

RELEASED

RESTRICTED — Not to be released outside the General Accounting Office except on the basis of specific approval by the Office of Congressional Relations.

114644

17409

REPORT BY THE

Comptroller General

OF THE UNITED STATES

Knoxville Expo '82: Why Changes Are Needed In Law On Reuse Of U.S. Pavilions At International Expositions

The Department of Commerce is building a permanent, rather than a temporary, pavilion for the Knoxville Expo '82, even though there are no firm plans for its use after the exposition. Construction of the more costly permanent building is not justified and is attributable in part to weaknesses in the law governing reuse of U.S. pavilions.

The law does not mandate construction of a less costly temporary pavilion when there are no plans for its later use. Nor does it direct Commerce to design a pavilion that will meet the immediate needs of the exhibition as well as the subsequent needs of the Federal Government.

These and other weaknesses in the law were identified in a 1976 GAO report. GAO is reiterating its recommendation to amend the law to maximize the reuse of U.S. pavilions.

This report was requested by the former Chairman, Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies, Senate Committee on Appropriations.



114677



PLRD-81-11
MARCH 20, 1981

516045

Request for copies of GAO reports should be sent to:

**U.S. General Accounting Office
Document Handling and Information
Services Facility
P.O. Box 6015
Gaithersburg, Md. 20760**

Telephone (202) 275-6241

The first five copies of individual reports are free of charge. Additional copies of bound audit reports are \$3.25 each. Additional copies of unbound report (i.e., letter reports) and most other publications are \$1.00 each. There will be a 25% discount on all orders for 100 or more copies mailed to a single address. Sales orders must be prepaid on a cash, check, or money order basis. Check should be made out to the "Superintendent of Documents".



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

B-202118

The Honorable Lowell P. Weicker
Chairman, Subcommittee on State,
Justice, Commerce, the Judiciary,
and Related Agencies
Committee on Appropriations
United States Senate

R

SEN 00312

Dear Mr. Chairman:

This report is in response to the former Chairman's August 20, 1980, request that we review the bidding practices associated with the Knoxville International Energy Exposition.

As arranged with your Office, we are sending copies of this report to the former Chairman, the Secretary of Commerce, the Secretary of Housing and Urban Development, and the Administrator of General Services. Unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days from the date of the report. Then, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Milton J. Aoustan

Acting Comptroller General
of the United States

AGC 00074
AGC 00023
AGC 00017
AGC 00912
DLG 0516015
6336



D I G E S T

Knoxville, Tennessee, will host an international exposition on energy--Expo '82--from May to October 1982. The total financial commitment for Expo '82 exceeds \$176.9 million. The Federal Government's cost is \$44.4 million--\$21.3 million for design, construction, and operation of a U.S. pavilion and \$23.1 million in grants and other assistance. The city of Knoxville raised \$32.6 million by selling its bonds, and private sources raised \$99.9 million. (See pp. 1 to 4.)

U.S. PAVILION REUSE
PLAN NOT DEVELOPED

The Department of Commerce, which is responsible for the design, construction, and operation of the U.S. pavilion, and the General Services Administration (GSA) worked together initially to develop a reuse plan for the U.S. pavilion at Expo '82. However, problems were encountered and the plan was never developed.

Throughout the planning phase, Commerce preferred converting the pavilion to an energy research facility rather than a future Federal office building, even though GSA had identified a need for 100,000 square feet of office space in the Knoxville area. Currently, GSA is leasing about 111,000 square feet of space in the Knoxville area at an annual rental of \$953,000.

Commerce plans to transfer the pavilion to the University of Tennessee after the exposition for use as an energy research laboratory. Although the university has expressed interest in the pavilion, it is not obligated to take it over. If the conversion costs become too high, the university may not accept the structure. The Federal Government would then have a surplus building with no planned Federal reuse.

Commerce is building a permanent, rather than a temporary, pavilion, even though there are no adequate Federal plans for its use after Expo '82. GAO believes that construction of the more costly permanent building is not justified and is attributable in part to weaknesses in the law governing reuse of U.S. pavilions. For example, the law does not mandate construction of a less costly temporary structure when there are no plans for its later use. Nor does it direct Commerce to design a pavilion that will meet the immediate needs of the exhibition as well as the subsequent needs of the Federal Government. These and other weaknesses were identified in a 1976 GAO report which recommended changes in the law to maximize the residual use of U.S. pavilions. GAO is again recommending these changes in this report. (See pp. 6 to 13.)

In its proposed legislative program for the 97th Congress, Commerce included a tentative proposal to amend Public Law 91-269 relating to Federal participation in international expositions. According to Commerce, most of the problems it has run into concerning residual use of the Expo '82 pavilion are caused by the ambiguity of the law. Commerce stated that one objective of the proposed amendments is to ensure greater attention in the planning stage to the ultimate use of Federal pavilion structures, an issue identified in the 1976 report.

According to the proposed legislative program, the need to amend Public Law 91-269 is underscored by the extremely late request for congressional authorization and funding of U.S. participation in Expo '82. As a result, the Knoxville project is now faced with a dangerously tight construction schedule which may interfere with the quality and efficiency of the U.S. pavilion design and implementation. (See pp. 7 and 8.)

INSUFFICIENT LEADTIME FOR PAVILION DESIGN AND CONSTRUCTION

The sponsors of Expo '82 were late in putting together an adequate financial plan. As a result, Commerce had to delay its request for authorizing and funding legislation.

When funds were appropriated in July 1980, the schedule for design and construction had slipped

by about 13 months, making it too late to use conventional methods generally followed on Government construction projects. GSA declined to manage the construction of the Expo '82 pavilion for Commerce because of the many unresolved issues which resulted in insufficient leadtime for design and construction.

Because the project had to be managed under the compressed time schedule, Commerce had to hire a construction manager and overlap the design and construction phases of the pavilion. As a result, the Federal Government may incur extra costs for overtime work and will pay premium prices for expedited delivery of materials so that construction can be completed on schedule. The amount of extra cost will be determined as construction progresses. Unless additional funds are appropriated, these extra costs must be offset by reallocating pavilion operating funds or reducing the pavilion's scope.

In addition to a \$3.5 million reduction by the Office of Management and Budget in Commerce's budget request for the construction and operation of the pavilion, numerous changes have been made or proposed to reduce the cost and scope of the pavilion and to meet the tight time frame and cost limitations. One significant item eliminated was the power tower, which was to demonstrate advancements in energy technology. Not only was it expensive (\$750,000), but it also required a long leadtime to develop. According to Department of Energy officials, the pavilion, as currently proposed, will not be an exemplary model of design and efficient energy use. (See pp. 14 to 20.)

COMPETITIVE BIDDING NOT USED ON
ACTION GRANT PROJECTS

Numerous allegations have been made about the selection of, and the contracting by, the private developers for the construction of seven permanent facilities. The facilities are estimated to cost \$67.3 million and are financed, in part, by a \$9.9 million grant from the Department of Housing and Urban Development (HUD). The allegations concerned the possibility of unwarranted private gains and substantial profits that will be realized by individuals and companies associated with these facilities.

The selection of developers by the city of Knoxville and the contracting by the developers for the construction of permanent facilities under the HUD action grants have been or will be accomplished through noncompetitive processes. According to HUD, competitive bidding is not required for private developments under this type of grant agreement. However, HUD did include in the grant agreement controls and conditions governing the use of grant funds, including a limitation on profits which should make it difficult for developers and contractors to realize exorbitant profits. (See pp. 21 to 27.)

RECOMMENDATION TO THE CONGRESS

To avoid unnecessary expenditures and to maximize residual use of U.S. pavilions, the Congress should amend Public Law 91-269 as follows:

- The Administrator of General Services should be required to determine at the outset the Federal Government's need for a permanent structure at the exposition site.
- When a future Federal need has been identified, the Secretary of Commerce, after consulting with GSA, should see that the pavilion is designed to meet the exposition's immediate needs and the Federal Government's reuse needs.
- When a Federal residual use has been identified, but the pavilion cannot be designed to fit both the exposition and Federal residual needs, a temporary structure should be built.
- The legislation should define a "temporary" structure as one having no practical reuse and destined for disposal at the conclusion of the exposition.
- The law should stipulate that future legislation authorizing the construction of U.S. pavilions should also authorize funds for their conversion at the close of the exposition if a specific Federal need is identified. (See pp. 12 and 13.)

RECOMMENDATION TO THE
SECRETARY OF COMMERCE

For future expositions, the Secretary of Commerce should disclose to the Congress in the justification for authorization and appropriation of funds whether sufficient leadtime is available to design and build a permanent pavilion using conventional contracting procedures. If the leadtime is insufficient, but a permanent facility is warranted, Commerce should disclose the basis for its decision and the extra costs that will be incurred. (See p. 20.)

AGENCY COMMENTS

GAO obtained oral comments from GSA, HUD, and Commerce on draft copies of this report. Commerce and GSA officials did not object to the thrust of the recommendation for changes in the law, but Commerce officials did state that the recommendation may not be flexible enough in two areas. First, the construction of a permanent facility would be prevented, even though it could be more cost effective than a temporary one. Second, if no Federal reuse was identified, Commerce would be prevented from building a permanent facility, even though a national need of paramount importance may have been identified.

GAO believes that, while its recommendation does not expressly provide for construction of a permanent facility where it is cost effective or is justified on the basis of a national need, those situations could be addressed in either the authorization or appropriation legislation for specific expositions. (See p. 13.)

HUD, commenting on a draft of this report, said it was comprehensive and accurate. (See p. 28.)



C o n t e n t s

| | | <u>Page</u> |
|---------|---|-------------|
| DIGEST | | i |
| CHAPTER | | |
| 1 | INTRODUCTION | 1 |
| | Why Expo '82? | 1 |
| | Legislative requirements for participation in international expositions | 1 |
| | Objectives, scope, and methodology | 4 |
| 2 | U.S. PAVILION REUSE PLAN NOT DEVELOPED | 6 |
| | Weaknesses in Public Law 91-269 | 6 |
| | Planning for the residual use of the U.S. pavilion at Expo '82 | 8 |
| | Conclusion | 12 |
| | Recommendation to the Congress | 12 |
| | Agency comments | 13 |
| 3 | INSUFFICIENT LEADTIME FOR PAVILION DESIGN AND CONSTRUCTION | 14 |
| | Federal participation | 14 |
| | Reduced pavilion scope | 15 |
| | Pavilion contracting | 17 |
| | Conclusion | 20 |
| | Recommendation | 20 |
| | Agency comments | 20 |
| 4 | COMPETITIVE BIDDING NOT USED ON ACTION GRANT PROJECTS | 21 |
| | Developers selected without formal competition | 21 |
| | Competition not required for subcontractors | 24 |
| | Construction cost estimates used to justify amount of grant | 24 |
| | Monitoring the grant | 27 |
| | Conclusion | 27 |
| | Agency comments | 28 |

| | | <u>Page</u> |
|----------|---|-------------|
| APPENDIX | | |
| I | Expo '82 funding | 29 |
| II | Proposed deletions or changes to reduce the cost and scope of the U.S. pavilion | 30 |
| III | List of organizations formed for Expo '82 | 31 |
| IV | Letter dated August 20, 1980, from the former Chairman of the Subcommittee on State, Justice, Commerce, the Judiciary, and Related Agencies, Senate Committee on Appropriations | 32 |

ABBREVIATIONS

| | |
|------|---|
| GAO | General Accounting Office |
| GSA | General Services Administration |
| HUD | Department of Housing and Urban Development |
| KIEE | Knoxville International Energy Exposition, Inc. |
| OMB | Office of Management and Budget |
| TVA | Tennessee Valley Authority |

CHAPTER 1

INTRODUCTION

Knoxville, Tennessee, will host an international exposition on energy--Expo '82--from May to October 1982. The city's goals are to

- hold an informative, educational, and entertaining exposition, with a strong thematic and appropriate cultural presentation which would be suitable as a national policy statement on energy, and
- encourage economic development and growth of the center city.

WHY EXPO '82?

The idea for an energy exposition in Knoxville originated from a visit made by Knoxville officials to the Spokane Exposition of 1974. Spokane had used its exposition to redevelop a rundown section of the city, and the Knoxville officials thought that this would be a good way to redevelop the Lower Second Creek area of the city between the central business district and the University of Tennessee and a residential area. (See map on p. 2.)

A study committee was formed, and in late 1975, a non-profit corporation called Knoxville International Energy Exposition, Inc., was formed to organize, oversee, promote, and operate the exposition. The corporation applied for Federal recognition of the exposition, under the provisions of Public Law 91-269, dated May 27, 1970. After studying the application, the Secretary of Commerce in December 1976 submitted a comprehensive report to the President recommending Federal recognition of the Knoxville International Energy Exposition (Expo '82). The Secretary of State reported to the President that the event fully qualified for registration by the Bureau of International Expositions, an international organization, as a special category event.

In April 1977 the President granted Federal recognition to Expo '82, and the Secretary of Commerce so informed the Congress on June 14, 1977. The Bureau of International Expositions, on April 27, 1977, officially registered Expo '82 as a special category international exposition on energy.

LEGISLATIVE REQUIREMENTS FOR PARTICIPATION IN INTERNATIONAL EXPOSITIONS

For a proposed exposition to receive Federal recognition, the President, under Public Law 91-269, must determine that recognition of the exposition will be in the national interest. To do this, the President must consider reports by the



AERIAL VIEW OF KNOXVILLE, TENNESSEE, INCLUDING THE EXPO '82 SITE.

--Secretary of Commerce, including an evaluation of purposes and reasons for the exposition and a guarantee that financial and other support has been secured by exposition officials in amounts sufficient to assure the exposition's success, and

--Secretary of State, stating that the proposed exposition qualifies for consideration by the Bureau of International Expositions.

According to Public Law 91-269, the Federal Government may participate in an international exposition proposed to be held in the United States only upon congressional authorization. If the President finds that Federal participation is in the national interest, he shall send to the Congress his proposal for such participation. The proposal shall include the following:

--Evidence that the exposition has met the criteria for Federal recognition.

--A statement that the Bureau of International Expositions has registered the exposition.

--A plan prepared by the Secretary of Commerce in cooperation with other interested departments and agencies. The plan should consider whether a U.S. pavilion will be built and, if so, whether the Government will have need for a permanent structure in the area of the exposition. The Secretary is to seek the advice of the Administrator of General Services to the extent necessary.

Authorization and appropriation
for Expo '82 U.S. pavilion

Public Law 96-169, dated December 29, 1979, authorized U.S. participation in Expo '82. The purposes of the exposition, as set forth in the law, are to

--offer the citizens of the world a greater understanding of the effective uses of energy and energy resources, of the necessity to conserve existing energy resources, and of the need for creative development of new and alternative energy sources, and

--encourage tourist travel in and to the United States, stimulate foreign trade, and promote cultural exchanges.

Public Law 96-169 authorized the Secretary to erect buildings and other structures that may be appropriate for U.S. participation in the exposition. The law required that in the design and construction of these buildings, the Secretary shall consult with the Administrator of General Services and the

heads of other interested agencies to assure that such activities will (1) minimize, to the greatest extent practical, any adverse affect on the recreational and other environmental values of the area and (2) preserve and enhance, to the greatest extent practical, the use of the property for public purposes, needs, or other benefits following the close of the exposition.

Public Law 96-304, dated July 8, 1980, appropriated \$20.8 million to the Department of Commerce to design, build, and operate a Federal pavilion in Expo '82. Commerce had requested \$24.3 million for pavilion construction and operation, but the Office of Management and Budget (OMB) reduced the request to \$20.8 million. Before the pavilion appropriation was approved, Commerce had spent over \$500,000 on predesign and other costs.

In addition to the \$21.3 million being spent to design, build, and operate the pavilion, the United States is providing about \$23.1 million in Federal grants and other assistance for local development, representing a total U.S. commitment of about \$44.4 million. So far, as outlined in appendix I, the city's commitment to Expo '82 is \$32.6 million, and private industry's investment has reached \$99.9 million. The total financial commitment for Expo '82 now exceeds \$176.9 million.

OBJECTIVES, SCOPE, AND METHODOLOGY

In an August 20, 1980, letter, the Chairman, Subcommittee on State, Justice, Commerce, the Judiciary, and Related Agencies, Senate Committee on Appropriations, asked us to review the bidding practices for Expo '82. He was concerned about reports that public funds made available for the exposition may lead to unwarranted private gain. A civic group, the Citizens For A Better Knoxville, says it is opposed to Expo '82. Numerous allegations, derived in part from this group's opposition, have been made in newspaper and magazine articles about substantial profits that will be realized from the exposition by individuals and companies.

On the basis of the former Chairman's letter and subsequent discussions with his office, we directed our review primarily to the (1) planning and contracting for the design and construction of the U.S. pavilion and (2) planning and proposed contracting for other Expo '82 facilities to be built using the second of two Department of Housing and Urban Development (HUD) action grants.

We made our review at the headquarters offices of the Department of Commerce, including the U.S. Travel Service, Program and Budget Office, Contracting Office, the Expositions Project Office, and the Economic Development Administration. We also reviewed the work being done by Commerce's internal auditors.

In reviewing the two HUD grants, we interviewed (1) headquarters officials of the HUD Urban Development Action Grant office

responsible for reviewing and approving the grants made to Knoxville for Expo '82 and (2) officials of the HUD Knoxville area office. We reviewed the files on Expo '82 maintained by each of these offices. We discussed with HUD internal auditors their planned work on the action grants.

At the General Services Administration (GSA), we interviewed headquarters officials responsible for negotiations concerning the residual use of the pavilion and reviewed their files. In addition, we discussed GSA's office space needs in the Knoxville area with the GSA Atlanta regional office officials.

We also discussed with officials from the Department of the Interior the procedures followed in awarding its grant to Expo '82.

With OMB officials, we discussed the funding level of Expo '82 and the applicability of OMB Circular A-102.

We discussed with the various contractor officials what their role was in Expo '82. We reviewed cost estimates on the facilities being built under the second HUD grant, and we discussed in detail the arrangements being made to finance the construction of projects leveraged by this grant. We selected the second grant because most of the allegations concerned that grant.

To date, construction work done using the grants provided by various Federal agencies has been limited. For the work that was in process, we determined the procedures used in awarding contracts. However, we did not analyze construction cost estimates because the agencies' internal auditors and the Defense Contract Audit Agency were doing this. For the remainder of the work to be done with the grant funds, we reviewed Knoxville's procedures for applying for the grant and its planned use of the funds.

We also met with city officials and their consultants and Knoxville International Energy Exposition, Inc., officials to review their efforts in organizing the Expo '82 and getting it off the ground. In addition, we met with a representative from The Citizens For A Better Knoxville.

We reviewed Commerce's procedures for selecting, negotiating, and awarding design and construction letter contracts for the U.S. pavilion. However, we did not analyze the costing data used in negotiating the definitized contracts because the HUD internal auditors and the Defense Contract Audit Agency were making the preaward audits at the time of our review. We also examined the procedures used by the construction manager for competitively awarding pavilion subcontracts.

CHAPTER 2

U.S. PAVILION REUSE

PLAN NOT DEVELOPED

The Department of Commerce failed to develop an adequate residual use plan for the U.S. pavilion at Expo '82. Although a Federal need for about 100,000 square feet of office space in the Knoxville area had been identified and considered early in the planning phase, a firm Federal reuse plan for the pavilion was never developed. Even though there are no adequate Federal plans for the pavilion's use after Expo '82, Commerce, contrary to our prior recommendation (GGD-76-58, June 29, 1976), is building a permanent, rather than a temporary, pavilion.

Throughout the planning phase, Commerce preferred converting the pavilion to an energy research center rather than to a future Federal office building. Commerce plans to transfer the pavilion to the University of Tennessee after the exposition for use as an energy research laboratory. Although the university has expressed interest in the pavilion, it is not obligated to take it over. If the conversion costs become too high, the university may not accept the structure. The Federal Government would then have a surplus building with no planned Federal reuse.

We believe that the construction of the more costly permanent building, in the absence of an adequate Federal reuse plan for the U.S. pavilion, is attributable in part to weaknesses in Public Law 91-269 governing residual use of U.S. pavilions. These and other weaknesses in the law had been identified in our 1976 report. We recommended changes in the law which would prevent the types of problems identified in this report and in our 1976 report.

WEAKNESSES IN PUBLIC LAW 91-269

Section 3 of Public Law 91-269 states that the Secretary of Commerce, in developing a plan for an exposition, must consider whether the plan should include the construction of a Federal pavilion and, if so, whether the Government needs a permanent structure in the area of the exposition. If such a need is established, the Secretary may include a recommendation that, as a condition of participation, the Government be deeded a satisfactory site for the Federal pavilion free of liens and with unrestricted rights of disposition. Section 3 also provides that the Secretary of Commerce seek the advice of the Administrator of General Services, to the extent necessary, in carrying out these provisions.

- In our June 1976 report we stated that the law did not
- give GSA a definite responsibility in planning and building U.S. pavilion facilities for future Federal use,
 - specify that consideration be given to building temporary pavilion facilities, or
 - address the issue of authorizing the funds necessary to convert pavilion facilities at the close of the exposition when a residual use has been identified in the preexposition planning.

We also stated that finding a Federal use for the pavilions after the expositions had been a continuing problem. Further, we stated that, although Commerce identified potential Federal uses early in exposition planning stages, it never established firm plans in coordination with GSA. We recommended changes in the law designed to maximize residual use of U.S. pavilions and are repeating the recommendation in this report (see pp. 12 and 13).

Proposed legislative changes by Commerce

In early 1978 Commerce drafted proposed changes to Public Law 91-269. One of these changes would have required that, in planning for expositions, construction of a temporary pavilion also be considered. This draft proposal, however, was not sent to the Congress.

In its proposed legislative program for the 97th Congress, dated September 1980, Commerce included a tentative proposal to amend Public Law 91-269 relating to Federal participation in international expositions. According to Commerce, most of the problems it has run into concerning residual use of the Expo '82 pavilion are caused by the ambiguity of the law. Commerce stated that one objective of the proposed amendments is to ensure greater attention in the planning stage to the ultimate use of Federal pavilion structures, an issue identified in our 1976 report.

In addition to the residual use issue, Commerce is considering amendments addressing other problems that have surfaced during recent expositions. These include

- providing for earlier congressional involvement,
- clarifying the President's option to appoint a Commissioner General, and
- providing for early and adequate funding.

According to the proposed legislative program, the need to amend Public Law 91-269 is underscored by the extremely late request for congressional authorization and funding of U.S. participation in Expo '82. As a result, the Knoxville project is now faced with a dangerously tight construction schedule which may interfere with the quality and efficiency of the U.S. pavilion design and implementation. (See ch. 3 for more details.)

PLANNING FOR THE RESIDUAL
USE OF THE U.S. PAVILION AT EXPO '82

From the outset, the local organizers wanted the U.S. pavilion to remain as an energy research center which would show the area's achievements in the study of energy technology and be operated by the University of Tennessee, Oak Ridge National Laboratory, or Tennessee Valley Authority (TVA). Later, the Laboratory and TVA stated they did not want it.

GSA initially wanted the pavilion for a future office building to replace about 100,000 square feet of space it was leasing in the area. Commerce and GSA worked together in planning for the residual use of the pavilion, but Commerce favored reuse of the pavilion by the University of Tennessee. In 1979 Commerce asked a consulting firm to evaluate the two proposals for the reuse of the pavilion. The firm reported in April 1979 that it was possible to plan a pavilion in such a way that it would allow for conversion to either a Federal office building or an energy research center. Commerce instructed its architect-engineering firm to design the pavilion with a dual residual use. However, on the basis of the pavilion design and its conversion costs, GSA decided later that it did not want it. (See pp. 11 and 12.)

According to Commerce officials, the local organizers and supporters of Expo '82 exerted considerable pressure on Commerce to build a permanent facility and to turn it over to the University of Tennessee after the exposition. The officials stated that the local organizers used the construction of a permanent U.S. pavilion as a catalyst to obtain necessary financing. Without the construction of a permanent facility, Commerce officials did not believe that the city could have come up with a successful plan for Expo '82.

University of Tennessee
energy research laboratory

University of Tennessee officials in November 1977 told Expo '82 and Commerce officials that they would like to become the owner/operator of the Federal pavilion after the energy exposition and that they would use it as an energy research laboratory. In December 1978 the university formalized its request. The university stated that, in considering the pro-

posal, the Federal Government would be freed of considerable problems and costs which it had incurred on Federal pavilions at other expositions. In this case, an established public agency, the University of Tennessee, stands ready to assume full responsibility for the pavilion at the end of its active use as an exhibit center during the exposition.

The University Vice President for Administration told us in November 1980 that the university was still interested in taking over the pavilion after Expo '82 and in converting it to an energy research laboratory. However, according to the vice president, if the cost of converting the pavilion becomes too high, it will be extremely difficult to convince the Tennessee Board of Trustees, the overseers of the State school system, to allow the university to take the facility. At the time of our review, university officials had not reviewed the reduced scope of the pavilion (see p. 15 for further details), and we do not know what effect this will have on their interest in using the structure.

Coordination between GSA and Commerce on residual use planning

Commerce and GSA did make an effort to work together in designing a building that would meet the needs of the exposition and provide office space for GSA. In 1977 GSA identified a need for about 100,000 square feet of office space to consolidate nine leases into one building. In a December 1980 update of the space needs survey, the GSA Atlanta regional office identified a need for over 111,000 square feet of space in the central business district of Knoxville. Currently, GSA is leasing 111,000 square feet of space in the Knoxville area at an annual rental of \$953,000.

In August 1977 GSA told Commerce that it was willing to assist with the site planning and development, handle the administration of the design and construction, and determine the pavilion residual use. GSA and Commerce officials held numerous meetings and discussions between then and November 1978 to negotiate the pavilion end use and to decide who should have control over its design.

In December 1978 the Administrator of General Services wrote to the Secretary of Commerce concerning U.S. participation in Expo '82. He stated that they needed to discuss the planning, design, and construction of the pavilion and its future Federal use. He reminded the Secretary of our 1976 report and its recommendation that GSA and Commerce work together in developing U.S. participation in expositions. He said that his people were looking forward to working with Commerce representatives. Also, he stated that a GSA survey showed that it needed about 100,000 square feet of office space in the city of Knoxville.

In her February 1979 reply, the Secretary of Commerce wrote that she was aware of the efforts of GSA's Public Buildings Service and Commerce's U.S. Travel Service to work out the design and operation of the Federal pavilion. She said that she was pleased to learn that GSA had identified a need for Federal office space in Knoxville which might be accommodated by the post-exposition conversion and use of the U.S. pavilion.

She also said that Commerce had been told by the University of Tennessee that the university had joined with the Department of Energy's Oak Ridge National Laboratory and TVA to form an Energy Opportunities Consortium to work on energy related matters. This consortium had planned to submit a proposal to use the U.S. pavilion as an energy research laboratory after the exposition closed. The Secretary stated that Commerce was moving ahead in selecting an architectural and design team for the pavilion and that the question of the pavilion's residual use should be resolved soon.

In March 1979 Commerce officials raised several points in internal memoranda concerning a decision on the pavilion's end use. These points included the following:

- The local organizers, who had taken on the burden of planning and implementing the overall exposition, had a permanent use in mind for the Federal structure--an energy research laboratory. They believed that the Federal pavilion must be spectacular with the principal attention devoted to the Expo '82 theme.
- There was an assumption in the residual use plan that the pavilion would be transferred to a local nonprofit corporation at no cost.
- Public Law 91-269 required that attention be paid to possible Federal end uses.
- GAO recommended that Federal Government space needs receive foremost consideration in determining residual use.
- GAO had further recommended that, if no permanent Federal residual use is identified, the Secretary consider erecting a less costly temporary exhibition facility.
- GSA had identified a need for about 100,000 square feet of office space.
- The Bureau of International Expositions' regulations state that national presentations be housed in temporary structures at special category expositions such as Knoxville's. To date, the Bureau has not officially raised this issue with the the Federal Government because of the special considerations surrounding expositions in this country.

According to one memorandum, if Commerce chose the energy research laboratory option, it would, in effect, be giving away a yet-to-be-constructed, permanent Federal structure to a local corporation, even though another Federal agency, GSA, had identified a need for Federal office space that the U.S. pavilion could solve.

From June to November 1979 representatives from GSA, Commerce, and the architect-engineer met several times to discuss the alternative residual uses of the pavilion, but they continuously postponed their decision. According to a GSA record of a November 1979 joint meeting, the representatives agreed that any conversion after the exposition would take at least 18 months, not including the design, project approval, or funding.

The pavilion as designed will have a large amount of unusable space, thus making it inefficient and/or expensive for conversion to office space. The energy/utility systems are being designed for Expo '82 use only. Therefore, if the building were to be converted to an office building, the systems would have to be supplemented by as much as 50 percent and restrooms would have to be redesigned. According to GSA, converting this facility to an office building would be a costly proposition. Although no formal estimates have been made, GSA mentioned a \$6 to \$8 million range for conversion costs.

Some conclusions that were reached during this November 1979 meeting included the following:

- It was already very late in the development of this project for effectively planning a Federal residual use to be done at a minimal conversion cost.
- The location of the U.S. pavilion site could be considered acceptable for a public building considering proximity to the central business area.
- It appeared that in terms of general space requirements, GSA would be able to backfill the pavilion (that is, move people from leased space to the pavilion), but design costs would definitely be factors affecting the efficiency and effectiveness of such a plan.

On November 15, 1979, the GSA Atlanta Regional Administrator recommended that GSA not take control of the pavilion because, among other things, it would cost too much and take too long to convert to office space. In January 1980 the U.S. Postal Service told GSA's Atlanta regional office that it soon planned to dispose of the Post Office and Courthouse building in Knoxville. GSA considers it to be a "fine old building suitable for continued Government use." The Post Office and Courthouse building would satisfy about half of GSA's space requirements. In addition, GSA said it had been notified of several historic buildings in downtown Knoxville that might be adaptable for Government use consistent with the Public

Buildings Cooperative Use Act. Presumably these buildings could satisfy the remaining space requirements.

In July 1980 the Commissioner of the Public Buildings Service informed Commerce officials that adapting the pavilion for use as a Federal office building would not be cost effective. Nevertheless, Commerce continued with its plan to build a permanent structure.

The Commerce Expo '82 Project Manager, in an August 1980 memorandum, said that because GSA had withdrawn its desire to use the pavilion, he believed that Commerce was now clear to proceed in 1982 with its original recommendation; that is, a laboratory for the University of Tennessee. At the conclusion of the exposition, the pavilion director will work with GSA to turn the building over in an appropriate manner to the university. He estimated that this could be done by March 1983.

CONCLUSION

Although GSA and Commerce worked together initially in planning for the residual use of the U.S. pavilion at Expo '82, a firm Federal reuse plan never materialized. In the absence of a firm Federal reuse plan, construction of a permanent-type pavilion at Expo '82 is not justified, but the law does not specify that a less costly temporary pavilion should be built when no such plan exists. However, Commerce had been reminded of our 1976 recommendation that a temporary structure be built when a firm Federal reuse plan had not been developed. Therefore, Commerce's decision to continue building a more costly permanent facility was not a prudent use of Federal funds.

RECOMMENDATION TO THE CONGRESS

To overcome the problems identified in this report, we believe that our prior recommendation for changes in Public Law 91-269 are still valid. To maximize the residual use of U.S. pavilion facilities or minimize Federal expenditures for the facilities, we are again recommending to the Congress that it amend section 3(c) of Public Law 91-269 as follows--delete all of section 3(c) after the first sentence and insert instead:

"In developing such a plan, the Secretary shall give due consideration to whether or not the plan should include the construction of a Federal pavilion.

Should the Secretary determine that a Federal pavilion is desirable, the type of structure (permanent or temporary) shall then be determined by the Administrator of the General Services in consultation with the Secretary; Provided that, any determination by the Administrator that a permanent structure is required shall be fully documented and identify the Federal need to be served by such permanent structure.

"(1) When the Administrator determines that a need exists for a permanent structure in the area of the exposition, the Secretary after consultation with the Administrator shall design the pavilion so that both the exposition and residual needs of the Government are met. If the structure cannot be designed to meet both the exposition and residual needs of the Government, the exposition needs will take precedence but, notwithstanding any authority vested in the Administrator, no permanent pavilion structure will be constructed. When the design of the pavilion is such that both these needs can be met, there shall be authorized to be appropriated, in addition to any funds authorized for the construction of the pavilion, such funds as are necessary to convert the pavilion to the identified Federal need.

"(2) In the event a need for a permanent structure is established the Secretary may include in his plan a recommendation that, as a condition of participation, the Government should be deeded a satisfactory site for the Federal pavilion facilities, in fee simple, and free from liens or other encumbrances.

"(3) A temporary structure is any structure having no practical residual use for the Federal Government and destined for disposal at the conclusion of the exposition."

AGENCY COMMENTS

We obtained official oral comments from Commerce and GSA on a draft of this report.

Commerce and GSA officials did not object to the thrust of our recommendation for changes in the law, but Commerce officials did state that the recommendation may not be flexible enough in two areas. First, the construction of a permanent facility would be prevented, even though it could be more cost effective than a temporary one. Second, if no Federal reuse was identified, Commerce would be prevented from building a permanent facility, even though a national need of paramount importance may have been identified.

We believe that while our recommendation does not expressly provide for construction of a permanent facility where it is cost effective or is justified on the basis of a national need, those situations could be addressed in either the authorization or appropriation legislation for specific expositions.

CHAPTER 3

INSUFFICIENT LEADTIME FOR

PAVILION DESIGN AND CONSTRUCTION

The sponsors of Expo '82 were late in putting together an adequate financial plan to ensure the success of the exposition. As a result, Commerce had to delay its request for authorizing and funding legislation. The appropriation was then received too late to provide sufficient leadtime for pavilion design and construction using conventional methods generally followed on Government construction projects. GSA declined to manage the construction of the Expo '82 pavilion for Commerce because GSA believed that not enough leadtime was available to design and build the pavilion.

When funds were appropriated in July 1980, the schedule for design and construction had slipped by about 13 months. Because of the compressed time schedule and GSA's withdrawal, Commerce had to hire a construction manager and overlap the design and construction phases of the pavilion. As a result, the Government may incur extra costs for overtime work and will pay premium prices for expedited delivery of materials so that construction can be completed on schedule.

FEDERAL PARTICIPATION

For the United States to participate in the exposition, Commerce required the organizers to show evidence in the form of a financial plan that would assure the successful development and progress of the exposition. In January 1976 the Expo '82 sponsors requested Federal recognition of the exposition, but the President did not give recognition until April 1977. Also, the sponsors were unable to come up with an adequate financial plan until mid-1979--3-1/2 years after they first asked for recognition. Therefore, the President could not make a finding, as required by law, that participation in the exposition was in the national interest.

Commerce did not request congressional authorization or appropriation until it had an acceptable financial plan. One of the major reasons for delaying the plan concerned a HUD Urban Development Action Grant. Early financial plans for the exposition did not include any Federal assistance other than the construction of a U.S. pavilion, but in 1977 the Urban Development Action Grant Program was created to, among other things, assist distressed cities and urban counties in revitalizing deteriorated neighborhoods. Because one of the aims of Expo '82 was to redevelop a deteriorated section of the city, known as the Lower Second Creek Redevelopment Area, Knoxville officials concluded that they could use grant funds to acquire and develop the Expo '82 site.

In January 1978 Knoxville applied to HUD for a \$13.8 million grant to assist with site acquisition. HUD did not approve this grant because it was reluctant to put its grant money up front for land acquisition when it had no assurance that the exposition would get off the ground. HUD wanted the city to use its funds first for site acquisition and HUD would then participate in site development. With the help of the President and his special assistant working with the interagency council, a Federal financial assistance package of \$12.4 million in four grants (HUD \$5 million, the Interior \$1.2 million, Economic Development Administration \$4.2 million, and Appalachian Regional Commission \$2 million) was put together in October 1978 to assist the city primarily with site development and relocation. Only \$2 million of this amount could be used for site acquisition. Therefore, the city had to raise funds for land acquisition by selling its bonds, which took time to do.

In early 1979, Expo '82 sponsors obtained a \$25 million firm commitment from a group of banks to finance the operation of the exposition. Also, two major developers obtained firm commitments from financial institutions for most of the permanent facilities to be built for the exposition.

As a result of delays in developing the financial plan, Commerce did not receive construction funding for the pavilion until July 1980, which was about 1 year behind the schedule that would have provided for timely design and construction of the pavilion.

REDUCED PAVILION SCOPE

Very early in the planning stage, Commerce estimated that it would cost \$25 million for pavilion construction and operation. However, in October 1977, the President told OMB that Federal involvement was not to exceed \$20 million. With the passage of time, Commerce officials believed that OMB and the Congress would increase the \$20 million figure to about \$25 million because of inflation occurring between the time of the initial estimate and the actual construction.

In May 1979 Commerce submitted a request to OMB for \$24.3 million to design, construct, and operate the U.S. pavilion as follows:

| | <u>Amount</u> |
|---|---------------|
| | (millions) |
| Design and construction | \$12.0 |
| Exhibitry and related costs | 8.0 |
| Operating, administrative, and other costs | <u>4.3</u> |
| Total | <u>\$24.3</u> |

OMB reduced the request to \$20.8 million because the President had previously directed that Federal participation would not exceed \$20 million. OMB officials believed that, considering the financial condition of the country at that time and the need to keep Federal expenditures to a minimum, Commerce should show some restraint in the design, construction, and operation of the U.S. pavilion.

Commerce plans to apply these funds as follows:

| | <u>Amount</u> |
|---|---------------|
| | (millions) |
| Design and construction | \$12.3 |
| Exhibitry and related costs | 4.5 |
| Operating, administrative, and other costs | <u>4.0</u> |
| Total | <u>\$20.8</u> |

As the chart shows, Commerce chose to absorb the \$3.5 million reduction primarily by reducing the budget for exhibitry, film, and related costs. In addition, Commerce made numerous changes or proposals to reduce the cost and scope of the pavilion and to meet the tight time frame and cost limitations. Deletions or changes identified in the pavilion construction to date are about \$3.2 million (see app. II).

One significant item eliminated was the power tower, which was to demonstrate energy technology advancement. Not only was the power tower expensive (\$750,000), but it also required a long leadtime to develop. Thus, its elimination also reduced the construction schedule.

Department of Energy review

Commerce asked the Department of Energy to review the pavilion design after its scope was reduced. In an October 1980 memorandum, Energy officials raised several questions about the design of the U.S. pavilion. Energy officials stated that the pavilion should be an exemplary model of design and efficient energy use and, at the very least, the pavilion should be a demonstrable example of the proposed national building energy performance standards for new buildings both in terms of reduced energy use as well as in utilization of renewable resources. According to the officials, the current pavilion design failed on these points.

Energy officials reached the following conclusions:

- The proposed pavilion cannot be determined to be a passive solar building (designing the building to conserve energy without using mechanical means) or even energy conserving.
- The building is a highly visible and important project which could be a significant embarrassment to the United States. In a "World's Fair," which carries the title of "Energy Expo '82," the U.S. pavilion should be an exemplary model of the wise use of energy in buildings. It has not been presented as such in the drawings reviewed.

PAVILION CONTRACTING

Time did not permit Commerce to use conventional contracting methods generally prescribed by the Federal Procurement Regulations and followed on Government construction projects. Under the conventional method, events occur sequentially. Buildings are completely designed before advertised lump-sum contracts are let for construction. The simultaneous occurrence of events is an exception rather than a rule. Because of insufficient leadtime, pavilion design and construction could not be done sequentially and instead will be overlapped. As a result, the Federal Government may incur extra costs for overtime work and will pay premium prices for expedited delivery of material so that construction can be completed on schedule. The amount of extra cost will be determined as construction progresses. Unless additional funds are appropriated, these extra costs must be offset by reallocating pavilion operating funds or reducing the pavilion's scope.

In a March 20, 1979, letter, GSA told Commerce that it would not manage the construction of the pavilion because there was insufficient leadtime. GSA stated in part that:

"In terms of design and construction schedules, the opening of the Energy Expo is simply not that far away. GSA's experience shows that it takes approximately 36 months from start of design to end of construction for

a project of this type and size. This schedule assumes an actual scope of work already in the architect's hands. In the case of the Knoxville Energy Expo, there are too many issues, such as site location, funding and residual use, still unresolved. It does not seem likely that resolution of these items will occur in time to develop a scope of work and hire an architect-engineer to begin work by June 1, 1979, which would be the latest date by which work could begin for completion by May 1982. Therefore, we believe that the Department of Commerce should seek a source other than GSA for the construction management of this project."

After funds were appropriated in July 1980, Commerce hired a contractor in October 1980 to act as construction manager for pavilion construction. The construction manager, for a fee, is to organize and direct the construction of the pavilion and assume all risks for completing the project within a guaranteed maximum price. At the completion of our fieldwork in early January 1981, this price had not been established. In effect, Commerce is buying construction expertise.

The construction manager will award subcontracts for about 35 work phases. Each phase must be bid competitively and award made to the firm with the "lowest and best" price. The contracting officer is responsible for approving subcontract awards after evaluation and recommendation by the construction manager and concurrence of the project architect.

For each construction phase (bid package), the construction manager and the architect-engineer has, or will, set an estimated price for the package. An agreement on the estimated price for each package is necessary so that the pavilion can be completed at the guaranteed maximum price. If all of the bids for a given package exceed the estimated price, selection of a contractor will be made under one of the procedures outlined below:

- Make award to low bidder even if the bid exceeds the budget estimate.
- Negotiate with the low bidder to bring his bid within the budget estimate.
- Redesign the package at no loss of quality and scope.
- Have the construction manager do the work.

To date, nine of about 35 major work packages have been prepared. For the nine, seven have been or will be competitively bid and two negotiated. Bids received on two of the seven exceeded the budget estimate for each package, and awards were made to the construction manager for the amount of the budget estimate.

Approaches to construction management

There are two general approaches to construction management. Under the first approach, the construction manager acts as a consultant and expert but makes no cost or schedule guarantees and does not perform any part of the construction work. Under the second approach, the construction manager acts as an expert and consultant and may make cost and schedule guarantees and undertake part of the construction work.

For a while, GSA used the construction manager system under the first approach but discontinued using this technique in 1979 because it did not favor separating the work into several bid packages. It believes that there is no substitute for lump-sum, competitive bid contracting using a single general contractor.

Possible conflicts with use of construction management

GSA does not advocate situations where the construction managers give a guaranteed maximum price because it believes the price may create an adverse relationship between the owner and the construction manager that may be detrimental to the project. GSA believes that this reduces the construction manager's ability to give frank and objective advice, independent of any personal considerations or financial gain or loss in the outcome of the project.

One of the usual duties of a construction manager is that he will inspect the subcontractor's work, but when the construction manager does part of the work himself, he can no longer perform this independent function. Also, when the construction manager is inspecting the work of other subcontractors, a disagreement may arise over who was responsible for a given item of work not meeting contract specifications.

Commerce has attempted to overcome any conflict concerning work inspections. The architect-engineer and a consultant are responsible for inspecting the work performed by the construction manager. We could not evaluate whether conflicts have been totally avoided because pavilion construction was only getting started at the time of our review.

The construction manager and architect-engineering contracts were awarded using a negotiated procedure. Because the Defense Contract Audit Agency was reviewing cost data to be used as a basis for developing contract price, we did not review this cost data for reasonableness.

Use of letter contracts

After funds for the pavilion were appropriated, Commerce awarded four letter contracts for the design, construction

management, film preparation, and exhibit design. These were to be definitized at a later date and prices established. Commerce justified the use of letter contracts because of the compressed time schedule caused by the late appropriation which, in turn, prevented the normal preparation of definitive requirements, specifications, or cost data.

Federal Procurement Regulations, section 1-3.408(b), state that letter contracts may be entered into when (1) the interests of the Government demand that the contractor be given a binding commitment so that work can be started immediately and (2) negotiation of a definitive contract in sufficient time to meet the procurement need is not possible--for example, when the nature of the work involved prevents the preparation of definitive requirements, specifications, or cost data before starting work.

CONCLUSION

The sponsors of Expo '82 were late in putting together an adequate financial plan. As a result, Commerce had to delay its request for authorizing and funding legislation. Because of insufficient leadtime, GSA declined to manage the construction and Commerce had to hire a construction manager and overlap the design and construction phases. Additional costs may be incurred for overtime and premium prices for materials.

The pavilion now being constructed in Knoxville has had items deleted to meet cost limitations and tight time schedules. According to Department of Energy officials, the pavilion will not demonstrate energy technology advancement as originally planned.

RECOMMENDATION

For future expositions, we recommend that the Secretary of Commerce disclose to the Congress in the justification for authorization and appropriation of funds whether sufficient leadtime is available to design and build a permanent pavilion using conventional contracting procedures. If the leadtime is insufficient, but a permanent facility is warranted, Commerce should disclose the basis for its decision and the extra cost that will be incurred.

AGENCY COMMENTS

Commerce and GSA did not object to our recommendation.

CHAPTER 4

COMPETITIVE BIDDING NOT USED ON

ACTION GRANT PROJECTS

Numerous allegations have been made about the selection of, and the contracting by, the developers for the construction of seven permanent facilities. The facilities are estimated to cost \$67.3 million and are financed, in part, by a \$9.9 million HUD Urban Development Action Grant. The allegations concerned the possibility of unwarranted private gains and substantial profits that will be realized by individuals and companies associated with these facilities.

The selection of developers by the city of Knoxville and the contracting by the developers for the construction of permanent facilities under the second action grant have been or will be accomplished through noncompetitive processes. HUD ruled that OMB Circular A-102, Attachment O, dated August 1, 1979, which requires competitive bidding for grants, does not apply to private developments leveraged with action grant funds.

We were told that neither HUD nor the city performed an in-depth review of the cost estimates prepared by developers for the seven facilities. Both city and HUD officials said that such a detailed review was not necessary because of certain controls and conditions in the grant agreement. (See p. 24.)

Concerning contracting under the \$12.4 million grant package, we found that the city used competitive bidding procedures.

DEVELOPERS SELECTED WITHOUT FORMAL COMPETITION

HUD officials said that their regulations do not require cities to use competitive bidding to select developers for urban renewal projects. Usually, a developer proposes a project to the city which, in turn, submits the proposal to HUD requesting grant assistance. In this case, the developers actually proposed the Station 82 project (second action grant) to Expo '82 planners. The project concept was to build permanent structures on the exposition site that could be used for Expo '82 and beyond.

One developer obtained the option to buy the existing L & N Railroad Station Complex located on the Expo '82 site. He also had an option to buy and develop the land surrounding the L & N Station Complex. In June 1979 the developer approached Expo '82 planners with a plan to build additional projects in the Lower Second Creek Redevelopment Area. These projects would revitalize the area and would also be used during and after Expo '82. The Knoxville Community Development Corporation, the city's redevelopment agency, approved this plan.

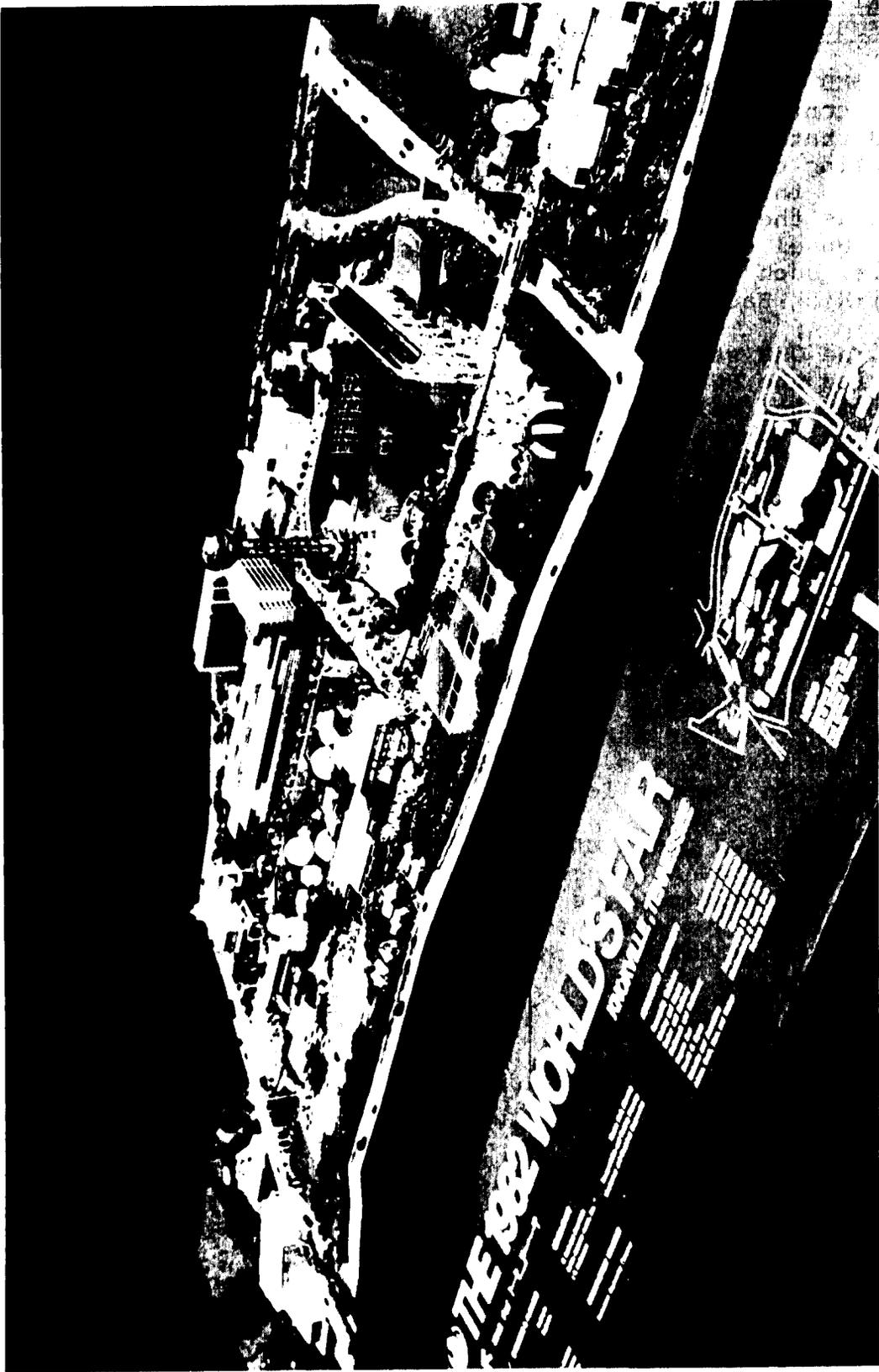
To provide additional financial backing, a second developer was asked to join the Station 82 project. The second developer also had an option to buy and develop the Summit Hill properties located near the exposition site. He planned to build a major office complex on the Summit Hill properties, which later became a part of the second action grant funding package.

On April 30, 1980, the city applied for a \$15,750,000 action grant to be used to produce \$66.8 million in private investments for facilities in Expo '82 and in the Lower Second Creek Redevelopment Area. After meetings between city, officials, developers, and HUD representatives, revisions were made to the plan.

The city resubmitted an application on June 25, 1980, and the HUD officials in Washington reduced the grant to \$9.9 million. The grant agreement was signed by HUD in September 1980. This grant will help finance the following seven facilities, with an estimated cost of \$67.3 million:

- L & N Station Complex - Renovation and adaptive reuse of the existing station, foundry building, and depot for use as office, restaurant, retail, and exhibit space.
- Expo Exhibit Hall/Office Building Complex - A building with about 260,000 square feet--100,000 square feet of office space, 124,000 square feet of exhibit space, and 36,000 square feet of lobby/common area space.
- Expo Hotel - A 304-room Holiday Inn directly connected to the Expo Exhibit Hall/Office Building.
- Expo Hotel Parking Garage - A 450-space underground garage reinforced to support the Holiday Inn, to be built on top of the garage.
- Expo Theme Restaurant - A restaurant on top of a tower providing dining and observation facilities for 500 persons. This structure will serve as the Expo '82 landmark.
- Summit Office Parking Garage - A 200-space underground parking garage reinforced to support the Summit Office Building.
- Summit Office Building - A building with 203,400 square feet of office space.

An artist's conception of the proposed Expo '82 site and five of the projects being built using action grant funds are shown on page 23.



ARTIST'S CONCEPTION OF EXPO '82 WITH THE U.S. PAVILION IN THE UPPER RIGHT HAND CORNER.

COMPETITION NOT REQUIRED
FOR SUBCONTRACTORS

OMB Circular A-102, Attachment O, provides for Federal grant contracts to be let competitively. HUD's General Counsel ruled that the circular applied only to grantee actions in selecting contractors to supply goods or services; it did not apply to the selection of private participants in a project (such as the Expo '82 developers) and their subsequent actions. The Counsel concluded, however, that other laws and Executive orders, such as Equal Employment Opportunity and the Copeland "Anti-Kick Back" Act, do apply.

The OMB staff responsible for implementing the circular verified the HUD interpretation. OMB officials added that they did not believe HUD or the city of Knoxville were attempting to circumvent the circular. According to OMB officials, because Expo '82 had such a tight time frame, noncompetitive negotiation could have been justified.

CONSTRUCTION COST ESTIMATES
USED TO JUSTIFY AMOUNT OF GRANT

Neither the city of Knoxville nor HUD performed a detailed review of construction cost estimates for the seven facilities. The cost estimates were prepared by the developers with the aid of their consultants and included by the city in its grant application that was submitted to HUD. The Mayor of Knoxville certified that to the best of his knowledge all information contained in the application was correct.

The action grant staff and city officials said that they did apply "rules of thumb" to judge the reasonableness of the costs. In addition, the HUD staff sought the advice of the institutional lenders involved in the developments concerning the cost estimates, but there was no detailed review by any party.

The action grant staff told us that they were satisfied with the total project cost estimates and believed that no one would profit unfairly from the grant because of the following controls and conditions included in the grant agreement. These include:

- A CPA must certify that all or most of the owners' equity is invested before public funds are drawn.
- The developer must submit a detailed record of the total project costs, certified by a CPA, when construction is completed.
- Interest charges on the borrowed funds provide incentives for the developers to keep costs at a minimum.

In January 1981 HUD negotiated with the city and the developers to limit profits to 10 percent; the grant agreement was amended accordingly. Also, interest charges on the borrowed funds provide incentives for the developers to keep costs at a minimum.

Critics of the action grant charge that some of the construction cost estimates included in the grant application are inflated to ensure a large profit for the developers and general contractors. According to the critics, estimated costs for two of the projects--Expo Hotel Parking Garage and Summit Office Parking Garage--were especially high. The cost estimate for the 450-space Expo Hotel Parking Garage is \$6.7 million, or \$14,890 per space, and the cost estimate for the 200-space Summit Office Parking Garage is \$3,350,000, or \$16,750 per space. Critics say costs are more than double the average cost for other parking facilities.

The developers said that conditions unique to these garages justify the higher costs, namely, that costly excavation is necessary and that the structures must be stronger than average to support the buildings--the Expo Hotel and the Summit Office Building--that will sit on top of the structures.

Because of the unique construction and because detailed design and cost estimates were not completed, we could not evaluate the reasonableness of the costs. In addition, the construction cost estimates were not in sufficient detail to permit comparison.

The following table shows the estimated cost of the projects included in the grant application.

Project Cost Estimates
for Action Grant No. 2

| <u>Project</u> | <u>Size</u> <u>(note a)</u> | <u>Total</u> <u>project</u> <u>cost</u> <u>(note b)</u> | <u>Total</u> <u>project</u> <u>cost/unit</u> | <u>Total</u> <u>construction</u> <u>cost</u> <u>(note c)</u> | <u>Total</u> <u>construction</u> <u>cost/unit</u> |
|--|--------------------------------|--|--|---|---|
| L&N Station Complex | 45,000 | \$ 5,083,000 | \$113/sq ft | \$1,905,000 | \$42/sq ft |
| Exhibition Hall and Office Building | 259,407 | 21,000,000 | \$81/sq ft | 15,088,500 | \$58/sq ft |
| Expo Hotel | 304 rooms | 13,039,000 | \$42,891/ room | 8,234,000 | \$27,086/ room |
| Expo Hotel Parking Garage (note d) | 450 spaces | 6,700,000 | \$14,889/ space | 4,273,000 | \$9,496/ space |
| Sunsphere Restaurant | 24,000 | 5,200,000 | \$217/sq ft | 3,000,000 | \$125/sq ft |
| Summit Office Building | 203,000 | 13,000,000 | \$64/sq ft | 10,000,000 | \$49/sq ft |
| Summit Parking Garage (note d) | 200 spaces | <u>3,350,000</u> | \$16,750/ space | 2,150,000 | \$10,750/ space |
| | | <u>\$67,372,000</u> | | | |

a/According to the grant agreement, these are the approximate size in sq. ft. unless otherwise stated.

b/The total project costs include costs for land, design, construction, interest, and other items. Current estimates are slightly higher for some projects.

c/According to current estimates prepared by the developers.

d/HUD officials believe that the cost of the garages should be lumped with the cost of the buildings they support to come up with a realistic total facility cost which would be comparable to other buildings in the area.

MONITORING THE GRANT

The city of Knoxville, as the grantee, is responsible for monitoring all provisions of the grant. These responsibilities include confirming compliance with all laws and Executive orders, such as Equal Employment Opportunity and Davis-Bacon Act requirements. The city recently has created a new Department of Community and Economic Development to oversee all grants.

The HUD headquarters office had prime responsibility for reviewing and approving the grant application. The HUD area office in Knoxville will have responsibility for monitoring the use of grant funds. This office will determine whether all Federal regulations and Executive orders stipulated in the grant agreement are being met and whether records are being maintained as costs are incurred and Federal funds are drawn down. At the time of our review, no contracts had been awarded under the second action grant since it was only recently approved.

CONCLUSION

Historically, the Congress has favored that Government purchases of goods and services be accomplished using full and free competition to the maximum extent practicable. Offering all qualified contractors the opportunity to compete, using formal advertising, helps to minimize favoritism and collusion and provides greater assurance that acceptable supplies and services are obtained at fair prices.

Although competitive bidding was not required for the seven projects leveraged with the \$9.9 million action grant, HUD has included in the grant agreement controls and conditions for use of grant funds, including a limitation on profits. If the city and the HUD area office follow and properly monitor these controls and conditions, we believe that it would be difficult for the various developers and contractors to realize exorbitant profits.

It would not be practical for the city to apply competitive bidding to the selection of developers for the seven facilities leveraged with the \$9.9 action grant. However, for individual project construction, competitively bid contracts could be used. Since the projects had to be completed by the opening of Expo '82 in May 1982 and considering the short time frame, as discussed in chapter 3, it may not have been feasible to apply competitive bidding to the construction of these projects.

Because only limited contract awards had been made at the time of our review, we could not determine the amount of profits that will be realized by the developers and the subcontractors.

AGENCY COMMENTS

HUD, commenting on a draft of this report, said it was comprehensive and accurate.

EXPO '82 FUNDINGFEDERAL

Grants:

| | |
|--|-------------|
| Department of Housing and Urban Development: | |
| Urban Development Action Grant No. 1 | \$5,000,000 |
| Urban Development Action Grant No. 2 | 9,900,000 |

Department of Commerce:

| | |
|-------------------------------------|-----------|
| Economic Development Administration | 4,250,000 |
| Appalachian Regional Commission | 2,050,000 |
| Minority Economic Development | 100,000 |

Department of the Interior:

| | |
|--|-----------|
| Heritage Conservation and Recreation Service | 1,293,480 |
|--|-----------|

| | |
|-------|---------------------|
| Total | <u>\$22,593,480</u> |
|-------|---------------------|

Pavilion:

| | |
|-----------------------------------|------------|
| U.S. pavilion appropriation | 20,800,000 |
| Preliminary pavilion design costs | 516,472 |

| | |
|-------|---------------------|
| Total | <u>\$21,316,472</u> |
|-------|---------------------|

Other:

| | |
|--|-------------------|
| Department of Energy: | |
| Energy Opportunities Consortium Symposia | a/ <u>450,000</u> |

| | |
|-------|---------------------|
| Total | <u>\$44,359,952</u> |
|-------|---------------------|

CITY

| | |
|--------------------------|------------|
| Land acquisition bonds | 11,600,000 |
| General obligation bonds | 21,000,000 |

| | |
|-------|---------------------|
| Total | <u>\$32,600,000</u> |
|-------|---------------------|

CORPORATE

| | |
|------------------------|------------|
| Survey funds | 785,000 |
| Developer's equity | 14,179,000 |
| Industrial bonds | 40,000,000 |
| Five tier loans | 25,000,000 |
| Knoxville banks' loans | 20,000,000 |

| | |
|-------|---------------------|
| Total | <u>\$99,964,000</u> |
|-------|---------------------|

| | |
|---------------------------|-------------------------|
| Combined Expo '82 funding | b/ <u>\$176,923,952</u> |
|---------------------------|-------------------------|

a/These symposia would have occurred anyway, but the theme would not have been on Expo '82.

b/About \$230 million of highway construction will be completed before Expo '82. Most of this construction would have been done without Expo '82, but at a later date.

PROPOSED DELETIONS OR CHANGES TO
REDUCE THE COST AND SCOPE OF THE
U.S. PAVILION (note a)

| <u>Item</u> | <u>Estimated cost</u> |
|--|---------------------------|
| Delete glass dome at escalator | \$ 146,525 |
| Delete one barrel skylight | 39,600 |
| Delete shaft walls on three sides of elevators | 20,985 |
| Change acoustical ceilings from fire rated to regular | 14,735 |
| Delete VIP elevator | 50,666 |
| Use uninsulated trimwall around elevator shafts instead of foam wall | 11,805 |
| Use contourwall instead of trimwall on exterior wall | 9,035 |
| Change theater seats to benches | 10,800 |
| Deduct alternate paint finish on all metal panels | 21,000 |
| Remove 20 percent operable glass on vertical north and south walls | 22,650 |
| Deduct allowance to upgrade elevator | 5,000 |
| Use Ford sunglass reflective instead of PPG solarcool reflective | 7,982 |
| Delete structural steel tower and connecting beams at both east and west ends | 141,800 |
| Delete theater side emergency doors | 35,770 |
| Delete power tower (includes research costs of \$136,525) | 886,525 |
| Delete biomass generator | 500,000 |
| Modify rooftop solar collector | 296,000 |
| Delete observation deck | 79,500 |
| Delete lighting control microprocesser | 224,000 |
| Delete allowance for display lighting | 56,000 |
| Delete solar shades | 36,700 |
| Reduce theater size | 300,000 |
| Modify theater from underground to above ground structure | 226,000 |
| Delete railroad portal | 41,000 |
| Total | <u>\$3,184,078</u> |

a/According to Commerce officials, some of these items may not be deleted in their entirety if cost savings can be realized on other aspects of the pavilion construction.

LIST OF ORGANIZATIONS FORMED FOR EXPO '82KNOXVILLE INTERNATIONAL ENERGY EXPOSITION (KIEE)

KIEE, a nonprofit organization, is the organizer, developer, and operator of Expo '82. It has borrowed \$25 million to get Expo '82 started. KIEE's other functions will include constructing exhibition buildings and a visitor's center, soliciting participation of foreign countries, and making post-Expo '82 adjustments. KIEE is considered an interim user of the land, which will revert to the city after Expo '82.

KNOXVILLE EXPOSITION CENTER

On October 15, 1980, the City Council voted to form this nonprofit corporation to issue \$21,000,000 in bonds for the construction of the Expo Exhibit Hall/Office Building. The Exposition Center will also enter into an agreement with the city of Knoxville to lease space in the Exhibit Hall/Office Building for \$1.9 million a year for 30 years.

KNOXVILLE CIVIC REVITALIZATION FUND

This corporation is a charitable trust of the State of Tennessee and an agent of the city of Knoxville. It has established a \$14.5 million revolving fund to administer the \$9.9 million of action grant funds along with \$4.6 million of KIEE funds. In addition, the corporation has agreements with the development groups under specifications outlined in the grant agreement.

WARREN G. MAGNUSON, WASH., CHAIRMAN

JOHN C. STEPHENS, MISS.
 ROBERT C. BYRD, W. VA.
 WILLIAM PROXMIRE, WIS.
 DANIEL K. INOUYE, HAWAII
 ERNEST F. HOLLINGS, S.C.
 BIRCH BAYH, IND.
 THOMAS F. LABLETTEN, MD.
 LAWTON CHILES, FLA.
 J. BENNETT JOHNSON, LA.
 WALTER D. HUBLETTEN, KY.
 QUENTIN N. BURDICK, N. DAK.
 PATRICK J. LEAHY, VT.
 JIM SASSER, TEXAS
 DENNIS DE CONDOMI, ARIZ.
 DALE BUMPERS, ARK.
 JOHN A. DUNN, R.I.

MILTON R. YOUNG, N. D.
 MARK S. MATFIELD, OREG.
 TED STEVENS, ALASKA
 CHARLES MC C. MATHIAS, JR., MD.
 RICHARD S. SCHWEIKER, PA.
 HENRY BELLMON, OKLA.
 LOWELL P. WEICHER, JR., CONN.
 JAMES A. MC CLURE, IDAHO
 PAUL LARALEY, NEV.
 JAKE GARN, UTAH
 HARRISON SCHMITT, N. MEX.

United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, D.C. 20510

August 20, 1980

Honorable Elmer B. Staats
 Comptroller General of
 the United States
 441 G Street, N.W.
 Washington, D.C. 20548

Dear Elmer:

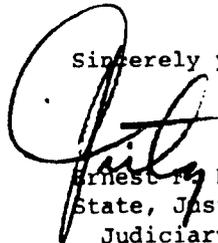
The Supplemental Appropriations and Rescission Act, 1980 (P.L. 96-304) approved July 8, 1980, includes a \$20,800,000 appropriation to the Department of Commerce for Participation in United States Expositions. These funds are for the design, construction, and operation of a Federal Pavilion at the Knoxville International Energy Exposition. I am disturbed by reports that public funds made available for the Exposition may lead to unwarranted private gain. For instance, it is alleged that the construction prices of a \$65,000,000 project to develop the Expo site, to which a \$9,900,000 Federal Urban Development Action Grant has been made available, are grossly overinflated to ensure a hefty profit for the builders.

In order to protect the Government's interest, the General Accounting Office must immediately review the bidding practices on this project, as well as any Expo related project involving Federal funds. I would appreciate your affirmative response to this request, as well as a schedule for reviewing these projects as soon as possible.

Please contact Warren Kane of the Subcommittee staff with regard to this request. Mr. Kane can be reached on 224-7244.

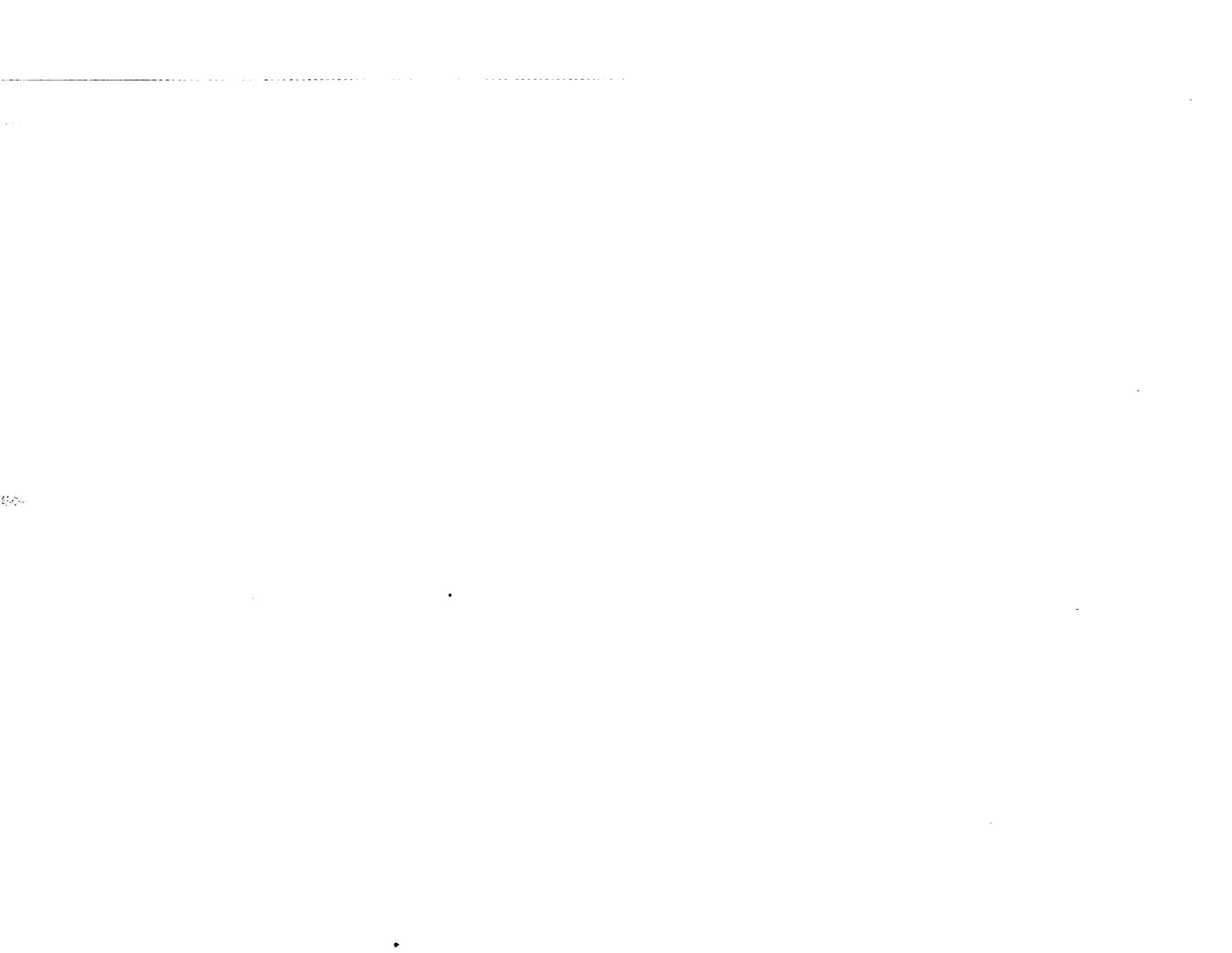
With warmest personal regards.

Sincerely yours,



Ernest R. Hollings, Chairman
 State, Justice, Commerce, the
 Judiciary and Related Agencies
 Subcommittee

EPH:wkc



AN EQUAL OPPORTUNITY EMPLOYER

**UNITED STATES
GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548**

**OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300**

**POSTAGE AND FEES PAID
U. S. GENERAL ACCOUNTING OFFICE**



THIRD CLASS