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MAR 11 1974

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The Honorable Harold Runnels
House of Representatives

74-0518

R Dear Mr. Runnels:

In accordance with your request of September 6, 1973, and subsequent discussions with your office, we examined a number of allegations relating to the Neighborhood Youth Corps (NYC) and the Emergency Employment Act of 1971 (EEA) (42 U.S.C. 4871) programs, being carried out in the city of Artesia, New Mexico. We discussed the detailed results of our work with you on November 15, 1973, and agreed to provide you with a summary of our work.

The allegations referred to our Office related to a September 1972 labor dispute. About 40 city employees had been attempting to have the city accede to their request for union recognition; but the city refused. Subsequently, these employees failed to show up for work and, after refusing an order to return to work, their employment was terminated. The charge was made that funds from the NYC and EEA programs were used to hire other employees to replace the former city employees involved in the labor dispute.

In reviewing this matter we examined correspondence and discussed the situation with officials of Artesia, the Eddy County Community Action Corporation, the New Mexico Employment Security Commission, and the Department of Labor. We also examined time records, personnel records, payroll records, minutes of city council meetings, and other pertinent documents. However, both the NYC and EEA summer programs had been terminated at the time of our fieldwork.

BACKGROUND

EEA is designed to provide unemployed and underemployed persons with transitional employment in jobs providing needed public services during times of high unemployment. The Manpower Administration, Department of Labor, carries out this program through grants to States, cities, and counties with populations of 75,000 or over and to consortia of Indian tribes. These units of government serve as program agents for the Department and negotiate subgrants with smaller units of government within their jurisdictions.

Section 12 of the act states that the Secretary of Labor shall not provide financial assistance under this act unless he determines that the program shall (1) result in an increase in employment opportunities over

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those which would otherwise be available, (2) not result in the displacement of currently employed workers, (3) not impair existing contracts for services or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed, and (4) not substitute public service jobs for existing federally assisted jobs.

An EEA summer program was established for the summer of 1973 that allowed public employers to provide short-term employment mainly for disadvantaged youths between the ages of 14 and 22 and for Vietnam-era veterans not more than 29 years of age.

NYC is designed to provide useful skill training and work experience to help disadvantaged high-school-aged youths from low-income families to continue or resume their education or to prepare them to obtain and hold regular competitive employment. The NYC in-school program is designed to encourage youths to stay in school; the NYC summer program is designed to encourage youths to return to school in the fall.

PROGRAMS IN THE ARTESIA AREA

The Department of Labor allocated \$2,885,000 to New Mexico in August 1971 and \$854,000 in September 1971 to carry out EEA programs in certain areas of that State. From these funds the State allocated about \$15,800 to the city of Artesia which served as a subagent of New Mexico.

These funds were to cover the first program year--through August 1972--but were subsequently extended by the Department for an additional year. By August 1973, the persons the city had employed under the regular EEA programs had either obtained permanent positions with the city or left to seek other employment and the regular program was, in effect, terminated.

The city received funds to cover program costs for three regular EEA participants. Funding for a participant's job is generally referred to as a participant "slot."

The city was also authorized slots for 12 EEA summer program participants when the 1973 program was implemented, and it later received 12 additional EEA slots after the Artesia public schools elected not to use the EEA slots they had been assigned. As a result of these authorizations, the city contracted for 24 EEA summer slots and the State allocated \$9,850.

In July 1973 the Eddy County Community Action Corporation was awarded \$160,835 for a 1973 NYC summer program, of which about \$17,825, for 62 slots, was allocated to the Artesia area. Community action officials stated that, to avoid becoming involved in the labor dispute, they did not offer any slots directly to the city but restricted the slots to nonprofit organizations in the Artesia area. The slots were allocated to a number of

organizations, including the Cottonwood Health Center, the housing authority, and the Artesia public schools.

Under this program, the Artesia public schools received 12 NYC summer slots. The superintendent of schools advised us that the youths were used on weedcutting and custodial chores around the schools and were not assigned to the city. The school system did not employ either regular or summer EEA participants.

The number of summer slots actually administered by the city and the Artesia public schools for 1973 are shown below.

<u>Summer program</u>	<u>City of Artesia</u>	<u>Artesia public schools</u>
EEA	^a 24	0
NYC	<u>0</u>	<u>12</u>
	<u>24</u>	<u>12</u>

^aThe 12 initial summer EEA slots were supplemented by an additional 12 slots which the school district relinquished.

OPERATION OF THE PROGRAMS

A total of four persons were employed during the period the regular EEA programs were in existence. The city hired the initial three participants at least 7 months before the labor dispute. One of the EEA participants did join in the labor dispute and the city terminated his employment. Several months later he was rehired as a regular city employee.

A total of 30 youths participated for various periods of time in the Artesia EEA summer program and were employed mainly in the parks department performing such jobs as weedcutting, grass-watering, and custodial chores. In addition, the summer participants were used in such areas as the mental health department, the housing authority, the museum, the department of motor vehicles, the police department, and the chamber of commerce tourist booth.

Our review showed that some of the youths employed in the EEA summer program were working in departments affected by the labor dispute and that some of the youths performed tasks similar to those performed by persons involved in the labor dispute.

City officials agreed that some of the youths may have, from time to time, performed the same tasks as some of the former city employees. These officials stated, however, that (1) these tasks were of an intermittent nature (weedcutting, grass-watering, and custodial chores) and were not

regularly assigned duties, (2) the city had rebuilt its labor force before the start of the EEA summer program, and (3) the EEA summer program was too small and too short in duration to have any effect on a labor dispute.

During our review we noted that the labor dispute did initially reduce the city's labor force considerably. The city was able, however, to bring its labor force up to pre-labor-dispute levels before the EEA summer program was initiated. We also noted that State employment security commission monitoring reports noted only one instance in which an EEA summer youth was engaged in work that was considered to be of a regularly assigned nature and the city was advised to transfer the individual to another job. A city official told us that the youth was immediately transferred to other duties after the request from the State. City officials said that the youths employed in the 1973 EEA summer program performed basically the same kind of work as the youths in previous NYC summer programs.

We discussed our findings with the Department of Labor's Solicitor's Office. The opinion of the Acting Associate Solicitor for Manpower was that:

" * * * we find no substance in the union's complaint that PEP [Public Employment Program] summer funds were used in Artesia in violation of the maintenance of effort required by section 12(a)(1) of the Emergency Employment Act. The strikers had already been replaced by other regular employees, making it clear that the PEP participants were not displacing them. Further the youths in the summer of 1973 did the same kind of work as others like them had done the previous summer, before the strike began. Thus there is reason to believe they would have been hired and assigned to this work even if no strike had occurred, supplementing rather than displacing regular employees."

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Although we did not submit this report to the Department of Labor or to the city of Artesia for formal review or comments, the subject matter was discussed with officials of the Department and representatives of the city and their views were considered in preparing this report.

We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,



Comptroller General
of the United States