSOR APPLICATIONS

FOR THE 1976 PROGRAM, THE SERVICE'S REGULATIONS REQUIRED THAT SPONSORS' APPLICATIONS BE SUBMITTED TO THE STATES AT LEAST 30 DAYS PRIOR TO THE START OF FOOD SERVICE. THIS 30-DAY INTERVAL PROVED TO BE TOTALLY INADEQUATE FOR SOME STATES, PARTICULARLY THE LARGER ONES, TO ADEQUATELY EVALUATE PROSPECTIVE SPONSORS' QUALIFICATIONS AND THE SERVICE THEY PROPOSED TO PROVIDE. AS YOU KNOW, IT WAS REPORTED THAT MANY INCOMPETENT AND DISHONEST SPONSORS WERE APPROVED FOR THE 1976 PROGRAM.

THE 1977 REGULATIONS GIVE EACH STATE AUTHORITY TO ESTABLISH THE DATE BY WHICH SPONSOR APPLICATIONS MUST BE SUBMITTED. THIS PROVISION WILL BE HELPFUL IN ALLEVIATING THE SITUATION WHICH OCCURRED IN 1976, BUT WE CONTINUE TO BELIEVE THAT THE DATES ESTABLISHED BY THE STATES SHOULD BE INCLUDED IN STATE PLANS AND BE SUBJECT TO SERVICE APPROVAL TO ENSURE THAT THE STATES HAVE ADEQUATE TIME TO EVALUATE THE APPLICATIONS.

SPONSOR TERMINATION

STATES HAVE PREVIOUSLY HAD AUTHORITY TO TERMINATE SPONSORS FOR CAUSE OR CONVENIENCE; HOWEVER, WE FOUND NO INSTANCES WHERE SPONSORS WERE TERMINATED DURING 1976 ALTHOUGH SERIOUS PROBLEMS IN SPONSOR OPERATIONS WERE DISCLOSED. WE PROPOSED THAT THE FOOD AND NUTRITION SERVICE PROVIDE GUIDANCE TO THE STATES REGARDING GROUNDS FOR SPONSOR TERMINATION AND FOR PROVIDING ALTERNATIVE MEANS OF CONTINUING THE FEEDING OPERATIONS OF TERMINATED SPONSORS. THE 1977 REGULATIONS PARTIALLY ADDRESSED THIS MATTER BY PROVIDING GUIDANCE ON SPONSOR TERMINATION FOR FAILURE TO COMPLY WITH PROCUREMENT REQUIREMENTS. HOWEVER, THEY DO NOT PROVIDE CRITERIA FOR TERMINATING A SPONSOR FOR OTHERWISE UNSATISFACTORY PERFORMANCE AND DO NOT SUGGEST ALTERNATE MEANS FOR FEEDING CHILDREN ONCE A SPONSOR HAS BEEN TERMINATED.

SITE APPROVAL AND LIMITATIONS

INADEQUATE CRITERIA RESULTED IN APPROVAL OF A NUMBER OF UNSATISFACTORY FEEDING SITES IN 1976. THE 1976 REGULATIONS REQUIRED THAT SPONSORS SUBMIT INFORMATION ON EACH PROPOSED SITE BUT THE REGULATIONS DID NOT DEFINE WHAT CONSTITUTED AN ELIGIBLE SITE, AND FAILED TO PRESCRIBE PROCEDURES

FOR SITE APPROVAL. AS A RESULT, MOST SITES WERE ROUTINELY APPROVED. WHEN FEEDING OPERATIONS BEGAN, A NUMBER OF PROBLEMS AROSE. SITES WERE FOUND TO HAVE INADEQUATE FOOD STORAGE AND SERVICE FACILITIES, SOME SITES WERE ASSIGNED TO MORE THAN ONE SPONSOR, AND SITES WERE SERVING MORE LUNCHESES THAN THERE WERE CHILDREN RESIDING IN THE AREA--IN ONE LOCATION SITES REPORTEDLY SERVED 44,500 LUNCHESES IN AN AREA WITH ONLY 28,400 CHILDREN UNDER 19 YEARS OF AGE.

THE REGULATIONS FOR 1977 DO LIMIT THE NUMBER OF CHILDREN WHICH CAN BE SERVED AT A FEEDING SITE AND THE NUMBER OF SITES PER SPONSOR. PRE-PROGRAM SITE VISITS WILL BE REQUIRED TO ALL NON-SCHOOL SITES IN LARGER CITIES. ALSO, STATES WILL HAVE THE AUTHORITY TO LIMIT THE TYPES OF MEALS SERVED. THESE REVISIONS WILL BE HELPFUL, BUT ADDITIONAL REGULATIONS ARE NEEDED TO

- DEFINE WHAT CONSTITUTES AN ADEQUATE AND ACCEPTABLE FEEDING SITE;
- REQUIRE STATES TO VISIT ALL SITES PRIOR TO APPROVAL, IN AN EFFORT TO AVOID THE KINDS OF MAJOR PROBLEMS EXPERIENCED IN THE PAST; AND
- REQUIRE THE STATES TO DISAPPROVE CLUSTERED SITES TO REDUCE COMPETITION FOR PARTICIPANTS, UNLESS SUCH MULTI-SITES ARE NEEDED TO FEED ELIGIBLE CHILDREN IN THE AREA WITHIN THE ESTABLISHED PER-SITE LIMIT.

SITE TERMINATION

WHILE THE PRIOR AND CURRENT REGULATIONS PROVIDED THE STATES WITH THE AUTHORITY TO TERMINATE SPONSORS, THERE IS NO CRITERIA FOR TERMINATING UNSATISFACTORY SITES. CONSEQUENTLY, UNSATISFACTORY SITES WERE NOT CLOSED LAST SUMMER UNTIL AFTER REPEATED AND NUMEROUS VIOLATIONS WERE DISCLOSED, SUCH AS IMPROPER FOOD STORAGE AND OFF-SITE CONSUMPTION OF FOOD. THE 1977 REGULATIONS PROVIDE FOR A STATE TO RESTRICT SITES TO ONE MEAL SERVICE A DAY--RATHER THAN ALLOWING UP TO FIVE A DAY AS IS OFTEN THE CASE--FOR CERTAIN VIOLATIONS OF FOOD SERVICE REQUIREMENTS. IN ADDITION, THE SERVICE SHOULD ALSO PROVIDE CRITERIA AND GUIDANCE FOR TERMINATING INDIVIDUAL SITES AND FOR PROVIDING ALTERNATE FEEDING SITES.

SPONSOR-VENDOR RELATIONSHIPS

PROGRAM REGULATIONS FOR 1976 AND EARLIER YEARS DID NOT GIVE STATE AGENCIES ADEQUATE CONTROL OVER SPONSORS' BIDDING AND CONTRACTING ACTIVITIES. AS A RESULT, PAST PROGRAM OPERATIONS WERE AFFECTED BY SERIOUS PROCUREMENT PROBLEMS AND ABUSES INCLUDING ALLEGED VENDOR KICKBACKS TO SPONSORS, FALSIFICATION OF SPONSORS' REIMBURSEMENT CLAIMS, AWARD OF IMPROPER CONTRACTS AT THE MAXIMUM RATES TO FAVORED VENDORS, AND A LACK OF COMPETITION FOR FOOD SERVICE CONTRACTS.

THE SERVICE'S 1977 REGULATIONS ADDRESS THESE PROBLEMS BY REQUIRING

- STATES TO WITNESS THE PUBLIC BID OPENINGS FOR SPONSORS EXPECTED TO RECEIVE MORE THAN \$100,000;
- STATES TO DEVELOP STANDARD CONTRACTS FOR USE BY ALL SPONSORS AND VENDORS TO PREVENT SPONSORS AND VENDORS FROM WRITING PROVISIONS FAVORABLE TO THEMSELVES AND OMITTING PENALTIES FOR NONPERFORMANCE, ETC.

--STATE APPROVAL OF THE AWARD OF ALL BIDS OF \$100,000 OR MORE AND ALL BIDS WHICH EXCEED THE LOWEST BID BY MORE THAN 2 CENTS PER MEAL (1977 REGULATIONS STATE THAT A BIDDER OTHER THAN THE LOWEST BIDDER MAY RECEIVE THE AWARD IF IT IS MORE ADVANTAGEOUS TO THE SPONSOR); AND
--VENDOR BONDING AND HEALTH CERTIFICATES.

ADDITIONAL REQUIREMENTS ARE NEEDED, HOWEVER,

--SPONSORS SHOULD BE REQUIRED TO PUBLICLY SOLICIT BIDDERS BY ADVERTISING IN TWO OR MORE GENERAL CIRCULATION NEWSPAPERS, AS WELL AS TRADE JOURNALS, THE COMMERCE BUSINESS DAILY, OR OTHER APPROPRIATE MEDIA WHENEVER PRACTICABLE;

--SPONSORS SHOULD BE REQUIRED TO ACCEPT THE LOWEST BID UNLESS CIRCUMSTANCES MAKE ACCEPTANCE OF ANOTHER BID MORE BENEFICIAL TO THE PROGRAM AND THIS CAN BE ADEQUATELY JUSTIFIED TO THE STATE;

--AFTER THE BID OPENINGS BUT PRIOR TO THE AWARD OF ANY CONTRACT EXCEEDING \$100,000, THE STATE AGENCY SHOULD BE REQUIRED TO EVALUATE THE PROSPECTIVE VENDOR, INSPECT THE VENDOR'S FOOD PREPARATION FACILITIES, INQUIRE INTO POTENTIAL CONFLICTS OF INTEREST BETWEEN THE CONTRACTING PARTIES, AND CONSIDER THE VENDOR'S PRIOR PERFORMANCES IN OTHER CHILD NUTRITION PROGRAMS; AND

--THE STATE AGENCY SHOULD APPROVE ALL SPONSOR/FOOD VENDOR CONTRACT AWARDS FOR SPONSORS ENTERING CONTRACTS TOTALING MORE THAN \$100,000.

TIMING OF ADVANCES OF ADMINISTRATIVE FUNDS TO STATES

IN 1976, THE FINAL ADVANCE OF FUNDS FOR STATE ADMINISTRATIVE COSTS WAS MADE AS LATE AS AUGUST, ALTHOUGH IT WAS PLANNED FOR JULY 15. SEVERAL STATES

COMPLAINED THAT THEY NEEDED THIS LAST ADVANCE EARLIER TO MATCH THEIR ACTUAL NEEDS FOR CASH AND THAT LATE RECEIPT OF THE ADVANCE PREVENTED THEM FROM SPENDING MONEY FOR NEEDED ADMINISTRATIVE MEASURES. WE SUGGESTED THAT THE SERVICE MAKE THE FINAL ADVANCES BY JUNE 15. THE SERVICE'S NEW REGULATIONS PROVIDE FOR SOME ACCELERATION OF ADVANCES TO STATES. MORE MONEY WILL BE MADE AVAILABLE EARLIER; HOWEVER, THE FINAL ADVANCE COULD STILL BE MADE AS LATE AS JULY 15.

STATE PROGRAM STAFFING

LATE HIRING TOGETHER WITH UNDERESTIMATING OF ACTUAL STAFF NEEDS BY THE STATES RESULTED IN STATE AGENCIES NOT HAVING THE RESOURCES NEEDED TO ADEQUATELY MONITOR AND ADMINISTER THE 1976 PROGRAM. TO GIVE THIS PROGRAM THE YEAR-ROUND ATTENTION IT NEEDS IN THE LARGER PROGRAM STATES, WE PROPOSED THAT THERE BE PERMANENT, FULL-TIME OR EQUIVALENT, YEAR-ROUND STATE AGENCY STAFFING IN STATES WHERE THE PROGRAM IS EXPECTED TO EXCEED \$5,000,000 A YEAR. THE SERVICE DID NOT ADOPT OUR PROPOSAL. ITS NEW REGULATIONS SIMPLY STATE THAT STATE STAFFING BE AVAILABLE IN SUFFICIENT TIME TO PROPERLY PLAN AND IMPLEMENT THE PROGRAM.

PROGRAM MONITORING BY STATES

THE SERVICE'S REGULATIONS FOR LAST SUMMER REQUIRED LIMITED MONITORING OF SPONSORS AND THEIR SITES BY THE STATES. STATES' MONITORING EFFORTS IN MAJOR URBAN AREAS, FOR THE MOST PART, WERE INADEQUATE TO ASSURE THE INTEGRITY OF PROGRAM OPERATIONS OR TO MINIMIZE ABUSES. IN SOME CASES, ALONG WITH BEING INSUFFICIENT IN NUMBER MONITORS WERE HIRED LATE AND WERE POORLY QUALIFIED OR TRAINED.

THE 1977 REGULATIONS STRENGTHEN THE STATES' MONITORING REQUIREMENTS FOR SPONSORS AND SITES, ESPECIALLY FOR APPLICANTS WHO HAVE NOT PREVIOUSLY PARTICIPATED IN THE PROGRAM AND APPLICANTS WHO WILL RECEIVE MORE THAN \$30,000 IN PROGRAM PAYMENTS. ADDITIONALLY STATE AGENCIES WHICH EXPECT TO RECEIVE MORE THAN \$250,000 IN STATE ADMINISTRATIVE FUNDING ARE REQUIRED TO CONDUCT REVIEWS, DURING THE FIRST 4 WEEKS OF OPERATIONS, OF CERTAIN MULTI-SITE SPONSORS ESPECIALLY IF THE SITES ARE LOCATED IN CITIES WITH SCHOOL ENROLLMENT EXCEEDING 75,000. ALSO, THE STATES, FOR THE FIRST TIME, WILL BE RESPONSIBLE FOR SOME MONITORING OF FOOD VENDOR OPERATIONS AND MAY REQUIRE THE REGISTRATION OF ALL VENDORS DESIRING TO CONTRACT WITH A SPONSOR.

THE 1977 REGULATIONS DO NOT, HOWEVER, FULLY INCORPORATE OUR PROPOSALS. WE PROPOSED THAT THE STATES ALSO BE REQUIRED TO VISIT ALL SITES DURING THE FIRST 4 WEEKS OF OPERATIONS AND TO CONCENTRATE SUBSEQUENT STATE MONITORING ON SITES FOUND TO HAVE SERIOUS DEFICIENCIES. WE ALSO PROPOSED THAT THE SERVICE SHOULD REQUIRE THAT STATE PROGRAM PLANS INCLUDE INFORMATION ON THE FREQUENCY OF VISITS TO BE MADE TO FEEDING SITES AND VENDORS, AND THE SCOPE OF STATE MONITORING. ANY STATE PLANS FOUND TO BE INADEQUATE IN THIS REGARD SHOULD NOT BE APPROVED.

PROGRAM MONITORING BY SPONSORS

THE NEW REGULATIONS INCREASE THE REQUIREMENTS FOR THE SELF-MONITORING OF SITES BY SPONSORS. HOWEVER, SELF-MONITORING HAS NOT ALWAYS WORKED TOO WELL. SPONSORS HAVE NO STRONG INCENTIVES TO REPORT AND CORRECT DEFICIENCIES. THE SPONSOR DOES NOT PAY FOR THE MEALS AND THE SPONSOR'S ADMINISTRATIVE

COST REIMBURSEMENT CEILING INCREASES WITH EACH MEAL REPORTED AS HAVING BEEN SERVED.

CONSEQUENTLY, WE SUPPORT AN EXPANDED STATE ROLE IN MONITORING PROGRAM OPERATIONS--AS DISCUSSED PREVIOUSLY.

SPONSOR RECORDKEEPING

SPONSOR RECORDKEEPING IN SUFFICIENT DETAIL TO JUSTIFY THE REIMBURSEMENT CLAIMED IS NEEDED TO PROTECT THE GOVERNMENT'S INTEREST. THE MAINTENANCE OF INADEQUATE SPONSOR AND SITE RECORDS HAS BEEN A CONTINUING PROBLEM IN THIS PROGRAM AND WAS ONE OF THE MAJOR PROBLEMS AFFECTING PROGRAM OPERATIONS IN SOME OF THE STATES WE VISITED.

THE REGULATIONS CALL FOR THE MAINTENANCE OF RECORDS ON NUMBERS OF MEALS REPORTED AS BEING SERVED. SUCH INFORMATION IS NOT ADEQUATE TO SUPPORT THE SPONSORS' CLAIMS. SPONSORS SHOULD BE REQUIRED TO KEEP ROSTERS OF ENROLLED CHILDREN IN SUPPORT OF MEALS SERVED.

LEGISLATIVE CONSIDERATIONS

IN VIEW OF PAST PROGRAM ABUSES, THERE ARE SOME LEGISLATIVE CHANGES THAT COULD HELP ELIMINATE OR MINIMIZE THE EXTENT OF PROGRAM ABUSES AND IMPROVE OPERATIONS IN FUTURE YEARS.

SPONSOR ELIGIBILITY

SECTION 13(a)(1) OF THE CURRENT LAW PROVIDES THAT "ANY ELIGIBLE SERVICE INSTITUTION SHALL RECEIVE THE SUMMER FOOD PROGRAM UPON ITS REQUEST". IN PRIOR YEARS THIS PROVISION CREATED THE IMPRESSION AMONG SOME STATES THAT ALL NONPROFIT SERVICE INSTITUTIONS THAT APPLY ARE AUTOMATICALLY ELIGIBLE. AS A RESULT, FOR EXAMPLE, ALL SERVICE INSTITUTIONS

THAT APPLIED IN 1976 WERE APPROVED IN THE FOUR STATES WE VISITED. WE WERE TOLD THAT SOME OF THESE SPONSORS PROVED TO BE INCOMPETENT OR DISHONEST.

THE SERVICE TOLD US THAT, BASED ON ITS INFORMAL DISCUSSIONS WITH THIS SUBCOMMITTEE, IT CONSIDERS THIS PROVISION TO MEAN THAT SPONSORS COULD NOT BE DISAPPROVED SOLELY BECAUSE FEDERAL FUNDS WERE NOT AVAILABLE. THERE IS SOME CLARIFICATION IN THE SERVICE'S 1977 REGULATIONS WHICH PROVIDE CRITERIA FOR DETERMINING WHICH SPONSORS MUST BE SELECTED FIRST IF MORE THAN ONE SPONSOR WANTS TO SERVE THE SAME CHILDREN. WE NOTE, HOWEVER, THAT PUBLIC AGENCIES DO NOT HAVE TOP PRIORITY UNDER THESE CRITERIA--WE BELIEVE THEY SHOULD. THE REGULATIONS ALSO CONTAIN OVERALL STANDARDS AND CRITERIA FOR SPONSOR ELIGIBILITY WHICH, AMONG OTHER THINGS, WILL ALLOW STATES TO REJECT SPONSOR-APPLICANTS THAT HAVE AN UNSATISFACTORY TRACK RECORD.

ALTHOUGH THE SERVICE'S NEW REGULATIONS MAY BE HELPFUL IN CLARIFYING THE MISUNDERSTANDING WHICH OCCURRED IN 1976, WE BELIEVE THE CONGRESS SHOULD MAKE IT CLEAR THAT THE LAW DOES NOT REQUIRE MANDATORY APPROVAL OF EVERY SERVICE INSTITUTION THAT APPLIES.

ESTABLISHING ELIGIBILITY

CURRENT LEGISLATION ESTABLISHES PROGRAM ELIGIBILITY ON AN AREA BASIS-- ELIGIBLE AREAS ARE THOSE IN WHICH AT LEAST 1/3 OF THE CHILDREN ARE ELIGIBLE FOR FREE OR REDUCED PRICE SCHOOL MEALS. SUCH PROGRAM ELIGIBILITY HAS CAUSED PROBLEMS WITH REGARD TO DETERMINING THE ELIGIBILITY OF RESIDENTIAL SUMMER CAMPS NOT LOCATED IN TARGET AREAS. ALSO, ALTHOUGH PROGRAM OFFICIALS GENERALLY BELIEVE THAT FEW URBAN SITES WOULD FAIL TO MEET THE

ELIGIBILITY REQUIREMENT, THEY SAID THAT IT IS DIFFICULT TO ESTABLISH THE ELIGIBILITY OF PARTICULAR SITES UNDER THE CRITERIA IN THE LAW BECAUSE DATA IS NOT GENERALLY AVAILABLE TO ASCERTAIN WHETHER 1/3 OF THE CHILDREN IN THE TARGET AREA ARE NEEDY (AS REQUIRED BY LAW). THEY SUGGEST THAT CENSUS DATA, WHICH IS AVAILABLE BY GEOGRAPHICALLY-DEFINED TRACTS AND INCLUDES INFORMATION ON NEEDY FAMILIES, SHOULD BECOME THE PRIMARY CRITERION FOR DETERMINING SITE ELIGIBILITY--ESPECIALLY IN URBAN AREAS.

SUCH A CHANGE MAY ALLEVIATE SOME OF THE DIFFICULTY WITH THE PRESENT CRITERIA. AS WE INDICATED EARLIER, HOWEVER, THERE HAS BEEN A RAPID GROWTH IN THIS PROGRAM. YET, UNDER THE 1/3 CRITERIA, MORE THAN HALF OF THE CHILDREN PARTICIPATING IN SOME AREAS CAN BE FROM NON-NEEDY FAMILIES AND NOT BE CHARGED FOR THE MEALS RECEIVED. THE CONGRESS COULD INCREASE THE 1/3 REQUIREMENT, BUT THIS SHOULD BE CONSIDERED WITH CARE SINCE ANY INCREASE COULD ELIMINATE NEEDY CHILDREN FROM THE PROGRAM. ANOTHER APPROACH WOULD BE TO REPLACE THE AREA ELIGIBILITY CONCEPT WITH ELIGIBILITY BASED ON THE NEEDS OF THE INDIVIDUAL PARTICIPANTS, AS IS REQUIRED IN THE SCHOOL LUNCH AND BREAKFAST PROGRAMS.

MEAL SERVICE

THE CURRENT LEGISLATION STATES THAT "NO SERVICE INSTITUTION SHALL BE PROHIBITED FROM SERVING BREAKFASTS, SUPPERS AND MEAL SUPPLEMENTS AS WELL AS LUNCHEES UNLESS THE SERVICE PERIOD OF DIFFERENT MEALS COINCIDES OR OVERLAPS."

IN 1976 THE FOUR STATES WE REVIEWED ROUTINELY APPROVED THE NUMBER OF FOOD SERVICES--UP TO FIVE A DAY--DESIRED BY THE SPONSORS BECAUSE APPROVAL APPEARED MANDATORY. SPONSORS COMPETED FOR CHILDREN BY OFFERING TO SERVE MORE MEALS THAN OTHER SPONSORS, FOOD WAS WASTED BECAUSE OF INADEQUATE STORAGE FACILITIES AND BECAUSE TOO MUCH FOOD WAS BEING PUSHED AT THE CHILDREN, AND COSTS SPIRALED.

IT IS OUR UNDERSTANDING THAT THE SUMMER FEEDING PROGRAM WAS ORIGINALLY INTENDED TO SERVE AS A VACATION SUBSTITUTE FOR THE SCHOOL FEEDING PROGRAMS AVAILABLE TO NEEDY CHILDREN DURING THE SCHOOL YEAR. SEVERAL STATE AND SERVICE OFFICIALS NOTED THAT IT SEEMED INCONSISTENT FOR A CHILD TO RECEIVE UP TO FIVE MEALS A DAY UNDER THE SUMMER PROGRAM WHILE UNDER THE SCHOOL FEEDING PROGRAMS THE CHILD WOULD RECEIVE, AT A MAXIMUM, LUNCH, BREAKFAST, AND EXTRA MILK. SOME STATE OFFICIALS ALSO NOTED THAT FIVE FOOD SERVICES IN ONE DAY ARE TOO MANY FOR MOST CHILDREN.

IN VIEW OF THE PROGRAM'S OBJECTIVES AND OPERATING PROBLEMS, THE CONGRESS MAY WANT TO LIMIT MEAL SERVICES UNDER THE PROGRAM TO LUNCH AND BREAKFAST, EXCEPT IN THE CASE OF RESIDENTIAL CAMPS WHERE THE NEEDY CHILD CANNOT GO HOME FOR SUPPER AND FUNDS FROM OTHER SOURCES ARE NOT AVAILABLE TO PAY FOR THE MEAL.

STATE ADMINISTRATIVE EXPENSES

THE CURRENT LAW PROVIDES THAT STATE COSTS FOR ADMINISTERING THE SUMMER FOOD SERVICE PROGRAM WILL BE REIMBURSED UP TO 2 PERCENT OF PROGRAM COSTS IN EACH STATE EACH YEAR. STATE OFFICIALS HAVE COMPLAINED THAT THIS PROVISION MAKES IT VERY DIFFICULT FOR THEM TO PLAN AND BUDGET THEIR ACTIVITIES BECAUSE THEY DON'T KNOW HOW MUCH IN ADMINISTRATIVE FUNDS THEY WILL BE ENTITLED TO UNTIL AFTER THE PROGRAM IS OVER EACH YEAR AND THE MONEY HAS ALREADY BEEN SPENT.

MOST STATES ARE SHORT OF FUNDS AND SOME ARE NOT WILLING TO RISK HAVING TO FINANCE PART OF THE ADMINISTRATIVE COST OF THE SUMMER FOOD SERVICE PROGRAM WITH STATE FUNDS. CONSEQUENTLY, SOME HAVE BEEN VERY CAUTIOUS IN SPENDING MONEY ON THE ADMINISTRATION OF THIS PROGRAM. THE END RESULT WAS THAT SOME STATES HAVE NOT BEEN SPENDING ALL OF THE ADMINISTRATIVE FUNDS THAT ULTIMATELY WOULD HAVE BEEN AVAILABLE TO THEM UNDER THE LAW. FOR EXAMPLE, ONE STATE INCLUDED IN OUR

REVIEW SPENT THE EQUIVALENT OF 0.2 PERCENT OF TOTAL PROGRAM COSTS (CURRENT ESTIMATE). ON THE OTHER HAND, ANOTHER STATE APPEARS TO HAVE EXCEEDED THE 2 PERCENT LIMIT BECAUSE IT OVERESTIMATED PROGRAM COSTS.

WE BELIEVE THAT ANY ARRANGEMENT FOR REIMBURSING STATE ADMINISTRATIVE COSTS WHICH PREVENTS STATES FROM KNOWING IN ADVANCE HOW MUCH THEY CAN SPEND FOR ADMINISTRATION HAS SERIOUS DRAWBACKS. WE SUGGEST THAT THE SERVICE BE GIVEN AUTHORITY TO NEGOTIATE WITH THE STATES, BASED ON STATE-PREPARED BUDGETS AND PLANS, TO DETERMINE A MAXIMUM AMOUNT UP TO WHICH A STATE'S ACTUAL COSTS COULD BE REIMBURSED. IF THE CONGRESS DETERMINES THAT A LEGISLATIVE MAXIMUM IS NECESSARY ON THE AMOUNT OF ADMINISTRATIVE FUNDS ANY STATE MAY RECEIVE, THE MAXIMUM SHOULD BE DETERMINABLE WELL IN ADVANCE OF THE TIME THE STATES MUST ESTABLISH THEIR BUDGETS.

SPONSOR ADMINISTRATIVE COSTS

SPONSORS ARE REIMBURSED FOR THEIR ACTUAL ALLOWABLE ADMINISTRATIVE COSTS SUBJECT TO A CEILING BASED ON A LEGISLATIVELY SPECIFIED AMOUNT PER MEAL FOR EACH TYPE OF MEAL OR FOOD SERVICE. THIS PROVISION HAS CREATED AN INCENTIVE FOR WASTE AND POSSIBLE CHEATING. IF SPONSORS INCREASE THE NUMBER OF MEALS THEY REPORT AS SERVED, THE MAXIMUM AMOUNT OF ADMINISTRATIVE FUNDS THEY MAY RECEIVE WILL ALSO BE INCREASED.

WE SUGGEST THAT THE CONGRESS REQUIRE THAT THE MAXIMUM REIMBURSEMENT OF EACH SPONSOR'S ADMINISTRATIVE COSTS BE BASED ON A PROGRAM-RELATED BUDGET APPROVED BY THE STATE AS A CEILING. EACH STATE SHOULD BE REQUIRED TO ESTABLISH GUIDELINES--WHICH SHOULD BE SUBJECT TO SERVICE APPROVAL-- FOR THE SIZE AND SALARY OF SPONSORS' STAFFS, AS WELL AS OTHER ADMINISTRATIVE COSTS, BASED ON THE NUMBER OF SITES EACH SPONSOR IS HANDLING.

ADVANCE PAYMENTS TO SPONSORS

SECTION 13(d) REQUIRES THAT THE SERVICE MAKE ADVANCE PAYMENTS TO EACH STATE

BY JUNE 1, JULY 1 AND AUGUST 1 EACH YEAR TO BE USED BY THE STATES FOR MAKING ADVANCE PAYMENTS TO SPONSORS. THE PAYMENTS ARE TO BE THE GREATER OF (1) THE AMOUNT EARNED IN THE SAME MONTH THE YEAR BEFORE OR (2) 65 PERCENT OF THE AMOUNT EXPECTED TO BE EARNED DURING THE MONTH. THE LAW HAS BEEN INTERPRETED AS REQUIRING THAT STATES PASS ON THE ADVANCE FUNDS TO EACH SPONSOR IN THE SAME AMOUNT AS WAS PROVIDED TO THE STATE.

ADVANCE PAYMENTS LARGER THAN A SPONSOR'S CASH NEEDS OR HIS ELIGIBLE CLAIMS FOR REIMBURSEMENT HAVE RESULTED IN SOME CASES FROM THIS PROVISION BECAUSE OF SPONSOR OVERESTIMATES OF PROGRAM SIZE. WE SUGGEST THAT STATE AGENCIES BE GIVEN FLEXIBILITY TO MAKE ADVANCE PAYMENTS TO SPONSORS BASED ON STATES' DETERMINATIONS OF ACTUAL NEED.

PROGRAM REGULATIONS

THE DEPARTMENT IS REQUIRED TO PUBLISH FINAL PROGRAM REGULATIONS, GUIDELINES, APPLICATIONS, AND HANDBOOKS BY MARCH 1 OF EACH FISCAL YEAR. STATE OFFICIALS HAVE DESCRIBED THIS DATE AS BEING TOO LATE FOR ORDERLY IMPLEMENTATION OF THE PROGRAM AND AS BEING A CONTRIBUTING CAUSE FOR THE PROBLEMS AFFECTING THE 1976 SUMMER PROGRAM. TO GIVE STATES AND SPONSORS MORE PLANNING TIME, WE SUGGEST THAT THE DEPARTMENT BE REQUIRED TO PUBLISH FINAL REGULATIONS BY JANUARY 1.

LIMIT PROGRAM SPONSORSHIP

THE SUMMER FOOD SERVICE PROGRAM IS DESIGNED TO CONTINUE INTO THE SUMMER BENEFITS OF THE SCHOOL FEEDING PROGRAMS AVAILABLE AT SCHOOLS DURING SCHOOL MONTHS. SCHOOLS AND PUBLIC AGENCIES SUCH AS LOCAL PARKS AND RECREATION DEPARTMENTS MAY BE IN THE BEST POSITION TO PROVIDE THE

SERVICES THE CONGRESS IS SEEKING WITHOUT THE WIDESPREAD ABUSES THAT SEEM, IN MANY CASES, TO BE MOTIVATED BY OPPORTUNITIES FOR ECONOMIC GAIN.

THE VARIOUS CHANGES IN REGULATIONS AND LAW DISCUSSED IN THIS STATEMENT ARE BASED ON THE CONCEPT OF HAVING PRIVATE SPONSORS CONTINUE TO OPERATE THE PROGRAM AND ADDRESS THE PROBLEMS WHICH HAVE ARISEN WITH THESE SPONSORS. MOST OF THESE CHANGES WOULD BE UNNECESSARY IF PROGRAM SPONSORS WERE LIMITED TO SCHOOLS PARTICIPATING IN THE SCHOOL LUNCH PROGRAM, RESIDENTIAL CAMPS FOR NEEDY CHILDREN, AND PUBLIC AGENCIES.

WHILE MOST FEDERAL AND STATE OFFICIALS WE TALKED WITH SAID THAT THIS WOULD BE A DESIRABLE APPROACH, THEY CAUTIONED THAT KEEPING THE SCHOOLS OPEN DURING THE SUMMER WOULD INVOLVE SIGNIFICANT ADDITIONAL EXPENSES BEYOND WHAT IS CURRENTLY REIMBURSABLE UNDER THE LAW. ALSO, THERE MAY BE OTHER PROBLEMS IN SOME LOCALITIES NOT ACCUSTOMED TO KEEPING SCHOOLS OPEN ALL YEAR.

SUCH A CHANGE WOULD REQUIRE THAT THE SCHOOLS OR OTHER ORGANIZATIONS BE REIMBURSED FOR THEIR COSTS; HOWEVER, THERE ARE ADVANTAGES TO SUCH AN APPROACH AND THE CONGRESS MAY WISH TO CONSIDER THIS ALTERNATIVE IN REVISING PROGRAM LEGISLATION.

FUTURE REVIEW EFFORTS

OUR OFFICE PLANS TO MONITOR THE 1977 SUMMER FEEDING PROGRAM. THIS WILL INCLUDE A LOOK AT THE PRE-FEEDING ACTIVITIES CARRIED OUT BY THE DEPARTMENT, ITS REGIONAL OFFICES, AND THE STATES. WE WILL INQUIRE INTO

--THE GUIDANCE PROVIDED TO THE STATES AND SPONSORS IN IMPLEMENTING THE NEW REGULATIONS,

--THE HIRING AND TRAINING OF STAFF BY STATES, AND

--THE PROCESS USED IN SPONSOR AND SITE SELECTION.

THE PURPOSE OF THIS EFFORT WILL BE TO DETERMINE WHETHER ADMINISTRATIVE CHANGES ARE EFFECTIVE IN CORRECTING PAST ABUSES AND WHETHER A NEED EXISTS FOR FURTHER ADMINISTRATIVE OR LEGISLATIVE CHANGES.

THIS CONCLUDES MY STATEMENT, MR. CHAIRMAN. WE WILL BE GLAD TO RESPOND TO ANY QUESTIONS YOU MAY HAVE.