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RELEASED

B-130515

*Labor*

April 6, 1970

Dear Mr. Tiernan:

We have completed the study requested in your letter of October 23, 1969, of the renovation of the Concentrated Employment Program facility in Providence, Rhode Island. A report that includes our findings, conclusions, and recommendations and the Department of Labor's comments and proposed disposition of this matter is enclosed.

In substance, our review indicated that the contract dated December 18, 1968, entered into between the Director of the Concentrated Employment Program and Raymond Construction Co., Inc., violated the terms of the contract between the Department and Progress for Providence--the sponsor of the program--as well as the statutory prohibition against cost-plus-a-percentage-of-cost system of contracting (41 U.S.C. 254(b)). Neither the Concentrated Employment Program Director nor Progress for Providence had authority to enter into the contract of December 18, 1968, for the additional renovations without the approval of the Department of Labor. However, the Department has authority under the contract to ratify actions taken, and to approve reimbursement to Progress for Providence under the contract modification of February 5, 1969, as it deems appropriate for the benefits the Government received from the renovation work.

We are recommending to the Secretary of Labor that the Department determine the liability of the Federal Government with respect to costs incurred for the renovation of the Providence facility and assist Progress for Providence in resolving the outstanding issues under the contract with Raymond Construction. We are recommending also that the Department place greater emphasis on its continual monitoring of Concentrated Employment Program activities, especially those relating to the acquisition of acceptable facilities for the program.

In commenting on our draft report, the Department of Labor states that it is not responsible for financial or other commitments made by a prime sponsor, which are not provided for in the Department's contract with the prime sponsor. The Department states that its present position is that it will authorize costs for renovation in the general amount which was available for renovation under the Department's contract with Progress for Providence as modified on February 5, 1969, and that this decision was arrived at after careful consideration of the equities of the situation and of the Department's responsibility to not allow costs outside the contract. We find no basis for objecting to the Department's proposed settlement of this matter.

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The Department agreed with our recommendation that greater emphasis needs to be placed on continual monitoring of Concentrated Employment Program activities, especially those relating to the acquisition of acceptable facilities.

As agreed with your staff, a copy of this report is being sent to the Department of Labor. We plan to make no further distribution of this report unless copies are specifically requested, and we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "James B. Axtell".

Comptroller General  
of the United States

Enclosures - 2

The Honorable Robert O. Tiernan  
House of Representatives

GENERAL ACCOUNTING OFFICE REPORT  
ON  
REVIEW OF CIRCUMSTANCES  
RELATING TO THE RENOVATION OF A  
FACILITY USED IN THE  
CONCENTRATED EMPLOYMENT PROGRAM  
PROVIDENCE, RHODE ISLAND

Pursuant to a request from Congressman Robert O. Tiernan dated October 23, 1969, the General Accounting Office has reviewed the contracting and other circumstances relating to the renovation of a facility in Providence, Rhode Island, used in conducting a Concentrated Employment Program (CEP) in that city under a Department of Labor (DOL) contract.

Our review, directed primarily toward obtaining and evaluating information relating to the contracting for the renovation of the facility in Providence, did not include an examination of other CEP operations or expenditures related thereto. During our review, in addition to examining various pertinent contracts, files, and other records, we interviewed the Executive Director of Progress for Providence Inc. (PFP); the local Community Action Agency in Providence; the President of Raymond Construction; the former CEP Director, PFP; and DOL Washington and regional officials responsible for administering the CEP in Providence.

CEP was authorized by title IB of the Economic Opportunity Act of 1964, as amended (EOA) (42 U.S.C. 2740), by the provision, in section 123(a)(5), of special programs which concentrate work and training resources in urban and rural areas having large concentrations or proportions of low-income, unemployed persons and in those rural areas having a substantial outmigration to urban areas.

CEP is designed to combine under one sponsor, and in a single contract, all the manpower programs and services in selected target areas that are necessary to help individuals move from unemployability and dependency to self-sufficiency, and to facilitate the delivery of such services by funding through a single source.

The Director of the Office of Economic Opportunity (OEO) delegated authority to administer CEP to the Secretary of Labor. The U. S. Training and Employment Service within the Manpower Administration is responsible for administering the CEP. The Regional Manpower Administrators (RMA) have been delegated responsibility within their respective regions for approving and executing contracts and agreements for, among others, programs authorized by title IB of the EOA. Program sponsors are reimbursed by DOL for costs incurred. Sponsors generally receive an initial advance of funds and thereafter receive periodic payments on the basis of invoices that are submitted in support of actual expenditures.

PROVIDENCE, RHODE ISLAND, CEP

On May 8, 1968, DOL entered into a letter contract with PFP, which provided Federal funds of \$20,070 for planning the CEP project in Providence. On June 20, 1968, DOL entered into a contract with PFP for the operation of the CEP project. The contract specified that approximately 1,200 unemployed and underemployed residents of the target area were to be provided preemployment work orientation, training, and employment placement assistance during the period June 20, 1968, through August 2, 1969, at a total estimated Federal cost of \$1,935,762. Additional Federal funds of \$151,238 were to be made available for Manpower Development and Training Act allowances to be paid to program participants. The contract completion date was subsequently extended, through a series of modifications to the contract, through March 31, 1970, with an increase of Federal funds of \$278,365.

The DOL-PFP contract contained provisions requiring prior DOL approval of subcontracts and purchase orders exceeding \$25,000 and of cost, cost-plus-a-fixed-fee, time-and-material, or labor-hour type contracts. The contract stated, however, that the Contracting Officer might, in his discretion, ratify in writing any such subcontract and that such action should constitute the consent of the Contracting Officer required by this clause. It also expressly prohibited the contractor from entering into any subcontract which provided for payment on a cost-plus-a-percentage-of-cost basis.

LEASE

A building to house the administrative offices and classrooms of CEP in the target area was recommended in April 1968 by Mr. John Long who was to formally become the CEP Director in September 1968 and to serve in that capacity until August 1969. The building, located at 358 Public Street in Providence, was reportedly in a state of disrepair, almost an entire side wall having been destroyed by a boiler explosion. The building had previously been used as a storage warehouse by the owner -- Union Investment Corporation, Inc. (UIC).

In June 1968, prior to the funding of the program, Mr. Long met with the President of UIC and UIC's architect and a plan was drawn up outlining in detail those renovations needed to make the building suitable for occupancy by the CEP. The cost of the renovations was estimated at about \$80,000.

Mr. Long and UIC informally agreed that UIC would make the necessary renovations and that the costs of the renovations would be reflected in the rental payments. Accordingly, a lease was drawn up which provided for rental costs of \$30,000 for the first year, \$25,500 for the second year, \$21,675 for the third year, \$18,400 for the fourth year, and \$10,000 for the fifth year.

Mr. Cleo Lachapelle, Executive Director, PFP, informed us that, when he was asked to consider the proposed lease agreement, he believed that the rental payments were too high. He expressed the belief that the CEP trainees could perform some of the renovations and another lease was drawn up permitting PFP to make the renovations.

On August 24, 1968, PFP entered into a lease agreement with UIC that provided for a rental of \$12,000 for the first year and \$10,000 a year for the next 4 years. The lease included a 30-day escape clause to permit cancellation in the event Federal funds were not made available for the program.

The CEP Director informed us that, prior to the signing of the lease, several real estate companies were contacted to ascertain whether there was any other suitable property available in the South Providence area. PFP received letters from three real estate companies stating that they had no rental property available in this area.

In addition, the Boston Consulting Group, Inc. -- a firm under contract with DOL to provide management assistance to the CEPs in the New England Region -- stated in a letter to the Executive Director, PFP, dated August 19, 1968, that, although it made no claim to be an authority on real estate, it believed that the property at 358 Public Street was completely acceptable for the CEP program and that the location was exceptionally good. The firm also noted that the rental costs for the CEP building seemed reasonable and that the renovations would be accomplished by CEP. The firm recommended that the building be rented and that it be made ready for occupancy as soon as possible in the interest of the CEP program for the disadvantaged people of Providence.

#### CONSTRUCTION CONTRACTS

The CEP Director informed us that he had requested bids from contractors, for repairs to the CEP building, by telephone and through personal contacts. Bid quotations ranging from \$12,580 to \$27,816 were received from four contractors for repairs to the west wall, installation of three security windows, and repairs to the second floor. A fixed-price contract for the renovation work was awarded to the low bidder -- Raymond Construction Co., Inc. -- in the amount of \$12,580 on September 13, 1968. The contract was signed by the PFP Executive Director.

The building inspector of the city of Providence informed the contractor (Raymond Construction) that a building permit would not be issued until the full intended use of the building was made known. The contractor reported this information to the CEP Director who subsequently met with the building inspector and explained the use of the building. According to the CEP Director, the building inspector noted several additional requirements which were to be met before the building could be used for the intended purpose.

The contractor stated that the intent of the contract of September 13 was to make the building structurally sound and that any other required work would have to be accomplished under a new building permit. However, he stated also that this proposed arrangement was not acceptable to the building inspector. After the CEP Director and the owner of the building assured the building inspector that the necessary repairs would be made, a permit was issued on October 9, 1968, and the contractor started the repairs contracted for on September 13.

On November 6, 1968, the contractor submitted a proposal to the CEP Director for constructing two fireproof stairways for \$15,854 and reminded him that the building inspector, in addition to requiring the fireproof stairways, required installation of a complete sprinkler system, a fire alarm, and an emergency lighting system and the revamping of electrical wiring and fixtures to conform to the building code, along with the installation of adequate toilet facilities and other miscellaneous items, to conform to the various codes and regulations. The CEP Director informed us that subsequently, without formal plan specifications and without obtaining competitive bids, he entered into an oral agreement with Raymond Construction to act as general contractor and that, through a series of further oral agreements, he authorized extensive additional renovations to the building.

On December 10, 1968, the contractor submitted an invoice to the CEP Director for work performed under the September 13, 1968, contract in the amount of \$12,580 plus \$4,079.82 for additional work. A notation on the invoice stated that the charges were not applicable to the additional work required by the building inspector, such as (1) constructing fireproof stairways, (2) constructing fire exit doors, (3) revamping electrical service, wiring, and fixtures, and (4) installing a fire alarm and sprinkler system, along with other alterations and repairs. The initial contract was not amended, nor was another contract entered into authorizing the additional charges or work.

The CEP Director notified the PFP Executive Director on January 20, 1969, that he had authorized payment of the amount of the original contract (\$12,580) which the contractor had included in his invoice of December 10, 1968, and that other invoices would follow to cover the additional work. A check for \$12,580 was sent by PFP to the contractor on February 11, 1969.

In November 1968, Mr. James Ring, Regional Manpower Administrator's Representative (MAR) became aware through a State employment service official of the extent of the renovations being made to the CEP building and, during an on-site visit expressed his concern at the extent of the renovations. The CEP Director told the MAR that he had authorized the contractor to perform the work without obtaining competitive bids or approval of PFP because of the extensive time involved in following such procedures and because of the urgency of the need for adequate quarters for the CEP staff.

The MAR requested that the CEP Director compile the renovation cost data and present it to DOL regional headquarters in Boston. The MAR advised us that the CEP Director's data indicated that the total renovation costs would be about \$132,000, which was much higher than the \$62,520 approved in the DOL-PFP contract budget line item for rent. He stated that, after he reviewed the data, he was faced with a decision of recommending to the DOL contracts unit either approval for the renovation costs by modification of the budget line item or discontinuance of the Providence CEP project. He recommended that the budget line item be increased by \$66,090 to provide for the renovations.

On December 18, 1968, the CEP Director, after a meeting with the MAR, entered into a cost-plus-percentage-of-cost (CPPC) contract with Raymond Construction to perform all work required by the city building inspector, as noted on the plan submitted for the building permit dated October 9, 1968, and any additional work required by the CEP Director. All work under this contract was considered to be in addition to the work described in the contract dated September 13, 1968. No cost limitations for the work were listed in the contract; however, the contract provided for the contractor to receive a fee equal to 10 percent of all costs. The contract also stated that no architect was to be employed for the project but that the CEP Director would represent the owner of the building. The contract did not specify in detail the work to be performed.

The CEP Director submitted a letter to the MAR on December 26, 1968, formally requesting a modification of the DOL-PFP contract to allow for the renovations necessary to make the building meet all requirements of the building inspection department. The letter stated that the additional funds were to be reallocated from other budget line items and that the additional renovation costs directly attributable to the building code requirements amounted to approximately \$60,000. The letter stated also that it appeared that the renovation work would be performed most rapidly and economically by turning it over to a general contractor and that the CEP Director had therefore negotiated a cost-plus-10-percent-fixed-fee contract with the contractor.

The MAR replied to the CEP Director's request on December 30, 1968, informing him that the letter requesting the contract modification had been forwarded to the DOL contracts unit for review along with the MAR's recommendation that the contracts unit approve the budget increase. The MAR informed the CEP Director also that

"\*\*\* these activities [renovation work without approval] were in violation of your CEP contract -- had we had prior knowledge of the extent and costs of the renovations, they would not have been approved, and we feel the matter should have been discussed at a much earlier date."

A modification to the DOL-PFP contract, dated February 5, 1969, was signed by Mr. William Lewis, Regional Manpower Administrator (RMA), and Mr. Cleo Lachapelle, increasing the amount budgeted for rent by \$66,090 to \$128,610

to provide for the cost of the renovations. On December 29, 1969, the contract was further modified to provide for the extension of all budget items to December 31, 1969. This modification included increasing the line item for rent by an additional \$17,401, which brought the total for the line item for rent to \$146,011.

✓ In November 1969 we questioned the CEP Director as to his basis for entering into oral agreements with Raymond Construction for the additional renovation work and also his basis for eventually entering into a CPPC-type contract. The CEP Director informed us that he had made the oral agreements to place the program in operation as soon as possible because DOL had suggested that, unless the program got under way quickly, payment on Providence CEP invoices would be discontinued. He said that he entered into a CPPC contract on the advice of the MAR.

We subsequently contacted the DOL official who had been the MAR at that time. He informed us that, on the basis of the information furnished to him in December 1968 by the CEP Director--that total renovation costs would be no more than \$132,000 and that the renovations had already been substantially completed--he had advised the CEP Director to try to negotiate the renovation costs of \$132,000 downward and to allow a 10-percent profit on the negotiated cost figure. This official stated that his instructions to the CEP Director could have been interpreted to mean a CPPC contract but that he did not intend that the contract should be the open-end type, such as the one actually entered into, providing for a CPPC contract with no indication of any limit on costs.

An invoice, dated February 7, 1969, in the amount of \$156,335 was submitted to the CEP Director by Raymond Construction for work performed in accordance with the contract dated December 18, 1968. The CEP Director informed us that he had been concerned about the high cost and had engaged an architect to assist him in determining the validity of the costs shown on the invoice. The CEP Director informed us also that the Board of Directors of PFP instructed him in February to terminate his dealings with the architect and to have no further contact with Raymond Construction with respect to the renovations.

On April 7, 1969, Raymond Construction submitted a revised invoice to PFP in the amount of \$167,288 for all work performed in accordance with the December 18, 1968, contract, which included an amount for the overrun on the September 13, 1968, contract and an amount for interest of \$1,654.

ATTEMPTS TO ARRIVE AT  
CONTRACT SETTLEMENT

Miss Oleta Crain, Assistant Regional Manpower Administrator for DOL, made a review to determine the reasons for the costly renovations to the CEP building and, in a report dated April 21, 1969, made the following recommendations, among others, to Mr. William Lewis, RMA.

1. A full-scale investigation should be made to determine whether the United States Government is liable for any or all costs under the terms of the contract entered into by Raymond Construction and the CEP Director.
2. A determination should be made as to the responsibility of PFP in regard to the renovation of the building.
3. A determination should be made as to whether the cost claimed by the contractor was reasonable and prudent.

On May 8, 1969, a review board composed of DOL and General Services Administration (GSA) officials was designated to review the renovation of the Providence CEP building.

Mr. Craig Yorke, Chief of the Estimates Branch, Design and Construction Division of the Public Buildings Service, GSA, Boston, informed us that DOL had requested GSA to inspect the building housing the CEP in Providence for the purpose of estimating the value of the renovation work on the building and that he had been a member of the team which inspected the building in May 1969. The report on the results of the inspection contained Mr. Yorke's statement that "the agency had gotten a very good building for the quoted amount of money at this point in time." He said that the "amount" referred to was Raymond Construction's invoice for \$167,288. He said also that he had based his opinion on information furnished by DOL and on his own inspection.

Mr. Yorke said further, however, that his inspection was restricted because (1) there were no pictures or plans describing the building prior to the renovation work and (2) there were no drawings or specifications showing what work was to have been accomplished by the contractor. He said that his statement concerning the reasonableness of the costs of the renovation work was based on the assumption that the information provided him was valid and that the contractor had performed the work and used the material that he claimed he had.

Another GSA official, who accompanied Mr. Yorke and the review team, stated in an interoffice memorandum dated May 15, 1969, that:

"In general, it is my impression that while certainly the procedures followed were highly unorthodox \*\*\* the overall results appear to be reasonable in consideration of the sums expended. \*\*\* The construction certainly is not what would be considered first class in all respects, but it is none the less acceptable. Esthetically it is fairly pleasant."

This official stated also that he noted that the sprinkler system had not been completed in that it was not tied into a water supply and that there were other areas which were also incomplete; however, he didn't specify what these other areas were.

In December 1969 we contacted the President of Raymond Construction who advised us that the sprinkler system was one of the last items to be completed prior to February 1969 when he was advised by PFP that he should do no more work on the building. He advised us that he had no choice but to stop the work in process.

By memorandum dated May 26, 1969, the DOL Deputy Regional Attorney, also a team member, informed the team chief, Miss Oleta Crain, in part, that:

"Finally what are the rights, liabilities, and responsibilities of DOL, PFP, Inc., and Raymond Construction Company. The only express or explicit contracts binding on the government are those of June 20, 1968 and February 5, 1969 with PFP. There is no express or explicit agreement between Raymond Construction Company and either PFP or DOL.

\* \* \* \* \*

"The building is and has been occupied by staff members and the program is underway. PFP has benefited substantially from the renovation of its leased building by the contractor.

\* \* \* \* \*

"\*\*\* However, in my opinion, PFP is liable to Raymond Construction Co. quantum meruit, i.e., for the reasonable value of the renovation work performed on the CEP building. DOL is liable only to PFP for reasonable renovation costs to the extent provided in the express supplemental contract of February 5, 1969. Of course, 'reasonable value' must be determined, and negotiation between PFP and the contractor in connection with such a determination is likely. \*\*\*"

At the request of PFP, a certified public accountant (CPA) began an examination of Raymond Construction's accounts and records on May 13, 1969, to substantiate the amounts invoiced for the renovation work. As a result of the audit, certain adjustments relating primarily to overhead and profit were recommended by the CPA and concurred in by Raymond Construction. These adjustments reduced the invoiced amount from \$167,288 to \$159,663, of which \$3,258 was interest for the period February 7, through May 17, 1969.

Also, as a part of the DOL team effort, a special review of the repair and renovation expenses incurred was completed in May 1969 by the DOL Division of Contract and Grant Audit. The report resulting from this review questioned costs totaling \$33,542, which consisted primarily of profit and administrative costs. Administrative costs were questioned on the basis that the claimed overhead rate should be reduced and that certain claimed overhead costs on subcontracted work should be eliminated. (About 53 percent of the renovation work was subcontracted by Raymond Construction.)

In a letter to the RMA dated June 5, 1969, the Executive Director, PFP, stated that PFP had conferred with Raymond Construction in an effort to ascertain whether a satisfactory compromise could be reached concerning the \$159,663 cost for renovating the CEP building. According to the PFP Executive Director, PFP recommended a 5-percent profit for the work performed on the building and a compromise settlement of \$149,294. Raymond Construction agreed to waive the interest of \$3,258 but would not agree to accept less than \$156,404. Further meetings between Raymond Construction and PFP did not result in a satisfactory solution.

On July 29, 1969, Raymond Construction submitted its final revised invoice in the amount of \$159,330. The increase in costs over the amount which the contractor was previously willing to accept was for additional sprinkler system work which had not been included in prior invoices.

On August 13, 1969, the Executive Committee of PFP adopted a resolution that an agreement subject to DOL's ratification be drawn between the agency and Raymond Construction to pay on account to Raymond Construction the sum of \$105,000 in an effort to mitigate any claims for damages and interest and to avoid litigation. The payment reportedly represented the balance, at that time, of the budget line item allocated for rent in the DOL-PFP contract.

According to DOL, it was in the process of resolving the issue when it received a request dated October 23, 1969, from Congressman Tiernan to withhold any additional authorization for settlement of the Raymond Construction claim pending receipt of the results of our review.

#### EFFECT OF RENOVATIONS ON BUILDING VALUE

Our inquiries revealed that, after the renovations had been made to the CEP facility, its market value was about \$65,000, or 40 percent of the invoiced cost of the renovations.

In reporting the results of its special review of the renovation expenses of the CEP building, the DOL Division of Contract and Grant Audit noted that DOL does not anticipate acquiring real estate when funding the various antipoverty programs under its jurisdiction. The DOL report generally stated that (1) the task of renting real estate is the responsibility of the sponsoring organization, and in keeping with the objectives of the antipoverty programs, it is considered expedient, if not necessary, to locate in depressed areas, (2) invariably the physical condition of the facility selected to house staff and/or enrollees is substandard and considerable repair and renovation work is required before the facility is made operational, and (3) usually, such work is funded by the Government.

The report stated further that (1) the extent of the program benefit to be derived from such renovation is uncertain because federally financed antipoverty programs are generally funded on a year-to-year basis,

(2) as the program is refunded in successive years, the benefits from the high initial renovation expense are increased, and (3) if the program does not continue beyond the first year or two, the lessor-owner in most cases is the principal beneficiary of such renovations.

The Providence City Assessor informed us that (1) the CEP building had an appraised value of \$17,600 in 1963, (2) because of the extensive renovation work, the building was reappraised as of December 31, 1968, at an assessed value of \$52,940, and (3) considering Providence's assessment of 80 percent of appraised value, the appraised value of the building at the time should have been about \$65,000.

He also stated that, although extensive renovations had been made to the building, its market value at October 1969 should not be more than \$65,000, because the building is located in a depressed area.

#### CONCLUSIONS

The actions taken to acquire a facility for conducting the Providence CEP were not monitored by DOL as effectively or prudently as they should have been. ✓

We believe that PFP and DOL were aware that renovations were being made to the CEP facility and that closer surveillance by PFP and DOL would have disclosed at an earlier date the extent of the renovation work being done. Action could then have been taken to (1) determine what renovations were necessary for an acceptable facility in which to conduct the program, (2) require that proper contracting procedures be followed, and (3) provide adequate funds to complete the renovation work.

Neither the CEP Director nor PFP had authority to enter into the contract of December 18, 1968, for the additional renovations without the approval of DOL, and even DOL had no authority to approve a cost-plus-a-percentage-of-cost contract. However, DOL does have authority to approve reimbursement to PFP as the DOL deems appropriate for the work done under the improper contract, and in our opinion the contract modification of February 5, 1969, had the effect of such an approval to the extent of the approved budget increase. ✓

#### RECOMMENDATIONS TO THE SECRETARY OF LABOR

We recommend that DOL determine the liability of the Federal Government with respect to the costs incurred for the renovation of the CEP facility and assist PFP in resolving the outstanding issues under the contract with Raymond Construction.

To help avoid similar situations in the future, we recommend also that DOL place greater emphasis on continual monitoring of CEP activities, especially those relating to the acquisition of acceptable facilities for the program. ✓

DEPARTMENT OF LABOR COMMENTS AND OUR EVALUATION

By letter dated February 16, 1970, the Department of Labor made the following pertinent comments on the preceding sections of this report. The full text of the Department's comments is presented in enclosure II.

1. "The draft GAO report substantiates the Department's position that the dispute is between the Raymond Construction Company and Progress for Providence, the prime sponsor. The Department is not responsible for financial or other commitments made by a prime sponsor which are not provided for in the Department's contract with that prime sponsor.

"In this situation not only were the renovation costs which were incurred greater than the funds provided for this item in the contract budget, but the contract entered into by the Raymond Construction Company and the Director, Concentrated Employment Program, was invalid as far as the Department is concerned. The Director of the Concentrated Employment Program did not have the authority to sign such a contract as this was the responsibility of the prime sponsor, Progress for Providence. In addition, the type of contract entered into, which contains a cost-plus-percentage-of-cost payment provision, is not allowed under the Federal Procurement Regulations.

\* \* \* \* \*

2. "The Department concurs in your first recommendation 'that DOL determine the liability of the Federal Government with respect to the costs incurred for the renovation of the CEP facility and to assist Progress for Providence in resolving the outstanding issues under the contract with Raymond Construction.' As indicated in your report, the Department was in the process of doing this when Congressman Tiernan requested that any additional authorization for settlement of the Raymond Construction Company claim be withheld, pending receipt of the results of the GAO review. As the received draft is subject to revision, the Department will proceed with the disposition of this matter upon receipt of GAO's final report.
3. "The Department's present position is that it will authorize costs for renovation in the general amount which was available for renovation under the contract modification of February 5, 1969. This decision was arrived at after careful consideration of the equities of the situation and of the Department's responsibility not to allow costs outside of the contract.

4. "The Department also concurs in the report's recommendation that DOL place greater emphasis on continuous monitoring of CEP activities, especially those relating to the acquisition of acceptable facilities \*\*\*."
5. "The CEP program has recently undergone a review, and new programmatic and administrative guidelines and procedures have been issued. Special emphasis has been given to improving monitoring. Each CEP now has a full-time Departmental representative assigned as monitor. Revised monitoring and evaluation reporting procedures have been implemented. The issue of appropriate costs for facility, i.e., rent, renovation, and utilities, has been and is under continual review. The CEP program's objective--providing comprehensive and coordinated manpower services generally within inner-city target areas--does create situations where extensive renovation of facilities is required because of the generally poor condition of the buildings which are available. It is necessary, however, to ensure that these costs are kept to a minimum and that the project's effectiveness be such that the initial facility investment can be amortized over several years through subsequent refunding of the project."

We believe that the Department's comments indicate an awareness of the conditions and circumstances which have precipitated the dispute over renovation costs for the Providence CEP facility and of the need for improved monitoring of CEP activities. We find no basis for objecting to the Department's proposed settlement of this matter.

U.S. DEPARTMENT OF LABOR  
OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

ENCLOSURE II  
Page 1

WASHINGTON, D.C. 20210

FEB 16 1970



FEB 19 1970

Mr. Henry Eschwege  
Associate Director  
Civil Division  
U. S. General Accounting Office  
Washington, D. C. 20548

Dear Mr. Eschwege:

Thank you for the opportunity to review and make comment on the draft report by the General Accounting Office (GAO) concerning the review of the circumstances relating to the renovation of a facility used in the Concentrated Employment Program, Providence, Rhode Island.

The draft GAO report substantiates the Department's position that the dispute is between the Raymond Construction Company and Progress for Providence, the prime sponsor. The Department is not responsible for financial or other commitments made by a prime sponsor which are not provided for in the Department's contract with that prime sponsor.

In this situation, not only were the renovation costs which were incurred greater than the funds provided for this item in the contract budget, but the contract entered into by the Raymond Construction Company and the Director, Concentrated Employment Program, was invalid as far as the Department is concerned. The Director of the Concentrated Employment Program did not have the authority to sign such a contract as this was the responsibility of the prime sponsor, Progress for Providence. In addition, the type of contract entered into, which contains a cost-plus-percentage-of-cost payment provision, is not allowed under the Federal Procurement Regulations.

The Department with its responsibility for maximizing the effective use of public funds entrusted to it cannot allow indiscriminate commitments on the part of its contractors or their subcontractors to become charges to the Government. The Department must maintain a control over the use of public funds by adhering to the provisions of the contract and its incorporated budget line items. Therefore, extreme care must be exercised by the Department in allowing costs incurred outside of the contract because such practices, should they become widespread, would soon render the contract and the budget contained therein administratively meaningless.

FEB 19 1970

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The Department concurs in your first recommendation "that DOL determine the liability of the Federal Government with respect to the costs incurred for the renovation of the CEP facility and to assist Progress for Providence in resolving the outstanding issues under the contract with Raymond Construction." As indicated in your report, the Department was in the process of doing this when Congressman Tiernan requested that any additional authorization for settlement of the Raymond Construction Company claim be withheld, pending receipt of the results of the GAO review. As the received draft is subject to revision, the Department will proceed with the disposition of this matter upon receipt of GAO's final report.

The Department's present position is that it will authorize costs for renovation in the general amount which was available for renovation under the contract modification of February 5, 1969. This decision was arrived at after careful consideration of the equities of the situation and of the Department's responsibility not to allow costs outside of the contract.

The Department also concurs in the report's recommendation "that DOL place greater emphasis on continuous monitoring of CEP activities, especially those relating to the acquisition of acceptable facilities." As indicated in the draft report, the Department's Manpower Administration Representative (MAR) became aware of the emerging situation in November 1968. It was only in September that the initial renovation contract was let, and the repairs did not begin until early October. It was not until November that the orally sanctioned open-ended renovation activities began. The MAR then became aware of what was occurring and raised the matter with the CEP Director and the Department's Regional Office. As additional renovation was necessary to pass city building and other requirements, steps were initiated by the Department to modify the contract and budget to allow for this additional renovation. The present dispute has been created by the continued disregard of the CEP contract's budget and administrative requirements by the prime sponsor, the CEP, and the Raymond Construction Company.

There is, however, a need to strengthen and improve the Department's monitoring of the CEPs. The CEP program has recently undergone a review, and new programmatic and administrative guidelines and procedures have been issued. Special emphasis has been given to improving monitoring. Each CEP now has a full-time Departmental representative assigned as monitor. Revised monitoring and evaluation reporting procedures have been implemented. The issue of appropriate costs for facility, i.e., rent, renovation, and utilities, has been and is under

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continual review. The CEP program's objective--providing comprehensive and coordinated manpower services generally within inner-city target areas--does create situations where extensive renovation of facilities is required because of the generally poor condition of the buildings which are available. It is necessary, however, to ensure that these costs are kept to a minimum and that the project's effectiveness be such that the initial facility investment can be amortized over several years through subsequent refunding of the project.

In order to expeditiously handle the long outstanding matter of the Raymond Construction Company and Progress for Providence, it is requested that the GAO issue their final report as soon as possible.

Departmental staff are available to provide any additional information or assistance you may require on this matter.

Sincerely,



Leo R. Werts  
Assistant Secretary for  
Administration