REPORT TO THE CONGRESS

Improved Cooperation And Coordination Needed Among All Levels Of Government -- Office Of Management And Budget Circular A-95

Office of Management and Budget
and Other Federal Agencies

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

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

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To the President of the Senate and the
Speaker of the House of Representatives

This is our report assessing the performance of the Office of Management and Budget and the Federal agencies in implementing title IV of the Intergovernmental Cooperation Act of 1968 and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 through Office of Management and Budget Circular A-95. These statutes provide for the evaluation, review, and coordination of Federal and federally assisted programs and projects.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of the report to the Director, Office of Management and Budget, and to the heads of the departments, agencies, and commissions to which the Circular applies.

Elmer B. Staats

Comptroller General
of the United States

Contents

ABBREVIATIONS

NOI	Notice of Intent
HEW	Department of Health, Education, and Welfare
LEAA	Law Enforcement Assistance Administration
GSA	General Services Administration
VA	Veterans Administration
USG	Under Secretaries Group for Regional Operations
OEO	Office of Economic Opportunity
FACS	Federal Aid Control System
REGIS	Regional Grant Information System
OMB	Office of Management and Budget
PNRS	Project Notification and Review System

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

IMPROVED COOPERATION AND COORDINATION NEEDED AMONG ALL LEVELS OF GOVERNMENT--OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-95

Office of Management and Budget and Other Federal Agencies

D I G E S T

WHY THE REVIEW WAS MADE

Two statutes sought to increase intergovernmental cooperation by providing State agencies, local governments, and other parties with the opportunity to review and comment on

--federally assisted projects and

--direct Federal development projects which may affect their plans and activities. (See pp. 3 to 5.)

The Office of Management and Budget implemented the two statutes through OMB Circular A-95. GAO sought to determine whether coordination among Federal, State, and local governments has improved.

FINDINGS AND CONCLUSIONS

Federally assisted projects

To facilitate review of and comments on applications for Federal assistance by State and local governments, Part I of Circular A-95 prescribed a Project Notification and Review System. Applicants were to first notify State and areawide organizations called clearinghouses, which were to insure that parties which might have been affected by a proposed project had a chance to review and comment.

After this review, applicants could submit formal applications to funding agencies, such as Federal or State agencies, which administered Federal programs. (See chap. 2.)

The Office of Management and Budget and the Federal agencies determined that 138 of the approximately 550 Federal programs providing financial assistance can impact on an area or community and should be covered by Part I of Circular A-95. (See p. 14.)

However, projects which had significant impact were not subject to the Project Notification and Review System because their funding programs were not covered by the Circular and because there were frequent changes in the number and nature of Federal programs. (See p. 16.)

As a result:

--Participants in the Circular A-95 process were confused as to what programs were subject to the Project Notification and Review System.

--Clearinghouses could not fully exercise their prerogative of determining whether proposed projects had potential impact.

--Planning activities of State and areawide organizations were hampered by incomplete data.

Coverage of all Federal programs providing financial assistance would help solve these problems.

States and Federal agencies have taken steps on their own to expand the review and comment process to include more Federal programs. (See p. 19.)

The Project Notification and Review System was not achieving its full potential to improve intergovernmental cooperation because applicants, clearinghouses, and Federal agencies did not always comply with its requirements.

Though in some cases noncompliance may have been self-serving, the majority of cases were the result of confusion and misunderstanding as to Project Notification and Review System requirements and procedures.

Applicants were:

--Not entering proposals consistently. (See p. 25.)

--Not giving clearinghouses adequate time to review proposed projects. (See pp. 26 and 27.)

--Contacting only one of the two clearinghouses that should have been notified. (See p. 36.)

--Not including review comments in the applications to funding agencies. (See p. 37.)

Clearinghouses were:

--Not sure as to how much time they had to review applications for Federal assistance. (See p. 33.)

--Generally not working with applicants and commentators to resolve conflicts. (See p. 37.)

Federal agencies were:

--Accepting, processing, and sometimes approving applications without evidence that applicants had complied with the Project Notification and Review System requirements. (See pp. 26 and 27.)

--Not adequately instructing applicants in the Project Notification and Review System requirements. (See pp. 29 to 31.)

--Not informing clearinghouses of actions taken on applications subject to the Project Notification and Review System. (See p. 39.)

As a result, State and local governments did not consistently have a chance to review proposed projects.

Direct Federal development projects

Federal agencies engaged in the construction of buildings and in other public works projects did not consistently notify State and local governments and clearinghouses of their planned development activities though required by Circular A-95. (See p. 44.)

As a result, projects met with delays, cost overruns, and adverse reactions from citizens and government officials, which possibly could have been avoided had clearinghouses been notified.

The Office of Management and Budget directed the Federal agencies to

establish their own regulations to carry out the requirements of Circular A-95. However, it did not provide further instructions to the agencies to enable them to design and implement their own systems to carry out the purpose of the Circular. (See pp. 56 and 57.)

Administration of Circular A-95

The Office of Management and Budget devoted only limited staff to administering the Circular. As a result:

--Regulations of Federal agencies for implementing the Circular varied considerably, indicating that agencies needed additional guidance. (See p. 59.)

--The Office passively monitored compliance with the Circular, relying on complaints as a basis for corrective action. (See p. 60.)

--The Office issued policy interpretations to individual parties without notifying other organizations which could be affected. (See p. 61.)

These factors contributed to inconsistent implementation of the Circular by participants at all levels.

To help the Office of Management and Budget administer the Circular, Federal Regional Councils were given responsibility for coordinating Circular activities. GAO concurred in this decision but stated that the councils' success depends upon how the Office of Management and Budget addresses factors such as

--limited council staffing and

--inconsistent commitment by Federal agencies to councils, unless the Office provides direction and support.

Regional Grant Information System

This system was a major effort to institute more specific and consistent procedures for the flow of data on applications for Federal assistance through the Project Notification and Review System and through the systems of Federal agencies for reviewing and acting on assistance applications. (See p. 72.)

GAO noted significant problems in the Project Notification and Review segment of the Regional Grant Information System as the system was being tested. (See p. 74.)

Further, because the Regional Grant Information System was independent of the Federal agencies' internal information systems, GAO believed that Federal agencies would continue to develop and use their internal systems with only limited effort devoted to developing and operating the Regional Grant Information System.

The problems with the Project Notification and Review System require correction before any grant information system can rely on the process as a source of data.

RECOMMENDATIONS

The Office of Management and Budget should revise Part I of Circular A-95 to:

--Provide that all Federal financial assistance programs which can im-

pact on area or community development be subject to the Project Notification and Review System. (See p. 22.)

--Clarify and strengthen certain Project Notification and Review System requirements and procedures. (See p. 42.)

The Office of Management and Budget should also:

--Direct Federal agencies to include all Project Notification and Review System requirements in both their internal instructions and their instructions issued to applicants.

--Consider establishing uniform Project Notification and Review System application procedures.

Regarding direct Federal development projects, the Office of Management and Budget should clarify and strengthen certain Circular A-95 requirements and procedures. (See p. 57.) Also the Office should review the instructions and guidelines developed by Federal agencies and, when necessary, require revisions so they conform with the requirements of the Circular.

To improve administration of the Circular, the Office of Management and Budget should aggressively monitor compliance by initiating direct contact with Federal agencies, clearinghouses, and applicants. The Office of Management and Budget and the Under Secretaries Group for Regional Operations should provide definitive direction and firm support to Federal Regional Councils for carrying out their role of assisting the Office in the administration of the Circular. Further, the Office should give Councils the resources necessary to pursue aggressive monitoring. (See p. 67.)

The Office of Management and Budget should evaluate and consider the use of agencies' internal systems as a means of implementing the concepts of the Regional Grant Information System.

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Office of Management and Budget generally agreed with GAO's findings and conclusions and concurred in its recommendations. The Office noted that some GAO recommendations can be implemented within existing resources through revisions to the Circular, while others will have to be considered within the limitations of total available resources, both in terms of scale and timing. (See app. I.) Its comments included the views of Federal agencies, Federal Regional Councils, State and areawide clearinghouses, and public interest groups.

The Office identified an additional 150 programs which could perhaps be covered under the Circular but stated that such an increase would depend upon the ability of clearinghouses to handle the increased workload and of Federal agencies to monitor compliance. All have limited resources. The Office will study this further.

The Office anticipated revising Circular A-95 soon to incorporate GAO's recommendations. The Office will review the Circular semiannually.

The Office of Management and Budget generally agreed that it could improve its oversight of the implementation of Circular A-95.

The Office said that the Federal agencies were responsible for administering the legislation underlying the Circular and that the Office by itself cannot insure that the Circular is implemented. The Office believes that the Federal agencies, Federal Regional Councils, and their various A-95 liaison offices and coordinators, working in concert, can make improvements.

However, GAO believes that only the Office of Management and Budget can insure that regulations and procedures of individual Federal agencies are consistent with the Circular.

Because of funding problems and GAO's comments, the Office of Management and Budget and the Under Secretaries Group for Regional Operations

--terminated the Regional Grant Information System pilot tests and

--agreed to support a study of the use of Federal agencies' internal information systems to provide grant award data to the States. (See app. II.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

The administration of Circular A-95 should be of interest to the Congress in view of its concern with the purpose for which the enabling legislation was enacted--improving intergovernmental cooperation by providing the opportunity for comment to all parties which may be affected by Federal and federally assisted development projects.

As noted in the comments of the Office of Management and Budget, the implementation of GAO's recommendations is affected by the availability of resources.

CHAPTER 1

INTRODUCTION

Federal financial assistance to State and local governments and other non-Federal domestic organizations has increased dramatically from $3 billion in fiscal year 1955 to an estimated $52 billion in fiscal year 1975. This growth resulted from a substantial increase in the number and scope of Federal assistance programs. Currently, Federal domestic assistance is provided through 928 programs administered by 55 Federal agencies.

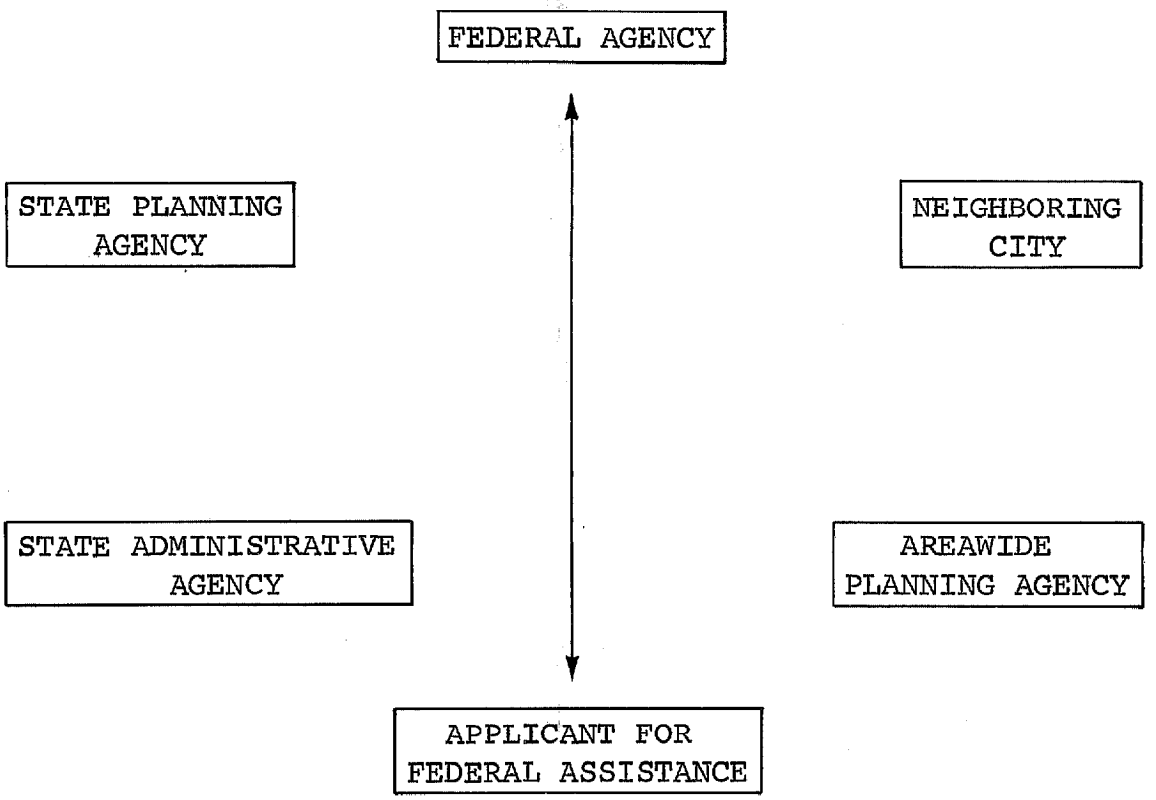
Over the years, certain shortcomings in these programs and their administration became apparent:

--The Federal assistance system was composed of a myriad of programs which were developed piecemeal, were inconsistant as to policy and administration, were often duplicative, and sometimes conflicted with each other.

--Many federally assisted programs were individually planned without considering their impact on and relationship to State, regional, and local needs, programs, and plans.

--The administration of Federal programs by functional bureaucracies at the State and local levels often frustrated control by elected chief executives.

One cause of these problems was a lack of communication and cooperation between various levels of government. One State official active in administering Federal assistance programs characterized the communication problem as one of direct Federal-applicant involvement. Graphically, the relationship was portrayed as follows:



As noted above, the line of communication was between applicants and Federal agencies; the flow of communication was closed to other parties and, in effect, was a confidential exchange. Parties whose own needs and plans might be affected--such as neighboring communities, comprehensive planning bodies, State agencies, or even local governments themselves where the applicant was a nonprofit organization --were not given an opportunity to (1) know of the proposed project, (2) compare the proposed project to their plans, or (3) alert the applicant to any potential problems. These problems were particularly noticeable under Federal programs providing funding for planning and construction projects which affected the physical makeup of communities and their surroundings.

The Congress passed legislation designed to increase intergovernmental cooperation by setting up formal channels of communication between parties which might be affected by a project. These procedures were intended to open up the relationship between applicant and funding agency to outside review and comment.

DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966

Section 204, title II, of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334) (Demonstration Cities Act) provided that after June 30, 1967, all applications for Federal loans or grants to assist in planning or constructing public works projects, including open-space land projects, be submitted to an areawide planning agency composed of, or responsible to, locally elected officials. Applications from special purpose units of local government, such as school districts, were also to be submitted to units of local general purpose government.

The areawide agency or local general purpose government was to review the proposed project and to comment on (1) the consistency of the project with any local comprehensive planning, either developed or in the process of development, and (2) the extent to which the project contributed to fulfillment of such planning. All grant or loan applications to Federal agencies were to be accompanied by all comments or recommendations generated by this review process, along with the applicant's statement that such comments and recommendations had been considered.

Federal agencies were to review the comments and recommendations solely to determine whether the applications were in accordance with the Federal laws governing the making of loans or grants since, practically speaking, Federal agencies consider comments and recommendations from other parties purely advisory unless outright violations of law are reported.

The Demonstration Cities Act encouraged the development of groups such as associations of governments or metropolitan planning agencies (areawide planning organizations) to coordinate federally assisted development covering more than one jurisdiction. Counties and cities in areas lacking such associations or agencies had to create these organizations to review programs subject to the provisions of the act.

INTERGOVERNMENTAL COOPERATION ACT OF 1968

Title IV of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231) proclaimed a national policy of inter-

governmental coordination and cooperation. The objectives of this act rest on the premise that the economic and social development of the Nation and the achievement of a satisfactory level of living depend upon the sound and orderly development of all areas, both urban and rural. The act requires that the President establish rules and regulations for uniform application in formulating, evaluating, and reviewing Federal programs and projects to insure orderly development.

Such rules are to provide for concurrent achievement of the following objectives: (1) appropriate land use, (2) conservation of natural resources, (3) balanced transportation systems, (4) adequate outdoor recreation, (5) protection of areas of unique beauty or historical or scientific interest, and (6) properly planned community facilities and concern for high standards of design. The rules are also to require, when possible, that:

--Full consideration be given national, regional, State, and local objectives, needs, and viewpoints in planning, evaluating, and reviewing Federal and federally assisted development programs and projects.

--All Federal aid for urban development purposes be consistent with and further the objectives of State, regional, and local comprehensive planning when such objectives are consistent with national objectives.

--Each Federal department and agency administering a development assistance program consult, seek advice from, and coordinate with all other significantly affected Federal agencies.

--All systematic planning of individual Federal programs be coordinated with and made part of comprehensive local and areawide development planning.

With the passage of the Intergovernmental Cooperation Act, the Office of Management and Budget (OMB) broadened the review and comment process and significantly strengthened the roles of State and local governments. For example, the act included State governments in the process as well as a much larger range of local governments. The act also added direct Federal development to the activities subject to

coordination and required that federally sponsored planning be coordinated with comprehensive local and areawide planning.

IMPLEMENTATION OF THE DEMONSTRATION CITIES AND INTERGOVERNMENTAL COOPERATION ACTS

Pursuant to both acts, the President gave OMB the responsibility for implementing them with the general objective of insuring consistent and uniform action by Federal departments and agencies.

OMB Circular A-82 (April 1967 to July 1969)

In April 1967 OMB issued Circular A-82, effective January 30, 1967, to implement the requirements of the Demonstration Cities Act. Initially 36 Federal assistance programs (primarily concerned with construction and physical facilities) administered by 9 Federal agencies were subject to A-82 procedures. Circular A-82 was revised twice, and program coverage was revised and expanded to include 37 Federal programs.

OMB Circular A-95 (July 1969 to Present)

With the passage of the Intergovernmental Cooperation Act and its expansion of the concepts originated under the Demonstration Cities Act, OMB canceled Circular A-82 and replaced it with Circular A-95 on July 24, 1969, to become effective on September 30, 1969. Circular A-95 initially covered 51 Federal programs; through subsequent revisions, program coverage was broadened to include 138 Federal programs as of January 1, 1974.

The broad purpose of Circular A-95 is to facilitate intergovernmental cooperation by enabling State and local governments to comment on the consistency of proposed projects with State, regional, and local policies, plans, and programs.

The Circular is based on OMB's premise that communication is fundamental to coordination; thus, if people talk to each other, they may come to identify their common interests and conflicts. Cooperation and negotiation can then take place. The review and comment process is designed to

create a climate for intergovernmental cooperation in which such coordination is likely to occur. A desired result is that Federal and federally assisted projects will be better coordinated, resulting in dollar savings, better projects, and more value for the public investment.

Circular A-95 has four parts:

--Part I deals with State and local government review of applications for Federal assistance.

--Part II provides for consultation by Federal agencies with State and local governments on Federal development projects.

--Part III requires gubernatorial review of federally required State functional plans before submission of those plans to Federal funding agencies.

--Part IV provides for coordination of federally assisted planning programs at substate regional levels.

To assess the review and comment process envisioned by the Demonstration Cities and Intergovernmental Cooperation Acts, we evaluated the implementation of Parts I and II of Circular A-95. The scope of our review is discussed in chapter 8.

Project Notification and Review System

Part I, the Project Notification and Review System (PNRS), encourages, by early contact between applicants for Federal assistance and parties that might be affected, expeditious intergovernmental review and comment. Applicants are to first notify clearinghouses, which insure that appropriate parties have a chance to review and comment. After this review, applicants may submit formal applications to Federal or State funding agencies administering Federal programs. The process is described in full in chapter 2.

The process is based on the concept that a project might affect parties other than the sponsor. For example, in an actual case, a city expanded its sewage treatment facility with substantial Federal assistance. A neighboring

city was interested because of potential overlap of facilities, and a county was interested because of a potentially deleterious impact on a countywide sewage treatment development plan. A State agency responsible for monitoring and improving air quality was also interested because additional treatment capacity might allow new housing growth, which would contribute to an already serious air quality problem. Each party was allowed to review the proposal and comment.

The identification and subsequent coordination of issues like these is the PNRS objective. The results of our review of the implementation of Part I are discussed in chapters 3 and 4.

Federal development activities

Part II requires that Federal agencies responsible for planning and constructing Federal buildings, installations, and other Federal public works or for acquiring, using, and disposing of Federal land and real property consult with State and local officials. The purpose is to obtain information about the relationship of the proposed Federal project to plans and programs of affected State and local governments and to insure that projects conform to such plans and programs. In addition, environmental and comprehensive health planning agencies should be able to review certain projects.

This requirement is generally the same as Part I, except that applicants are not involved and a formal review procedure is not specified; the Federal agency simply communicates directly with clearinghouses. (See below.) The results of our review of the implementation of the Federal development requirements are discussed in chapter 5.

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To these requirements and concepts, originating from legislation, OMB added two concepts derived from its experience gained from implementing the Demonstration Cities Act.

Early warning

OMB found, under its earlier procedures, that the review and comment process was occurring too late in the grant

application cycle to be effective. As a result, applicants were asked to contact the clearinghouse as early as possible in their planning process, thus giving the affected parties "early warning."

This device serves two purposes. Applicants are alerted to problems before they have invested time and money in a formal application, and affected parties can comment and perhaps effect changes before the application is substantially completed.

Clearinghouses

A clearinghouse is a State or areawide agency that has been recognized by OMB as an appropriate agency to effect PNRS for proposed Federal or federally assisted projects. The clearinghouses are to receive and disseminate project notifications and applications to appropriate State agencies, local governments and agencies, and regional organizations.

OMB developed the concept from earlier experiences. Various areawide planning organizations had managed reviews under the Demonstration Cities Act. The clearinghouse is OMB's pragmatic solution to the administrative problem of involving a large number of affected parties in the review and comment process. It also has the advantage of building on existing institutions.

There are two types of clearinghouses--State and areawide. Both are generally comprehensive planning agencies. State Governors designate all State clearinghouses and all areawide clearinghouses not in metropolitan areas. OMB reserves the right to concur in the designation of areawide clearinghouses for metropolitan areas to insure that interstate metropolitan areas are treated as a whole and that the urbanized portion of any metropolitan area is not fragmented.

Many clearinghouses have two roles in that they are the comprehensive planning agency as well as the clearinghouse. They are responsible both for reviewing proposals in terms of impact and for obtaining the views of other agencies and jurisdictions.

CHAPTER 2

HOW THE PROJECT NOTIFICATION AND REVIEW SYSTEM WORKS

Circular A-95 introduced the Project Notification and Review System (PNRS) to those Federal assistance programs viewed by OMB and the Federal agencies as being subject to the intent of section 204 of the Demonstration Cities Act and title IV of the Intergovernmental Cooperation Act. PRNS is basically a step-by-step processing procedure designed to quickly channel proposals for Federal assistance to the appropriate parties for review and comment before the applicants submit them to the Federal agencies.

The need for a formal system was apparent to OMB for several reasons. For example, program coverage under A-95 was increased; thus, many more applicants' proposals were subject to the review and comment process, and more Federal agencies were drawn into it. Further, the establishment of clearinghouses at the regional and State levels--in addition to those clearinghouses at the metropolitan level--also substantially increased the number of parties involved.

PNRS incorporated several features for minimizing problems which appeared earlier under the section 204 review and comment process (Circular A-82). The major problem was the timing of the notification process. Applicants usually submitted completed applications to areawide planning organizations for review and comment. These applications had been perfected to the satisfaction of the applicants and the Federal agencies; consequently, neither the applicants nor the Federal agencies were receptive to constructive changes proposed by the areawide planning organizations to alleviate problems identified in the proposal during the review and comment process.

A second problem, mainly of concern to applicants and Federal agencies, was the fact that the formal submission of the application to the Federal agency was delayed up to 60 days to permit the areawide planning organization to conduct its review, as provided for in section 204 of the Demonstration Cities Act. This review and comment provision added up to 60 days to the time necessary to obtain a grant.

PROJECT NOTIFICATION AND REVIEW SYSTEM

The solution to the timing problem under PNRS was the establishment of an early warning system to encourage early contact by the applicant with the clearinghouse. The 60-day review period was divided into two 30-day segments:

--Applicants' submission to clearinghouses of a notification of intent (a description of the proposed project) to apply for Federal assistance, which allows for an "early warning" 30-day review.

--Applicants' submission of a formal application, when deemed necessary, to the clearinghouse, which allows for a 30-day formal application review.

The early warning feature has made the review and comment procedures more complex. They are diagramed on the chart on the next page and are explained below.

For most grant proposals, both the affected areawide clearinghouse and the State clearinghouse are involved independently in PNRS. Thus, the procedures described below generally occur twice--simultaneously but independently.

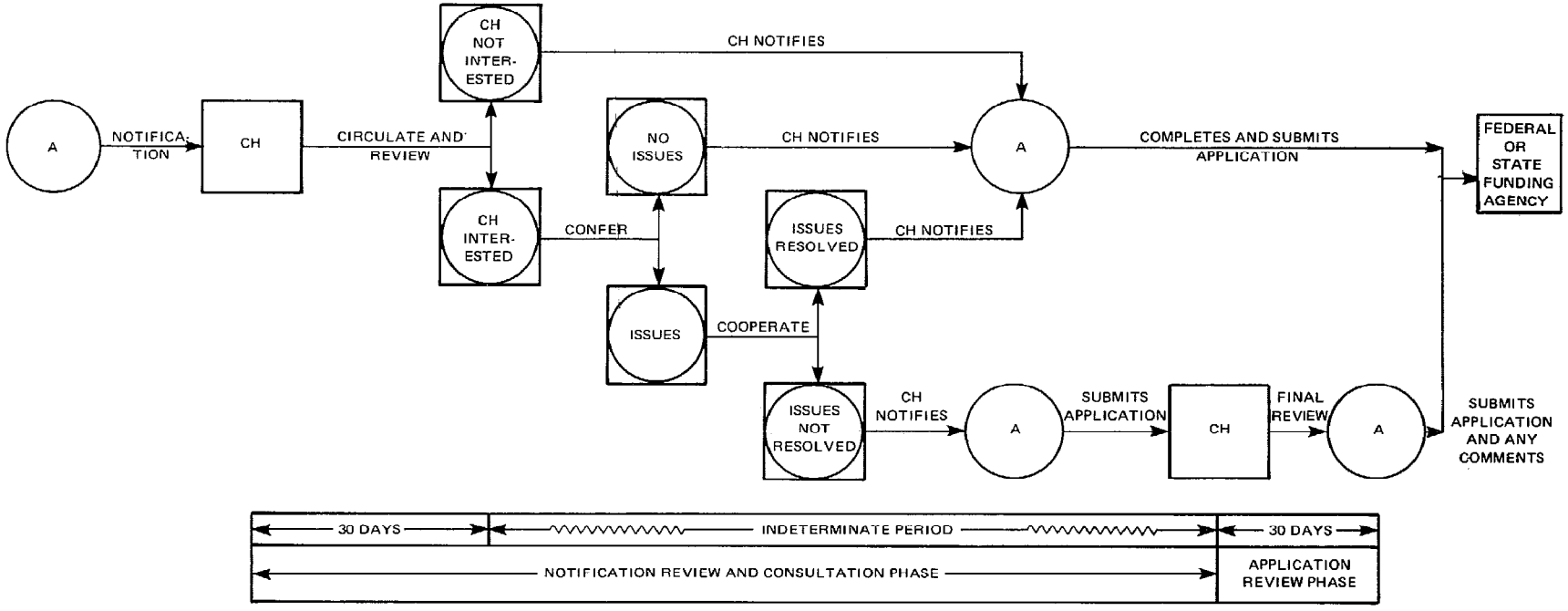
For the first 30-day review period, OMB requires that applicants submit a brief summary description of the proposed project. Some clearinghouses request that applicants use a special form, the Notification of Intent (NOI); others accept any written communication.

With this project description, the clearinghouses start their analysis and circulate the NOIs to organizations at the State and local levels that might be affected by the proposed project. The clearinghouses manage this process by disseminating NOIs, receiving any comments, and maintaining communication with the applicant.

They have 30 days to accomplish this. Within this period they must inform the applicant if they or State and local organizations are interested in the proposal.

If there is no interest, the clearinghouses notify the applicant that the Circular A-95 process is completed and it may complete and submit a formal application. In these

PROJECT NOTIFICATION AND REVIEW SYSTEM



KEY

A — APPLICANT

CH — CLEARINGHOUSE

are interested, the applicant must keep track of more 30-day periods.

--Attach a statement that comments have been considered.

The problems with PNRS are discussed in the next two chapters.

OMB policy regarding clearinghouse structure

OMB's basic policy is that Circular A-95 should clearly state the objectives of the Intergovernmental Cooperation Act but should not prescribe the means by which they are achieved. Arguing that the diversity among States, regions, and localities in the way the public business is conducted precludes conformity, OMB put few constraints on the operation of clearinghouses.

OMB limits the time for review and requires that the circularization function be implemented. However, OMB does not prescribe:

--The existence of clearinghouses as such.

--The organization of clearinghouses.

--Whether clearinghouses perform their own reviews for any covered programs.

As a result, the clearinghouses we visited had each developed different procedures to implement Circular A-95.

CHAPTER 3

NEED FOR INCREASED PROGRAM COVERAGE UNDER PART I OF OMB CIRCULAR A-95

OMB and the Federal agencies have determined that 138 of the approximately 550 Federal programs providing financial assistance can impact on an area or community and are therefore covered by Circular A-95, Part I. However, projects which had significant impact were not subject to PNRS because their funding program was not covered by the Circular and there are frequent changes in the number and nature of Federal programs. As a result of this limited and changing coverage:

--Participants in the Circular A-95 process are confused as to what programs are subject to PNRS.

--Clearinghouses cannot fully exercise their prerogative of determining whether proposed projects have potential impact.

--The planning activities of State clearinghouses are hampered by incomplete data.

Coverage of all Federal programs providing assistance would help solve these problems. Recognizing the merits of broadened program coverage, some States have enacted legislation requiring that all applications for Federal assistance emanating from within the State be subject to PNRS. Further, certain Federal agencies have provided funds to clearinghouses and local governments to review and comment on an increasing number of Federal programs.

OMB METHODOLOGY FOR DETERMINING PROGRAM COVERAGE

Circular A-95 requires that Federal assistance programs listed in attachment D to the Circular be subject to the Project Notification and Review System described in chapter 2. The 138 programs, administered by 22 Federal agencies, commissions, and councils, are listed in the attachment.

The selection of programs to be covered by the Circular is generally made by OMB and the Federal agencies on the basis of their interpretation of the two acts underlying it. Under the Demonstration Cities Act, 36 Federal loan or grant programs were initially covered. These programs provided funding for open-space land projects or for planning or constructing physical facilities in metropolitan areas.

Minor changes in program coverage, still limited to planning and physical facilities projects, were made by OMB with the passage of the Intergovernmental Cooperation Act. A major change was made in February 1971, when Federal programs involving other than physical facilities projects were added and, consequently, the number of programs covered more than doubled. The latest revision of the Circular in November 1973 included even more social service programs.

Section 204 of the Demonstration Cities Act is explicit as to which federally assisted projects must go through a local review process. The act provides that "all applications * * * for Federal loans or grants * * *" dealing with planning or construction of certain physical facilities in metropolitan areas shall be submitted for review. This language precludes OMB or the Federal agencies from excluding from coverage any such programs in metropolitan areas.

Title IV of the Intergovernmental Cooperation Act is not as explicit but calls for the establishment of "* * * rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development." (Underscoring supplied.) Interpretations of the underscored phrase as to program coverage ranged within the Federal agencies, OMB, and State and local government organizations from (1) only planning and physical development projects are covered to (2) social development projects as well as planning and physical development projects are covered.

OMB initially required that only planning and physical development projects be subject to PNRS, so these were the only types of programs listed in the first version of the Circular. In the February 1971 version OMB included social development projects and in the November 13, 1973, revision it increased the number of programs covered. Even though

clearinghouses preferred more extensive additions to coverage, OMB believed it prudent to expand coverage gradually because of clearinghouses' limited resources and readiness.

EFFECTS OF LIMITED PROGRAM COVERAGE

The apparent call for increased program coverage under A-95 seems to stem from the fact that States and clearinghouses were dissatisfied with having OMB and the Federal agencies, rather than the State and local parties which might be affected, decide which Federal programs would be covered.

In States which have not enacted legislation broadening program coverage, an application for Federal assistance is not submitted to clearinghouses for determination of impact unless the Federal program is covered under Circular A-95.

We found instances where projects funded by Federal programs but not covered by Circular A-95 and PNRS involved activities which did affect area and community development.

For example, in June 1973, the Department of Health, Education, and Welfare (HEW) awarded a grant of $78,000 under its Youth Development and Delinquency Prevention Program to a nonprofit organization in Little Rock, Pulaski County, Arkansas. The grant was to be used to establish and carry out a coordinated youth services system for preventing delinquency. At the time of application and award, this program was not covered by the Circular, although it is now covered. Therefore, the proposal was not subject to PNRS and was not submitted to the clearinghouse for review and circulation to potentially affected parties.

On June 26, 1973, the Arkansas State Clearinghouse received notice from HEW that the grant had been awarded. Clearinghouse officials subsequently contacted HEW officials, who stated that the program was not covered by the Circular. Clearinghouse personnel felt that they should have reviewed the project and, had they done so, would have opposed it. They contended that the project was poorly planned, and interested parties would have had adverse comments.

We learned that the HEW-sponsored project was to be integrated with a subsequent proposal for funds totaling $100,000 under the Law Enforcement Assistance Administration's (LEAA's) Comprehensive Youth Service Project Program. Two Arkansas counties, Pulaski and Saline, were the joint applicants, and the purpose of the proposal was to establish a comprehensive youth service program in both counties. According to an Arkansas State Clearinghouse official, the approved HEW project and the proposed LEAA project were to be combined to constitute the total program.

The LEAA program in question is covered by Circular A-95 and, therefore, the applicants' proposal was subject to PNRS. The applicants submitted a notification to both the State and areawide clearinghouses in September 1973. Though the areawide clearinghouse endorsed the project, the State clearinghouse informed the applicants that issues had been raised and advised them that the 30-day additional review period was needed. In November the applicants withdrew the proposal on the recommendation of the Central Arkansas Human Service Council.

In this example, program coverage under the Circular was inadequate. The clearinghouses should have had an opportunity to review and comment on the need for both the HEW and LEAA proposals and the relationship between them. This opportunity was not available, however, because one proposal involved a request for funds under a Federal program not subject to PNRS.

It is difficult to select those Federal programs which could affect State or local governments because many and varied projects can be proposed and funded. When OMB first considered what programs to include as a result of the Intergovernmental Cooperation Act, it decided that those Federal programs that were solely or predominantly for physical development purposes should be covered by the Circular. Federal programs which did not clearly involve the funding of physical development projects were excluded. For example, HEW's Mental Health-Children's Services Program and Regional Center for Deaf-Blind Children Program can include construction projects. These programs, however, are not Circular-covered programs.

Other Federal programs which can provide funds for physical development projects have been excluded from coverage under Circular A-95. An example of the adverse impact of limited program coverage was identified in Arkansas.

In early 1972 the applicant, a community action agency, sought funds totaling $1,038,000 under the Office of Economic Opportunity's (OEO's) Comprehensive Health Services Program to construct a health clinic and provide services. This program was not subject to PNRS until January 1, 1974. However, the State clearinghouse coordinator requested, and the applicant agreed, that the project application should be submitted to the State and areawide clearinghouses for review because of its scope and potential impact. Shortly after receipt of the application, the areawide clearinghouse notified the applicant that the maximum review time of 60 days would be required. The deadline for the clearinghouse to comment became March 12, 1972.

The State and areawide clearinghouses circulated the application for review and comment. Comments were received from 20 organizations, 17 of which commented unfavorably. The State and areawide clearinghouses sent the results of this review to the applicant on March 1 and March 20, respectively, and advised the applicant to submit its application to the Federal agency.

On March 1, 1972, OEO announced the awarding of a $1.2 million grant to the applicant, since the application had been submitted to OEO before it had been sent to the clearinghouses. OEO had not received the State or areawide clearinghouses' comments before it had awarded the grant. We did not attempt to determine the reasons for the difference in funds requested and awarded.

Several of the unfavorable comments dealt with the alternative of expanding an existing facility in lieu of constructing a new one. The mayor of the affected city commented that a new facility would duplicate as well as jeopardize the operation of existing health facilities. The County Development Council concluded that the new clinic would duplicate the health efforts of the County Health Department and that the State Health Department should direct the operation of all health clinics to

insure coordination. In reviewing the application, OEO did not have the opportunity to consider these comments.

As a result of this project and the ensuing controversy, the Arkansas Legislative Council, made up of State legislators, stated in April 1972 that all applications for Federal assistance should be coordinated through the appropriate clearinghouses. Apparently, the council sought to broaden the scope of a State law which required that all applications for Federal assistance from Arkansas State agencies be submitted to the State clearinghouse.

EFFORTS TO EXPAND PROGRAM COVERAGE

OMB, in Circular A-95, recognized that some States have enacted legislation or promulgated administrative regulations requiring that all applications from State agencies for Federal assistance be submitted to the State clearinghouses for review before submission to the Federal agency. OMB stated that the Circular was to apply to these applications, unless the head of the Federal program agency determined otherwise for sufficient reason, such as inconsistency with applicable Federal laws. However, OMB is unaware of how many States have enacted such legislation or whether the laws apply only to applications from State agencies for Federal funds or to all applications for Federal funds from within the States. Similarly, A-95 liaison officials at the headquarters of Federal agencies did not know State requirements. Without such information, Federal agency officials could not be sure whether applications for assistance from these States should have been subject to clearinghouse review before Federal action was taken.

Certain clearinghouses and cities have increased beyond the requirements of the Circular the number of Federal programs subject to PNRS. For example, one clearinghouse in Texas, with funding received from a Department of Housing and Urban Development (HUD) Metropolitan Area Review and Comment demonstration grant, expanded the PNRS requirement to include approximately 340 programs. In addition, at least 20 Planned Variations cities, funded under HUD's Chief Executive Review and Comment demonstration project, were allowed to review and comment on all applications for Federal assistance emanating from their jurisdictions.

To insure the total review and comment authority of these States, cities, and clearinghouses, cognizant Federal Regional Councils adopted resolutions calling for member agencies to reject applications which had not been submitted to the clearinghouses or to the cities' chief executives for review and comment. Also the Council members agreed to notify all prospective applicants of the expanded review and comment requirements and to encourage Federal agency headquarters officials to abide by the requirements for programs under their control.

STATE INFORMATION REQUIREMENTS

State and local officials stated that broadened program coverage provides an additional benefit beyond the opportunity to determine the potential impact of project proposals. They maintain that information on what Federal assistance is being requested from within the State, region, county, or city is of great value to their planning process. They added that limited A-95 program coverage provides insufficient information.

The Project Notification and Review System described in chapter 2 is composed of two concepts--"project notification" and "review." Clearinghouses, after initial review, determined that many proposed projects did not affect regional or local plans. Some State clearinghouses, however, were extracting data from project proposals to aid State and local government planning. For example, the States were using the data to budget State matching funds for Federal programs.

The only bar to obtaining complete data on total Federal funding being sought was the limited program coverage of the Circular. OMB determined that approximately 550 Federal assistance programs involve the provision of funds. Currently Circular A-95, Part I, covers 138 of the 550 programs. Consequently, a State clearinghouse whose information base is limited to 25 percent of the total number of federally funded programs cannot use the system to develop full budget information for State matching funds. The percentage of total Federal funds provided by the 138 programs covered by the Circular has not been determined, although OMB believes it to be substantially higher than 25 percent.

DISSEMINATION OF DATA ON PROGRAM COVERAGE

Our review revealed considerable dissatisfaction, confusion, and misunderstanding on the part of applicants, clearinghouses, and Federal agencies concerning the Federal programs that were covered under Circular A-95.

Information on programs subject to Part I of Circular A-95 is spread by (1) a transmittal memorandum to the Circular, (2) a revision of the Circular, or (3) the Catalog of Federal Domestic Assistance. The document bearing the latest date constitutes OMB's official list of programs covered under Circular A-95. In a typical calendar year, two or three updates of program coverage will be made and disseminated. However, changes in the status of Federal programs during a given year are sufficiently extensive to justify more frequent updates.

CONCLUSIONS

On the basis of interpretations of the legislation underlying Circular A-95, the Federal agencies and OMB have determined that 138 of the approximately 550 Federal programs providing financial assistance can affect areawide or community development and, therefore, are subject to PNRS. However, we found that projects which significantly affected an area or community were not subject to PNRS because the program which funded the project was not covered by Circular A-95 and that there were frequent changes in Federal programs. Limited and changing program coverage under Part I of Circular A-95:

--Confuses Federal agencies, clearinghouses, and applicants for Federal assistance as to which programs are covered and subject to PNRS.

--Keeps clearinghouses from fully exercising their prerogative of determining whether a project proposed for Federal assistance has potential impact on an area or community.

--Hampers the planning of State clearinghouses by limiting their opportunity to compile complete information on Federal assistance being sought by applicants within their States.

In response to these problems, State and local clearinghouses have consistently asked OMB to increase the number of programs covered by the Circular. Some States have enacted legislation requiring that all requests for Federal assistance from within their States be subject to PNRS. Certain Federal agencies have encouraged clearinghouses and cities to expand PNRS to include more Federal assistance programs than are covered by the Circular.

Extending the coverage of Circular A-95 to all Federal assistance programs could increase the workload of clearinghouses by increasing the number of projects for which they would receive notification. The potential increased workload would be more than offset by the benefits of enabling clearinghouses to assess the potential impact of all projects, rather than a limited number, and to determine which projects should be reviewed and circulated for comment.

RECOMMENDATION

We recommend that OMB revise Part I of Circular A-95 to provide that all Federal financial assistance programs which can impact on area or community development be subject to PNRS.

AGENCY COMMENTS

By letter dated November 7, 1974 (see app. I), OMB stated that perhaps 150 additional programs could be considered for coverage under PNRS at this point and that the remaining financial assistance programs fall outside the scope of title IV of the Intergovernmental Cooperation Act. OMB will study the potential coverage of PNRS and selectively expand it, considering the expressed needs of clearinghouses and the resources available.

We suggest that, during its study on program expansion, OMB fully consider the opportunity which full program coverage would give the States for building a data base on requested Federal funds to assist them in the planning and budgeting of Federal and State resources on a total program basis. Also, OMB should consider the additional burden placed on Federal agency personnel who must continually determine whether a proposed federally assisted project is (1) subject to PNRS and (2) subject to the expanded PNRS

requirements either mandated by State laws or encouraged by Federal agency financial management projects such as the Chief Executive Review and Comment process.

CHAPTER 4

IMPROVEMENTS NEEDED IN THE PROJECT NOTIFICATION AND REVIEW SYSTEM

The Project Notification and Review System (PNRS), designed to carry out the review and comment feature of Circular A-95, is not achieving its full potential to improve intergovernmental cooperation. The principal elements of PNRS are discussed in chapter 2. Pervasive violations of basic requirements, widespread confusion and misunderstandings among responsible officials, and a general lack of guidance by OMB have all contributed to the problem. Applicants for Federal grants fail to give clearinghouses and others enough time to review proposed projects and Federal agencies are accepting applications without insuring that they have been processed through the system. State and local governments are not getting the opportunity to review many federally assisted projects because applicants are deliberately avoiding clearinghouse review or are only partially complying.

ACCOMPLISHMENTS

OMB reported that, in the 5 years since its initial implementation, A-95 has grown substantially in scope and use by State and local government. All the Governors have set up State clearinghouses, and about 470 areawide clearinghouses blanket the populous parts of the Nation. In a number of States, various components or principles of the Circular have become State law.

OMB also reported that, according to data supplied by the clearinghouses, actions taken under the Circular A-95 process have resulted in substantial savings. In addition, we have identified instances in which cooperation under Circular A-95 procedures improved a project or helped avoid problems.

PNRS REQUIREMENTS

The review and comment system set forth in Circular A-95, Part I, is designed to

--encourage early contact between applicant and clearinghouse and

--provide an opportunity for clearinghouses and potentially affected parties to review and comment.

The purposes of the system are to

--help the applicant prepare the best possible application and

--assure Federal agencies that either (1) the proposed project is completely acceptable at the State and local levels or (2) the proposed project is not completely acceptable but the views of those at the State and local levels have been expressed.

As discussed below, the purposes of the system have not always been accomplished because the system is often ignored by the key participants--the applicant, the clearinghouse, and the Federal agency. As discussed in chapter 6, OMB's administration of the Circular has compounded the problems.

PNRS NONCOMPLIANCE

Applicants are not consistently entering proposals in PNRS, and Federal agencies are not uniformly requiring applicants to conform to PNRS requirements. As a result, State and local governments and others cannot review all proposals--a departure from Circular A-95 and congressional intent. Also conflicts with plans, duplications of facilities and programs, and other problems go unresolved.

In large part, the breakdowns are caused by an apparent lack of understanding and empathy at the Federal agency level, confusion about program coverage, inadequate Federal agency instructions to applicants, insufficient guidance and monitoring by OMB, and general confusion because of the complexities which have crept into PNRS procedures.

Federal agencies are to insure compliance

As discussed earlier, congressional legislation established a requirement that areawide planning agencies and

State and local governments were to be given the opportunity to review and comment on certain types of federally assisted projects.

Circular A-95 states that an applicant is:

"* * * required to notify the State and areawide planning and development clearinghouse * * * of its intent to apply for assistance * * *."

Further, OMB provided in the Circular that Federal agencies will develop procedures to insure:

"* * * that all applications for assistance under programs covered by this part have been submitted to appropriate clearinghouses for review prior to their submission to the funding agency." (Underscoring supplied.)

Federal agencies have not insured that applicants give clearinghouses and others the opportunity to review and comment. The result has been a pervasive series of breakdowns in PNRS. The problems are so severe that clearinghouses have questioned whether Federal agencies agree with the fundamentals of intergovernmental cooperation and have expressed frustrations in trying to institute order in the complex process.

The breakdowns occur when Federal agencies accept, process, and sometimes approve applications without evidence that any of the PNRS procedures have been followed. In most cases, applicants eventually contact the clearinghouses. We analyzed the 1973 records of the State clearinghouses in California, Michigan, and Massachusetts to determine how often the Federal agencies accepted applications before clearinghouses were notified. We identified those file records which showed both the date of clearinghouse notification and the date of Federal agency receipt (universe). The results of our analysis are shown in the following table:

State	Universe	Number of applications accepted by Federal agencies before clearinghouses notified	Amount of funds requested by applicants
California	344	178	$20,831,816
Michigan	64	8	1,377,030
Massachusetts	133	65	16,045,290

As shown the rate of noncompliance is very significant in California and Massachusetts, where applicants did not comply with PNRS about half the time.

Such large-scale noncompliance has caused clearinghouses to doubt Federal agency intentions. One clearinghouse official advised us that, in some respects, Federal agency Circular A-95 practices have diminished the prospects for intergovernmental cooperation because of the growing animosity caused by such obvious disregard of PNRS.

In some instances, applicants contacted the clearinghouse after the Federal agency had awarded a grant, rendering PNRS totally meaningless. Four of the 65 cases of noncompliance found in Massachusetts fell into this category. They involved Federal funds of about $1.2 million. Of the 178 cases of noncompliance found in California, 4 grants totaling $785,000 were awarded before the clearinghouses were contacted.

In other cases, applicants contacted the clearinghouses after submitting applications to the Federal agencies, which subsequently awarded grants before the clearinghouses completed their reviews. Such action on the part of the Federal agency causes consternation for clearinghouses because they often identify issues and hold meetings, only to find out that the cognizant Federal agency has already approved the grant. Such occurrences diminish, rather then promote, intergovernmental cooperation.

Three of the 65 cases of noncompliance in Massachusetts were of this type, totaling $114,000. Of California's 178 cases of noncompliance, 27 grants totaling $1.5 million were similarly awarded.

To eliminate the significant rate of noncompliance with PNRS, Federal agencies should refuse to accept an application subject to Circular A-95 unless (1) clearinghouse comments or clearances are attached or (2) the time permitted for clearinghouse review has elapsed.

POOR PNRS COMPLIANCE

Applicants, clearinghouses, and Federal agencies experienced problems in implementing PNRS. Segments of it were confusing to all parties, and the process was not completely followed.

Problems of applicants

We noted several factors which contributed to the problems in the operation of PNRS, particularly as it concerns the applicant's role. Timely and efficient operation in large part depends upon the applicant, which must contact the clearinghouses at the proper time, help resolve issues, and transmit written comments to funding agencies.

As discussed in chapter 2, OMB, building on past experiences, encouraged applicants to contact clearinghouses "at the earliest feasible time." The objectives of this early warning component were to (1) communicate the applicant's intent to apply for a grant so that interested organizations could use the information in planning and (2) identify possible issues and problems so that applicants would be saved the trouble and expense of preparing a formal application.

OMB considers it critical that clearinghouses be notified as soon as possible, even if only summary or sketchy information is available. The purpose is to set the stage for issue identification, negotiation, and hopefully, resolution while plans are still flexible. By the time the applicant completes its application, any issue will have been resolved or, if not, clearinghouse comments can be readily prepared.

On the other hand, if the review occurred when the applicant had substantially completed a formal application, it is unlikely that the applicant would be receptive to suggestions for changes because of the time, money, and effort it had already invested. As a result, relations between the applicant and the clearinghouse would probably become strained to the point that the constructive role of clearinghouse comments would be substantially impaired.

The early warning component of PNRS was not working as intended. Rather than submitting notifications, many applicants submitted final applications to clearinghouses for review. In some cases, clearinghouses instructed applicants to submit applications as the first notice. In other cases, applicants consistently submitted applications rather than notifications, despite instructions to the contrary.

If the early contact component is to be valid, Federal agencies must convince applicants as well as clearinghouses of its benefits. Clarification and elaboration by OMB of the Circular language could be used to educate applicants.

Federal agencies' instructions to applicants are inadequate

Circular A-95 gives Federal agencies the responsibility for informing potential applicants of their responsibilities under PNRS. The agencies usually can use the following methods: (1) program information material, (2) responses to inquiries concerning application procedures, and (3) preapplication conferences.

Because the agencies' responsibilities under Part I of Circular A-95 were stated in general terms, Federal agencies were permitted to make many and varied interpretations.

We examined the instructions issued by eight Federal agencies and certain of their components and by State agencies which have authority to award project grants under certain Federal assistance programs. Agencies' instructions analyzed in more than one region included the Environmental Protection Agency and LEAA in four regions and the

Department of Transportation and HEW in two regions. In total, we ascertained and evaluated the means by which 29 organizations, consisting of Federal agencies and their bureaus, regional offices, or other components, and State agencies, provided guidance to applicants regarding the requirements of Circular A-95.

The instructions were generally deficient in one or more respects. In 6 of the 29 cases, the funding organizations did not issue written instructions to the applicants. Agency officials said that they relied on verbal briefings. In another case, a copy of Circular A-95 was sent to the applicant.

In the remaining 22 cases, written instructions were issued to applicants. We analyzed the individual instructions to determine the number of times the following A-95 requirements were met:

Requirement	Number of instructions which contained the requirement	Number of instructions which omitted the requirement
Applicants are to contact clearinghouses and allow 30 days for review of notification.	9	13
Applicants are to allow the clearinghouses 30 more days to review the formal application if the clearinghouse so requests.	5	17
Applicants are to attach any clearinghouse comments to the formal application as sent to the funding agency.	13	9
Applicants are to attach a statement that they considered such comments.	9	13

Requirement	Number of instructions which contained the requirement	Number of instructions which omitted the requirement
Applicants are to attach a statement that the A-95, Part I, procedures had been followed and that no comments or recommendations had been received.	9	13

Only 3 of the 22 written sets of instructions contained all 5 of these requirements. In the remainder, one or more of the requirements were missing.

Because the first two requirements are the crux of PNRS, it is critical that they be communicated to the applicants. The failure to do so in many cases is a major reason why there was substantial noncompliance.

The next two requirements concern the transmission of written comments from clearinghouse to applicant to funding agency. We found breakdowns in the transmission of comments, particularly from applicant to funding agency; omissions in the instructions may have contributed to these.

The last requirement essentially provides that an applicant can submit its formal application without a clearinghouse clearance letter if the clearinghouse has exceeded the time allowed for review. As discussed on p. 33, there was confusion among applicants, clearinghouses, and Federal agencies as to what constitutes "time allowed for review."

We examined the instructions issued by LEAA to the Massachusetts Committee on Criminal Justice, the State agency responsible for approving projects under LEAA's block grant to the State, and found them adequate. The instructions which the Committee issued to potential applicants in the State, however, were deficient. They read, in part, as follows:

"LEAA now requires as part of all grant applications to the Committee on Law Enforcement a statement that the State and Regional A-95 Clearinghouses have been sent a copy of the application and the date the application was sent to those clearinghouses.

"The application should be submitted to the Clearinghouses at the same time, or before, it is forwarded to the Committee on Law Enforcement. A copy of the transmittal letter to the Clearinghouse should be forwarded to the Committee.

"Any comments and recommendations made by or through clearinghouses must become a part of the application and will be considered in the final evaluation."

The Committee's instructions do not adequately convey the requirements that the clearinghouses be notified as early as possible, because the applicant is allowed to contact the clearinghouse at the same time it contacts the Federal agency. The second, fourth, and fifth requirements were not mentioned.

During 1972, applicants significantly violated the notification requirement. Only 6 of 90 notifications were filed with the clearinghouse before being filed with the Committee. We believe this substantial lack of compliance is a direct result of inadequate instructions.

In addition to the instructions, the Committee on Criminal Justice provided applicants with copies of Circular A-95. The Committee relies heavily on this as a means of guiding applicants.

At HEW, officials administering the Comprehensive Health Planning Program are responsible for informing applicants of the requirements of Circular A-95. HEW's instructions to the applicants were incomplete. They were as follows:

"The applicant is responsible for submittal of appropriate copies of the continuation application that meets the schedule of review and

comment periods of State and Metropolitan or Local Clearinghouses as required under OMB Circular A-95. In the case of inter-regional projects, the applicant will make submission to each A-95 authority.

"[The application should include a] statement concerning review by State, Metropolitan or Regional Clearinghouses as required by OMB Circular A-95 * * *."

They do not mention the early warning component of PNRS or the consideration or submission of comments.

The success of the PNRS process relies, to a great extent, on the instructions Federal agencies provide to applicants and communication between the two parties. As noted above, the instructions of funding agencies and their components are incomplete and, in some cases, inconsistent with the requirements of Circular A-95. If the benefits of PNRS are to be attained, instructions should be expanded by the agencies and reviewed by OMB to insure that applicant guidance regarding the Circular is clear, complete, and consistent.

Problems of clearinghouses

Part I of Circular A-95 states the review and comment responsibilities of clearinghouses and parties which may be affected by projects proposed for Federal funding. However, because of differing policy interpretations and decisions, clearinghouses were confused as to how to implement PNRS. Several groups, without OMB guidance, have developed their own policies and procedures for implementing PNRS. Some of these policies differ from those promulgated by A-95.

Uncertainties as to length of time for clearinghouse review

Many clearinghouses are unsure as to the time they have to review (1) notifications of intent to apply for Federal assistance and (2) formal applications for Federal assistance.

This uncertainty stems from the apparent inconsistencies among Circular A-95 and (1) General Services Administration (GSA) Federal Management Circular FMC 74-7,[1] (2) section 204 of the Demonstration Cities Act, (3) policies established by certain clearinghouses in conjunction with Federal Regional Councils, and (4) policies promulgated by OMB on individual inquiries.

The requirements which have confused clearinghouse officials are tabulated below.

Requirements	Established by	Time for review
A-95, Part I (PNRS)	OMB	--30 days for notification --Indeterminate period for further review and consultation --30 days for final application
Section 204 of the Demonstration Cities Act	Congress	60 consecutive days for applications or descriptions thereof
FMC 74-7	GSA	45 days for preapplication
OMB's publication "A-95, What It Is--How It Works"	OMB	45 days for preapplication (notification) plus entire PNRS review time, if needed

[1]This Circular, formerly OMB Circular A-102, prescribes uniform administrative requirements for grants-in-aid to State and local governments.

Because of these conflicting requirements and the unexplained relationships among them, various interpretations have been made by clearinghouses.

For example, Texas has adopted a policy that clearinghouses have up to 60 days to review applications. Texas clearinghouses do not require a notification of intent to apply. On the other hand, Oklahoma State clearinghouse officials advised us that they allow themselves 30 days for review of applications but that some of their areawide clearinghouses allow themselves 60 days. As discussed on p. 62, OMB advised the State clearinghouse that it has 60 days to review an application if no notification was provided.

The San Francisco Federal Regional Council, three of the four States in its region, and the affected clearinghouses have adopted a policy that an applicant should contact the clearinghouses at least 60 to 90 days before submitting the application to the Federal agency. Clearinghouses, therefore, have 60 to 90 days to complete their review. The Dallas Federal Regional Council has agreed to extend HUD's Chief Executive Review and Comment project to two cities in its region, permitting them to review and comment on any Federal applications emanating from their jurisdictions. The Council did not specify any timeframe for review, however.

The differing periods of time that clearinghouses are taking to review and comment on applications have not been communicated, in all cases, to applicants and Federal agencies. Applications were being submitted to and accepted by Federal agencies on the basis that the time for clearinghouse review established by Circular A-95 had elapsed while, at the same time, clearinghouses were continuing with their reviews in accordance with their own interpretations and policies. Because they had received no comments from these clearinghouses within the period prescribed by the Circular, the applicants considered themselves free to file their applications with the Federal agencies.

In a publication (see p. 63) which elaborates on Circular A-95, OMB commented, in part, on the matter of the timing of the submission of an application to a Federal agency:

"To recapitulate, the applicant is only off the hook during the first 30 days, if he has received no word from the clearinghouse, or at the end of the second 30 days if he has received no written comments from the clearinghouses."

Although OMB is responsible for administering the Circular, it has not advised all parties of other groups' differing interpretations of this part of it. To insure that applications are not being submitted and accepted prematurely, OMB should clarify the time allowed for clearinghouse review so that all parties can follow the same procedures.

Focal point needed

Our review showed a need for a focal or control point in each State with regard to clearinghouse operations and the flow of applications. For example, we found in one-third of the files we reviewed from California, Michigan, and Indiana that the applicant had contacted only one of two clearinghouses that should have been notified.

Furthermore, when two clearinghouses had been contacted, applicants, in several instances, submitted their applications to Federal agencies after they had received a response from only one clearinghouse. Some Federal agency officials accepted the applications with clearance from only one clearinghouse because they thought that the one clearance letter represented the reviews and results of all clearinghouses contacted.

The benefits of PNRS are diminished if clearinghouses do not coordinate their actions. The problems would be minimized if, in each State, the State clearinghouse or the areawide clearinghouses acted as the focal point for (1) receiving notifications, (2) circulating the notifications to potentially affected parties, including the other appropriate clearinghouses, and (3) transmitting all comments and giving final clearance to the applicant as evidence that all clearinghouses have fulfilled their responsibilities in PNRS.

OMB should encourage the establishment of focal points in the States to simplify procedures to be followed by applicants and to make clear to applicants and Federal agencies that PNRS has been completed.

Transmittal of comments

In several cases applicants did not include in their applications to the Federal agencies all comments they had received. This prevented the Federal agencies from reviewing all comments regarding the proposed project.

OMB should require that the clearinghouses designated as the focal point in PNRS include in their clearance letters to applicants a list of all parties that have participated in PNRS and indicate those parties that have responded. This procedure would alert the Federal agencies as to what documents should be in the application package.

Resolution of comments

The State and areawide clearinghouses we visited generally did not attempt to resolve all issues raised by other parties.

One central theme of the review and comment process is that formal communication channels should be established to encourage people to talk to one another. This communication need peaks when questions and controversial issues are raised in the review process. Circular A-95 provides that clearinghouses may work with applicants to resolve issues that arise. Clearinghouse officials advised us that they interpreted this statement to mean that most issues, if not all, should be resolved at the clearinghouse level. Irrelevant and superficial issues would generally be eliminated. In cases in which adverse comments are significant and controversial and negotiations have reached an impasse, formal written comments would be submitted to the applicant.

Typically, clearinghouses resolve issues either by negotiating directly with applicants or by acting as a mediator between commentator and applicant. Resolution efforts can also take place directly between applicants and commentators, with no involvement by the clearinghouses.

Clearinghouse officials said that PNRS review often resulted in resolution of issues or questions and in changes to projects and in dollar savings. For the most part, however, these "success stories" were not documented. Clearinghouse officials said that, in many cases, resolution was accomplished by means of telephone contacts or short meetings which were essentially exchanges of information. In others, face-to-face meetings were held; sometimes several were needed to reach a conclusion. An official at one areawide clearinghouse we visited estimated that 100 conferences were held in a 1-year period.

At the conclusion of consultation efforts, all issues are either resolved to all the participants' satisfaction or some or all remain unresolved. For unresolved issues, the clearinghouse prepares formal written comments.

Areawide clearinghouses have made progress in voluntarily setting up resolution procedures, particularly when their own issues are involved or when regional controversies have erupted. However, they need to put more effort into acting upon comments of others, including comments made by State agencies.

For example, we contacted officials in cities and counties in one areawide clearinghouse's jurisdiction to determine what happened after they raised issues and submitted comments. They said that they rarely heard anything, or were notified, to the effect that their comments had been received. They suspected their comments were ignored and became very frustrated with the entire process. Two officials advised us that their cities had stopped commenting, feeling that no one paid attention. Areawide clearinghouse officials advised us that they do not, as a matter of policy, attempt to resolve issues which impact at the local level, preferring to resolve only regional issues.

The State clearinghouses generally made no attempt to act upon comments made by State agencies. We contacted three agencies in one State which had made substantive comments on several projects. A State agency official said that he felt very strongly that the agency's comments should be acted upon because of the significant issues

involved and because the Federal agencies occasionally "whitewashed" the comments.

In our opinion, a strong and active consultation and resolution process is essential to a viable review and comment process. It appears that the greatest opportunity for resolving issues exists at the clearinghouse level, where problems may be addressed before applicants submit their applications to the Federal agency. This opportunity appears to diminish after formal comments are written and submitted to the Federal agency.

We believe that consultation between applicants, clearinghouses, and commentators can produce resolution which will improve the applicant's proposal and make for an easier funding decision at the Federal level. Therefore, OMB should encourage clearinghouses to assume greater responsibility for resolving conflicts arising through PNRS.

Funding agencies not providing information to clearinghouses

Circular A-95 provides that Federal agencies and State agencies authorized to award project grants notify clearinghouses within 7 days of any actions--approvals, disapprovals, and returns for amendment--taken on applications subject to PNRS. The Circular also provides that, when clearinghouses assign identification numbers to an application, the funding agency refer to such numbers in the feedback notification.

According to OMB, the purpose of the feedback of information centers on the role of the clearinghouse as a comprehensive planning agency. Up-to-date information on the decisions made by funding agencies is critical to the comprehensive planning process in that it enables clearinghouses to make adjustments in their assumptions, projections, and other planning elements.

We interviewed officials and examined records at 13 clearinghouses in 4 States to determine if they were receiving information on Federal funding decisions. We also visited 19 funding agencies in 7 States to determine if they were providing the required information.

Clearinghouse officials said that, in their opinion, the feedback procedure was a failure. One official said that the first time he learned of Federal agency action in a particular case was when he read about the award in newspapers. Other clearinghouse officials said that they resorted to constant and time-consuming efforts to obtain data from applicants.

In California only one of the seven funding agencies we visited was providing feedback; two were providing partial feedback. LEAA was sending information to the State clearinghouse, the Department of Transportation was sending information when the clearinghouses commented, and Interior was sending information to both clearinghouses. In Michigan and Indiana only one of seven funding agencies visited was complying--Michigan's State Office of Criminal Justice Programs. None of the two and three agencies visited in Texas and Massachusetts, respectively, were complying.

Clearinghouse officials said that they wanted information on the grant decisions of funding agencies. They reiterated the reasons expressed by OMB and said the data was needed to determine the impact of clearinghouse comments and recommendations. One clearinghouse official said that, without feedback, it was difficult to determine what comments were of help to funding agencies.

Most of the Federal agency personnel contacted were unaware that Circular A-95 required the feedback of information. Some officials thought that the requirement was the same as that under OMB Circular A-98 (now Treasury Circular 1082), which requires that Federal agencies notify State central information reception agencies within 7 days of any grant award action.

Federal agency officials said that they thought that submission of Circular A-98 data satisfied both requirements. This is not so because (1) all Circular A-95-covered programs are not covered by Circular A-98 and (2) Circular A-98 data is filed for award actions only and is sent only to the State central information reception agencies which, in many cases, are not the State clearinghouses.

When apprised of the existence of the Circular A-95 requirements and the relationship between them and the Circular A-98 requirements, several Federal agency officials agreed to attempt to submit the data. They said they would send the clearinghouses copies of the grant award letters sent to grantees.

OMB learned of the problems of compliance with this requirement from a July 1971 report by the Council of State Governments on implementing the Intergovernmental Cooperation Act. The report stated that the Federal agencies have either confused the A-95 feedback-of-information requirement with Circular A-98 requirements or have totally overlooked it and concluded that the A-95 feedback requirement "has been almost non-existent." However, OMB was unable to correct the problem.

OMB will have to set out, in Circular A-95, the differences between its feedback requirements and those of Circular A-98 before funding agencies will begin to comply. Furthermore, OMB should seek to achieve timely and accurate reporting of funding actions under a system of total program coverage for PNRS.

CONCLUSIONS

PNRS, designed to carry out the review and comment feature of Part I of Circular A-95, is not achieving its full potential to improve intergovernmental cooperation. Pervasive violations of basic requirements, widespread confusion and misunderstandings among all parties, and a general lack of clarification and guidance by OMB have all contributed to problems in the process.

All parties are prone to not comply with important parts of PNRS. Applicants fail to give clearinghouses and potentially affected parties an opportunity to review and comment on proposals. Clearinghouse operations are such that PNRS could break down in several key areas, resulting in the loss of potential benefits. Federal agencies are not adequately instructing applicants on PNRS requirements and are not insuring that proposals are afforded PNRS benefits. OMB's low-keyed approach to implementing the Circular has contributed to and, in some cases, caused the problems discussed in this chapter.

RECOMMENDATIONS

We recommend that, to improve intergovernmental cooperation, OMB revise Part I of Circular A-95 to:

--Clarify the time at which an applicant should notify the appropriate clearinghouse.

--Encourage early contact between an applicant and clearinghouses by emphasizing the benefits to be derived by such contacts.

--Clarify the length of time that clearinghouses and potentially affected parties have to review proposals for Federal funding before the applicant submits its application to the Federal agency.

--Encourage clearinghouses to establish a focal point for receiving and clearing proposals.

--Encourage clearinghouses to arrange consultations to resolve all issues raised before the submission of the application to the Federal agency.

--Require clearinghouse clearance letters to list the parties involved in the review and indicate those which have commented.

--Direct the Federal agencies to refuse to accept an application subject to Circular A-95 unless (1) clearinghouse comments or clearances are attached or (2) the time permitted for clearinghouse review has elapsed.

We also recommend that OMB:

--Direct Federal agencies to include all PNRS requirements in their internal instructions and instructions issued to applicants.

--Direct funding agencies to notify clearinghouses of the disposition of applications.

--Consider establishing uniform PNRS application procedures.

AGENCY COMMENTS

OMB endorsed many of the above recommendations. Regarding those concerning clarification, OMB explained that its publication on the Circular amplified the Circular's basic provisions. Since the document is not mentioned in the Circular and is not routinely distributed to applicants, we suggest that OMB incorporate the document by reference in the Circular so that the applicant is aware that clarification is available.

In other instances, OMB proposed to reword parts of the Circular to minimize possible misunderstandings and gain greater Federal agency compliance. We accept the proposed actions.

OMB expressed concern about imposing uniform operating procedures which would inhibit the flexibility of clearinghouses. We understood OMB's concern but suggested that OMB consider adopting a standard application form for A-95 programs. In reply, OMB stated that it will seek, insofar as practicable, to secure uniformity in Federal procedures.

CHAPTER 5

ASSESSMENT OF THE APPLICATION OF CIRCULAR A-95 PROCEDURES TO DIRECT FEDERAL DEVELOPMENT PROJECTS

Federal agencies engaged in direct development projects--such as the planning and construction of buildings, installations, and other public works facilities--have not consistently notified State and local governments and clearinghouses of their development activities though required by OMB Circular A-95. As a result projects undertaken by certain Federal agencies met with delays, cost overruns, and adverse reactions from citizens and from officials of affected governmental units, which possibly could have been avoided had the agencies sufficiently notified the appropriate clearinghouses of their plans. The inconsistent compliance with the Circular can be traced to a general lack of guidance by OMB as to the specific responsibilities of the Federal agencies.

Direct Federal development projects can have as great an impact on the area in which they are located as projects conducted by State and local governments and other organizations with Federal assistance. Thus, direct Federal development projects were included in the scope of the Intergovernmental Cooperation Act of 1968 and encompassed by Part II of OMB Circular A-95.

Part II of the Circular is general in describing the nature and scope of projects to be covered. Basically Federal agencies having responsibility (1) for the planning and construction of Federal buildings, installations, and other public works facilities and (2) for acquiring, using, and disposing of Federal land and real property are required to consult with State and local officials and the appropriate clearinghouses. Federal agencies are expected to obtain information about the relationship of their proposed projects to the plans and programs of affected State, areawide, and local governments and to insure maximum feasible consistency of their proposed projects with these plans and programs.

FEDERAL AGENCY COMPLIANCE WITH PART II OF OMB CIRCULAR A-95

The development activities of five Federal agencies showed a wide divergence in practice in complying with the Circular. The agencies are the General Services Administration (GSA), the Veterans Administration (VA), the Department of Transportation--U.S. Coast Guard, the Department of the Army--Corps of Engineers, and the Postal Service.

Adequate compliance

GSA and the Corps of Engineers generally notified the appropriate clearinghouses of proposed projects. Both agencies are well known for their involvement in Federal public works projects, and generally were contacting State and local governments regarding proposed projects even before the advent of the Intergovernmental Cooperation Act and OMB Circular A-95. In our opinion, the high visibility and volume of GSA and Corps projects are major reasons why these agencies generally provide adequate and timely notice to parties which could be affected.

The Corps follows procedures which go beyond the general requirements of the Circular. For example, the Corps provides clearinghouses with

--reports on site investigations,

--records of public hearings,

--completed survey reports, and

--drafts of final project reports.

When Corps projects do not conform to State, regional, or local plans, Corps procedures require adequate justification of any departures. Final reports on proposed Corps projects include clearinghouse comments and the Corps' position.

GSA's internal instructions implement the general requirements in Part II of A-95. The only shortcomings are a lack of guidance concerning disposition of comments and a lack of mechanisms for feedback to clearinghouses. These shortcomings, however, stem from insufficiencies in the Circular language as discussed on pages 49 and 50.

Poor compliance

Some agencies whose projects are incident to their basic responsibilities did not routinely or consistently notify clearinghouses of their development plans. VA generally did not notify cognizant clearinghouses of planned projects, and the Postal Service notified clearinghouses of only certain types of projects.

For example, VA is replacing an existing hospital in San Francisco with a larger facility costing nearly $15 million. VA did not notify the appropriate clearinghouses in the area nor the regional health planning agency during planning for the facility.

When the regional health planning agency learned of this project, it urged VA not to build the expanded facility until certain health care problems in San Francisco could be explored. These problems included excess bed capacity in community hospitals and a lowered occupancy rate at VA hospitals in the area. VA refused to postpone construction and the new facility is currently being built.

To determine whether VA's noncompliance with the Circular was a general practice, we contacted nine State and nine areawide clearinghouses for localities where VA was planning the construction of nine hospitals costing an estimated $424 million. Only three clearinghouses told us that they had been notified by VA as required by the Circular.

OMB files showed that clearinghouses and other parties in various parts of the Nation had complained to OMB that direct development projects of several Federal agencies had not been submitted for review though required by the Circular.

The major benefit of the notification of clearinghouses of proposed Federal projects is the early identification of issues which, if unresolved, will adversely affect the project itself and the affected community. The following example concerns a Federal project which was not submitted to clearinghouses for review.

Regulations of the Department of Transportation for implementing Circular A-95 require that, as a minimum, clearinghouses should be notified 90 days before the actual beginning of construction of a project. The San Francisco Coast Guard District did not implement these instructions until the fall of 1972 when, according to District officials, a new official arrived who was aware of the review and comment process and thought that the Coast Guard should comply.

In November 1969, the Coast Guard decided to build a personnel housing complex at Point Reyes Station in Marin County, California. Approximately 30 miles north of San Francisco, the location is a small ranching community with a population of about 400 people.

The Coast Guard acquired 32 acres as a site for the facility in June 1971. In July 1972, construction of a $1.1 million complex to house approximately 170 people began.

The Coast Guard did not notify the State and areawide clearinghouses (1) when it decided in 1969 to build the complex and (2) when the site was acquired in 1971. The Coast Guard notified the areawide clearinghouse only after the clearinghouse learned of the project from a private citizen and had requested the Coast Guard to furnish information. This notice was in August 1972--after construction began.

Although the Coast Guard did not notify the clearinghouses until construction was underway, it had made earlier contacts with certain State and county agencies regarding the provision of sewage treatment facilities for the housing complex.

The North Marin County Water District was given the responsibility for designing and constructing a wastewater facility to serve the complex. The use of this agency was prompted by the Regional Water Quality Control Board, San Francisco Bay Region (a State agency), which urged the Coast Guard not to construct its own wastewater facility. In June 1972, the North Marin County Water District agreed to build the wastewater facility for $134,000, at Coast Guard expense. Expected completion date of the facility was December 1972.

As construction of the housing proceeded, the North Marin County Water District encountered problems in locating a site for the facility. Concerns over the site location as well as over a secondary impact relating to its potential for growth inducement were raised during a review of the facility's environmental impact. Potential sites were abandoned after geologic and soil tests (Point Reyes is on the San Andreas fault) showed that they were unsuitable for the sewage pond needed in conjunction with the sewage treatment facilities. Also the Regional Water Quality Control Board insisted that all water runoff from irrigation (a means of dispersing treated sewage water) be recaptured and recycled through the treatment facility. These problems postponed construction of the sewage treatment plant and increased the cost from the original estimate of $134,000 to $308,000.

The Public Works Department of Marin County stated that, had it known of the project earlier, it would have told the Coast Guard before construction of the housing complex began that any place in the Point Reyes area would have sewage problems due to the soil and earthquake hazards.

The San Francisco Bay Regional Water Quality Control Board stated that it could have told the Coast Guard before construction began that it was impossible to disperse the treated sewage discharge by the irrigation method without retaining the runoff.

In addition a professor of geology who helped prepare the environmental impact report for the sewage treatment plant stated:

> "The trouble the Water District has had with siting this sewage disposal facility is a case in point. The proper time to have made the environmental impact study was when the Coast Guard was considering the location of its housing project. An in-depth environmental impact study made then, with proper attention to sewage disposal, would have disclosed the problems the Water District is now faced with, and would probably have resulted in the Coast Guard locating its housing elsewhere. As it is, we have been in the difficult

situation of having to determine the least undesirable site for a sewage treatment facility that has to be built regardless."

The housing complex was completed in January 1973. At the time of our review, construction of the sewage treatment facilities had not begun. It appears that additional delays may continue to postpone construction. Meanwhile, sewage is being trucked away at a cost of $5,000 per month.

The intent of the requirements of Circular A-95 is to assist in the planning of projects by providing a means of identifying potential problems and issues as early as possible. In the above example, many of the problems experienced by the Coast Guard could probably have been avoided or at least minimized had it complied with the Circular.

INADEQUATE OMB GUIDANCE TO FEDERAL AGENCIES

The inconsistent compliance with the Circular by Federal agencies is attributable to OMB's general lack of guidance. In implementing the Circular, OMB did not identify the types of projects to be covered. Further, OMB did not provide further instructions to the agencies enabling them to develop their own systems to carry out the purposes of the Circular.

What development projects are covered

Part II of the Circular sets forth a general concept of coordination, which provides that all Federal agencies engaging in direct Federal development activities consult with clearinghouses.

Though this statement clearly indicates the applicability of the provisions of the Circular to all Federal agencies and their direct development projects, there is, as a practical matter, limited value to notifying clearinghouses of every project regardless of type and size. For example, at one Army installation, planned direct development projects ranged from expanding a large medical complex to converting an administration building back to its original use as a barracks for unmarried enlisted men.

Coupled with the absence of exception procedures in Part II, the foregoing explains in part why individual agencies were unsure of the applicability of the Circular to their activities and believed that compliance with the Circular was discretionary.

For example, the Postal Service in the San Francisco area was only partially complying with the Circular. As a matter of policy, officials had determined that neighborhood postal facilities were local in impact and, therefore, not subject to the Circular. They believed that only major projects, such as regional handling facilities, should be subject to its requirements. Once this policy was adopted, State and areawide clearinghouses were not notified regarding neighborhood facilities.

Postal Service records showed that, in various parts of the Nation, parties had complained about the construction of individual neighborhood postal facilities. Plans for these facilities had not been submitted to clearinghouses for review because of the above-mentioned policy. The following example illustrates the problems encountered as a result of the application of this policy.

In February 1972, the Postal Service requested the Corps of Engineers to survey available sites in Pleasanton, California, for a neighborhood postal facility.[1] During their survey, the Corps contacted the Community Development Department and the Engineering Department of the city of Pleasanton solely to determine whether a preferred site could be rezoned for a post office facility. The Director of Community Development replied that any property owner, including public or quasi-public institutions, could apply for rezoning.

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[1]The Service and the Corps had previously agreed that responsibility for the acquisition, design, engineering, and construction of Postal Service facilities would be transferred to the Corps. The Service retained responsibility for policy determination and program management. This agreement took effect on July 1, 1971, and lasted until June 30, 1973.

He told the Corps, however, that the city could not decide on the feasibility of constructing a post office at the site since neither the Corps nor the Postal Service had presented enough details concerning the project. He further stated that the traffic circulation patterns around the subject site were a problem, complicated by the site's proximity to a high school, a community park, and a swimming pool. The Director advised the Corps that subsequent discussions could resolve these concerns.

The Corps enclosed these comments in an August 1972 survey report to the Postal Service. According to Pleasanton's City Manager, neither the Corps nor the Postal Service discussed these issues any further.

In June 1973, the Corps purchased the site for $356,500. The Pleasanton City Manager told us that when he heard rumors that the sale was in process he sent a letter to the property owner's agent, with a copy to the Postal Service, again setting forth the city's concerns regarding the proposed use of the site. The concern about traffic congestion was repeated. In addition, the City Manager suggested that the building might not be able to get a sewer connection.

The City Manager told us that the city heard nothing from the Postal Service. On August 22, 1973, he wrote directly to the Postal Service, stating that:

> "As yet the city has not been advised as to the nature of this facility or reviewed any design for the proposed building. The property is now zoned agricultural and the proposed use would, therefore, require a rezoning. In addition, I am sure you are aware of the problems related to sewage treatment capacity in our city, and at the present time we see no possible means of sewering a post office in that location. * * * the City Council expressed some concern over the apparent plans to proceed with this matter without involving the city in any specific way."

He closed by stating that, without seeing any plans, he was certain that the city opposed the building of a post office on the site.

The City Manager told us that the city was very disturbed by the Postal Service's failure to make notification, either directly to the city or through the A-95 process. He said the city's primary concern was protecting the integrity of its general plan, which designated a specific section of the city for public buildings. He added that the Postal Service had selected a site in an area which the city considered inappropriate.

On September 7, 1973, the Postal Service wrote to the city explaining its need for a new facility and its prior relationship with the Corps.

The Postal Service said the Corps, acting as an agent of the Postal Service, should have contacted Pleasanton and that, if such contacts had not been made, apologies were in order. The Postal Service went on to state that the acquisition of property by the Federal Government eliminates the zoning upon it and that a post office would be built on the property. The Postal Service assured the city that it would discuss the design of the building with the city.

The city was still unsatisfied and replied, on September 18, 1973, that the problems were still unsolved. The city held that the problems were serious, but not insurmountable, and could therefore be solved by negotiation.

At the time of our review, these problems had not been resolved to the city's satisfaction. It appears that, with the acquisition of the site by the Postal Service, there is limited potential for negotiation. A Postal Service official told us that the Pleasanton site was a problem case. He added that the construction schedule has slipped considerably and costs have escalated. Efforts would have to be made to negotiate the problems. If Pleasanton was right about the problems, the site might have to be sold. We noted, however, that the Postal Service has hired an architect-engineer to design the building. Postal Service officials told us that, when plans are completed, they will meet with city officials and attempt to resolve the problems.

Compliance with Circular A-95 might have precluded this confrontation between the Federal Government and the city of Pleasanton. Further, it appears that the delays and increased construction costs could have been avoided. Had the city

been notified of the planned facility before site acquisition, there would have been an opportunity for selecting a mutually acceptable site.

In addition this example illustrates a conflict with the basic philosophy underlying Circular A-95. Clearinghouses are denied one of their basic prerogatives, namely, the opportunity to determine on behalf of a community the impact of individual development projects.

In our opinion, OMB, the Federal agencies, and clearinghouse organizations need to resolve the uncertainties regarding what direct Federal development projects are covered by the Circular and need to establish a procedure for obtaining exception from the Circular requirements when warranted.

Federal agency procedures

To carry out Part II of the Circular, OMB directed the Federal agencies to establish procedures to implement the general concepts of coordination and cooperation. Federal agencies were expected to use clearinghouses for obtaining review of and comments on individual projects. However, OMB did not give further instructions to the agencies to enable them to set up their own systems. For the most part, Federal agencies' implementing policies and regulations basically restated the general concept of coordination and cooperation contained in Part II without elaboration or clarification. When agencies did establish definite procedures, OMB did not review them for conformity with the requirements of the Circular.

When to obtain clearinghouse comments

Part II of the Circular stated that consultation with clearinghouses on Federal projects is to occur "* * * at the earliest practicable stage in project or development planning." The presumed purpose of early consultation is to identify conflicts before the Federal project progresses too far. However, the interpretation of the phrase "earliest practicable stage" was left to each Federal agency. As a result, the interpretations of the various agencies differ and, in one case, conflict with the objective of the Circular.

For example, VA's regulations, which adopted the language of Part II, require consultation with clearinghouses after initial approval of a project by the Administrator of Veterans Affairs. A VA official advised us that by this time, the site has been selected, VA's Construction Method Determination Board has reviewed the project, and the project has been initially approved. As noted earlier, VA's requirement severely limits the opportunity for resolving any conflicts which may be identified by a clearinghouse's review of a project.

A Postal Service official suggested that clearinghouses be contacted after the Postal Service obtains purchase options on the several sites under consideration but before a site is acquired. This would keep land acquisition costs at a minimum by reducing the adverse effects of land speculation while still providing for local input before a final decision is made. These procedures have not been incorporated into Postal Service regulations but are included in the scope of a Postal Service study of site acquisition activities.

In contrast, the regulations of several agencies have supplemented Part II of the Circular to specify a point in the development of a project at which clearinghouses should be notified. GSA regulations provide for notification 60 days before the initiation of a survey, while Department of the Interior regulations require consultation at least 6 months before the undertaking of a project.

Department of Transportation regulations require notification as early as possible in project planning but no later than 90 days before the actual beginning of construction. However, in the Coast Guard example cited on page 47, the 90-day clearinghouse contact requirement would not have alleviated all of the problems encountered because the land was acquired 1 year before construction began.

We believe that Federal agencies can benefit greatly from consultation with clearinghouses before major expenditures or firm commitment to a specific site. Therefore, OMB should work with each Federal agency to reach agreement on the point in time when clearinghouses should be notified and make sure that these determinations are incorporated into agencies' regulations.

Length of time for clearinghouse review

There is misunderstanding between Federal agencies and clearinghouses about the time a clearinghouse has for review of a notice of a direct Federal development project. Because Part II of the Circular is silent on this point, the implementing regulations of Federal agencies vary widely. The regulations of three Federal agencies implied that the review period is the same as that under Part I--30 days. If a clearinghouse has not replied within that time, the Federal agencies presume that the review is completed.

Another Federal agency instructs clearinghouses to reply within 60 days, while the regulations of other Federal agencies reviewed did not mention how long clearinghouses have to review their projects. Thus, agency officials in Washington and the regions are allowed to variously interpret this step of the consultation process.

A clearinghouse official told us that he and his fellow officials did not, as a rule, limit their reviews to 30 days. Most notifications are disposed of quickly but others take as long as 60 days. The official was unaware that the agencies were limiting the time given the clearinghouse and said that clarification of the period for review was needed.

Thus, OMB should clarify this step of the consultation process to insure complete understanding between the parties regarding the length of the review period; otherwise the benefits will be lost or severely reduced.

Comments and feedback

Part II makes little mention of the subjects that clearinghouses are to comment on and does not mention how Federal agencies should dispose of clearinghouse comments. This lack of definition is in contrast to Part I, which does set forth instructions regarding the subject of reviews and the disposition of comments.

The Circular states that clearinghouses should consider the relationship of the direct Federal development plan or project to the plans and programs of the State, area, or

locality in which the project is to be located. The implementing regulations of Federal agencies generally adopted this language.

Clearinghouse officials told us that they are confused and unsure about their role of commenting on direct Federal development projects because of the inadequate language in Part II. Furthermore, since the Federal agencies' headquarters' policies and procedures did not elaborate on the Circular language, cognizant Federal officials could not guide clearinghouse officials.

Part II makes no mention of feedback of Federal decisions to the clearinghouses. The regulations of three Federal agencies, however, require that clearinghouses be advised of Federal decisions when the project conflicts with the clearinghouse comments or the plans of State and local bodies. This step of the coordination process was evidently borrowed from Part I. The other Federal agencies we reviewed have not adopted a position or procedure for feedback.

One clearinghouse official said that no feedback is received from Federal agencies on (1) clearinghouse comments or (2) the final decision of Federal agencies. For example, GSA was notifying the clearinghouse of proposed surplus property dispositions but was never announcing what party had actually received the property. According to the official, the clearinghouse's interest was greatest when it had furnished comments to the Federal agency but it was also interested in general information.

CONCLUSIONS

OMB's implementation of the requirements of the Intergovernmental Cooperation Act of 1968 relating to Federal development projects has not been totally successful. Federal agencies have not consistently notified State and local governments and clearinghouses of the development activities though required by Part II of Circular A-95. As a result, some Federal agencies have undertaken projects which do not conform to State and local plans. Further, projects undertaken by certain Federal agencies met with delays, cost overruns, and adverse reactions from citizens and government officials which could have been avoided had clearinghouses been sufficiently notified of proposed projects.

The inconsistent compliance of the Federal agencies and the adverse effects thereof can be traced to a general lack of guidance by OMB as to their specific responsibilities. In implementing Part II of Circular A-95, OMB did not identify what types of projects are to be covered. Instead, OMB directed the Federal agencies to establish their own implementing systems but did not further instruct them as to how these systems should be designed.

RECOMMENDATIONS

We recommend that OMB revise Part II of Circular A-95 to:

--Define the nature and scope of projects to be covered, with provision for exceptions when justified.

--Define the point during project development at which Federal agencies should notify clearinghouses of proposed projects.

--Fix the length of time that clearinghouses have to review and comment on proposed projects or provide alternative arrangements for coordinating Federal agency and clearinghouse planning.

--Define the issues that clearinghouses should routinely consider in reviewing proposed projects.

--Prescribe procedures for Federal agencies to follow in responding to clearinghouse comments and providing feedback to clearinghouses on actions taken.

We also recommend that OMB review the instructions and guidelines developed by individual Federal agencies, and, when necessary, require that revisions be made so that they conform with the requirements of Part II of the Circular.

AGENCY COMMENTS

OMB said that the recommendations for improving Part II were constructive and generally agreed to by the Federal agencies. As part of its study of overall revision of the Circular, OMB stated that it will consider revisions of Part II within the framework of the Federal agencies' own regulations and our recommendations.

CHAPTER 6

OMB ADMINISTRATION OF CIRCULAR A-95

As discussed in chapters 4 and 5, most of the problems associated with implementing Circular A-95 can be traced to a general lack of guidance by OMB as to the specific responsibilities of Federal agencies. Our recommendations in those chapters are directed to the subjects needing clarification and/or elaboration. However, we believe that OMB must, at the same time, develop an aggressive system for insuring that the Circular is consistently and uniformly implemented by the Federal agencies or problems will simply persist.

OMB APPROACH TO ADMINISTRATION

Responsibility for administering the provisions of the acts which serve as the legal basis for Circular A-95 was delegated by the President to OMB by memorandum. The memorandum provides that OMB coordinate the actions of Federal agencies in order to attain consistent and uniform action by the agencies.

The administration of the Circular at the OMB level is assigned to a single official who has no full-time support staff. In dealing with about 500 clearinghouses and 22 Federal agencies, OMB must rely heavily on these organizations for day-to-day administration of the Circular. To carry out the concepts of Circular A-95, OMB directed Federal agencies to develop their own regulations and procedures for implementation. For agencies administering Federal assistance programs covered under Part I, two sets of procedures were to be developed--one for the agencies themselves and another for State and local governments and other organizations applying for assistance. Individual operating groups within some Federal agencies were allowed to develop their own procedures either in lieu of or supplementary to agency-wide procedures. Currently Part I covers assistance programs administered by 22 Federal agencies. Further, all Federal agencies engaged in direct development projects were to develop internal procedures for implementing Part II.

Each Federal agency whose activities were covered under Parts I and II was to designate an official as A-95 liaison officer to work with the OMB official responsible for administering the Circular.

REVIEW OF AGENCIES' REGULATIONS

The regulations and procedures of individual agencies for implementing Circular A-95 vary considerably. OMB did not identify the significant variances among the agencies' regulations, which were indications that individual agencies were unsure of how to interpret the requirements of the Circular and, therefore, required additional guidance from OMB.

For example, GSA regulations provide for notifying clearinghouses 60 days before GSA surveys potential site locations for a direct development project. This would seem to allow sufficient opportunity for resolving any problems which may arise as a result of clearinghouse review. In comparison, VA regulations provide that clearinghouses be notified of a project after initial approval by the Administrator of Veterans Affairs. We found that, by the time a VA project is initially approved by the Administrator, the site has been selected and VA's Construction Methods Determination Board has reviewed the project. In our opinion, notifying clearinghouses of a project at such a stage of development can severely limit the opportunity for resolving problems which may be identified during clearinghouse review.

Although OMB has approved the regulations of the Federal agencies for implementing the Circular, OMB has not identified cases in which regulations are inconsistent with the Circular. We believe that OMB should review these regulations and, where necessary, require revision to insure consistency.

ROLE OF LIAISON OFFICERS

OMB has not defined the role of agency liaison officers. To determine their functions, we interviewed the officers of 11 Federal agencies. All officers served as the focal point within their agency for disseminating Circular A-95 material, such as agency regulations and OMB publications. For the most part, the time spent on A-95 matters was very limited because all officers carried out other duties.

Of the 11 officers contacted, 6 were responsible for formulating agencywide regulations and procedures for implementing the Circular. The remaining 5 officers had little or no involvement in developing the agencies' regulations and procedures.

Six of the 11 agencies allowed agency components to develop A-95 procedures in lieu of, or to supplement, agencywide regulations. In four of the six agencies, the liaison officers did not review procedures developed by the agencies' components.

Several officers said OMB was quite responsive to the requests for assistance regarding the Circular. However, they added that communication with OMB was infrequent because OMB did not often initiate contact but preferred to wait for inquiries. In one instance over a year passed before it came to OMB's attention that an agency no longer had a liaison officer.

OMB MONITORING

OMB does not actively monitor the compliance of Federal agencies with Circular A-95. OMB feels that, because of limited support staff, it must monitor compliance on a passive case-by-case basis, relying on complaints from clearinghouses.

Circular A-95 provides that OMB may require the Federal agencies to report periodically on the implementation of Part I. The 11 liaison officers we contacted could not recall any requests from OMB for compliance reports within the last 3 years. Most of the liaison officers we contacted believed that either (1) they were not responsible for monitoring compliance or (2) any attempts to monitor compliance would not be worth the effort.

Under OMB's passive approach to monitoring compliance, when a clearinghouse complains that a Federal agency has not complied with the Circular, OMB asks the agency to contact the clearinghouse to attempt to resolve the problem and asks to be apprised of the outcome. Thus OMB is made aware only of those problems which clearinghouses find out about and choose to bring to OMB's attention.

OMB officials expressed satisfaction with their success in dealing with Federal agencies when documented complaints regarding the agencies are received. However, OMB officials recognize that most clearinghouses do not bother to write OMB when they have complaints. In many instances, a clearinghouse is unaware of noncompliance until the agency has taken action on an application for Federal assistance. At this point, a clearinghouse may consider it to be too late to formally complain to OMB, unless it wishes to try to guard against a recurrence of the problem. Were a similar problem to arise, it is unlikely that OMB would be aware of it unless the clearinghouse or another party documented and reported the circumstances.

Also clearinghouses were reluctant to complain to OMB about the failure of agencies to comply with the Circular because the clearinghouses were funded, in part, by the same agencies.

PROMULGATION OF OMB POLICY INTERPRETATIONS AND DECISIONS

OMB responds readily to inquiries from clearinghouses, applicants for Federal assistance, and others regarding Circular A-95. Many inquiries involve policy matters. However, OMB generally does not notify other clearinghouses or applicants which also may be affected by these interpretations or decisions.

The following examples illustrate how this practice can contribute to inconsistent implementation of the Circular by clearinghouses, applicants, and Federal agencies.

The Director of the Connecticut Office of State Planning asked OMB for advice in a situation when an applicant for Federal assistance felt that clearinghouse review would delay approval of a grant which, in turn, could delay purchase of needed property. The Director stated that the applicant hoped that its application could be filed with the Federal funding agency for initial review before the receipt of clearinghouse comments. The Director felt that the procedure might not present a problem, provided the Federal funding agency did not actually approve a project before receipt of clearinghouse comments.

OMB responded that there was no prohibition against submitting an application to both the clearinghouse and the Federal agency simultaneously, provided that there was no final action by the Federal agency until clearinghouse comments had been received or the length of time for clearinghouse review had elapsed.

To determine whether OMB's position had been communicated to other State clearinghouses, we contacted an official of the Massachusetts State Clearinghouse. He stated that the clearinghouse had never been notified of OMB's opinion on simultaneous submission of applications for Federal assistance and that his organization did not authorize applicants to submit applications to the clearinghouse and to the Federal agency at the same time.

The matter of simultaneous submission of applications to both a clearinghouse and a Federal agency is discussed in an auxiliary OMB pamphlet but not addressed in the Circular, even though this problem occurs often enough to warrant clarification in the Circular. OMB has recently, however, included this topic in its July 3, 1974, "A-95: Administrative Note," discussed below.

The Director of the Oklahoma State Clearinghouse stated that, on the basis of his interpretation, the current version of Circular A-95 allows a clearinghouse 30 days for review and comment after a formal application is received. He added that there was confusion among certain areawide clearinghouses in Oklahoma regarding the review period permitted by the Circular. Some clearinghouses thought that they were allowed 60 days for review of and comment on the application.

The Oklahoma State Clearinghouse requested clarification from OMB. On March 8, 1974, OMB responded:

> "If the first notice the clearinghouse has of a proposed project is receipt of a final application, then it has 60 days to complete its review and supply the applicant with its comments."

This exception to PNRS is not discussed in the Circular or the auxiliary pamphlet, nor has it been communicated to all applicants, clearinghouses, and funding agencies.

The issuance of OMB policy interpretations and decisions to individual clearinghouses, applicants, and Federal agencies without notifying other organizations contributes to inconsistent implementation of the Circular by participants at all levels.

OMB EFFORTS TO IMPROVE ADMINISTRATION OF THE CIRCULAR

OMB officials said that OMB has taken certain steps and is planning further action to improve administration of the Circular.

Dissemination of information

In early 1974 OMB published a pamphlet titled "Office of Management and Budget Circular No. A-95, What It Is--How It Works." In general, the document explains the Circular, describes PNRS, and provides questions and answers. However, it is unclear whether the pamphlet has the same force of regulation as that of the Circular because the Circular does not refer to the pamphlet.

OMB recognizes the problems inherent in its methods of communicating policy interpretations and decisions and has begun issuing a series of "A-95: Administrative Notes." In this, OMB circulates to Federal Regional Councils, clearinghouses, and others current policy interpretations and decisions which do not immediately result in revisions or amendments to the Circular.

Decentralization of administration of the Circular

Beginning in September 1974, Federal Regional Councils assumed responsibility for coordinating the implementation of OMB Circular A-95 by the regional components of Federal agencies. Councils were established nearly 3 years ago to develop closer working relationships between large Federal grant-making agencies and State and local governments and to improve coordination of the categorical grant-in-aid system. The Under Secretaries Group for Regional Operations (USG), under the chairmanship of the Deputy Director, OMB, is responsible for the Councils' proper functioning.

In principle, we concur with OMB's decision to decentralize administrative responsibilities because OMB does not have the resources to provide needed day-to-day oversight of implementation of the Circular. However, the success that Councils can achieve depends on how OMB addresses certain factors.

As noted in our report assessing Federal Regional Councils,[1] Councils were impeded from being more effective by factors such as limited staffing and inconsistent commitment by Federal agencies to the Councils. Except for the staff directors and support staff assigned by the Council Chairmen's agencies, Council Chairmen, members, staff, task force representatives, and ad hoc participants divide their time between Council and agency duties. Further, Council members must be thoroughly convinced of the potential value of particular projects before they can completely commit themselves. Despite these factors, Councils generally made a concerted effort on projects when USG and OMB provided management direction and assistance.

In July 1973, OMB circulated a memorandum to Council Chairmen proposing the delegation of administration of Circular A-95 to the Councils. In commenting on the memorandum, most Council Chairmen expressed the view that an active program for monitoring compliance was vital to the implementation of the Circular and that additional staff were needed. However, OMB felt Councils should provide at least the level of service and response that had been provided centrally--operating on a complaint basis--recognizing that this was a "minimal level of operation." OMB believed this type of monitoring could be accomplished with existing Council resources using part-time staff.

In a June 25, 1974, memorandum for Council Chairmen, OMB assigned to the Councils the following basic responsibilities:

> "--Assuring arrangement for responding to requests of clearinghouses, State and local officials, and others for information on A-95 matters;

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[1]Report to the Congress on "Assessment of Federal Regional Councils" (B-178319, Jan. 31, 1974).

--Coordinating arrangements for dissemination of information on A-95 requirements among potential applicants for Federal assistance and among Federal program agencies operating in the region of each Council;

--Developing arrangements for investigation of complaints of noncompliance with A-95 requirements and assuring corrective action within the limits of Council authority; and

--Coordinating agency responses to requests from OMB, from time to time, for information and analysis of the status of implementation in the region, along with identification of problems and recommendations for any action required at the Washington level."

To carry out these functions, each Council was to appoint an A-95 coordinator from one of the member agencies who would serve as the contact point on matters regarding the Circular in the region. Each other agency within the geographic jurisdiction of the Council, including agencies that are not Council members, was to designate an A-95 liaison officer.

OMB retained responsibility for all policy development and oversight, including

--formal changes to the Circular,

--policy interpretations and decisions,

--waivers of Circular requirements, and

--new or changed designations of metropolitan areawide clearinghouses.

In summary, OMB perceives that the basic role of the Councils regarding implementation of the Circular is to assist OMB by (1) answering questions, (2) disseminating information, (3) handling complaints, and (4) providing feedback to OMB upon request.

As noted above, a passive monitoring system has a major weakness which limits its usefulness as a management tool--the monitor is made aware only of those problems which outside parties choose to bring to its attention.

CONCLUSIONS

OMB devoted only limited staff to administering Circular A-95. As a result

--the regulations and procedures of individual Federal agencies for implementing the Circular varied considerably, indicating that agencies were unsure as to how to interpret the requirements of the Circular and required additional OMB guidance;

--agency liaison officers were unsure of their responsibilities and played a very limited role in implementing the Circular;

--OMB passively monitored compliance of Federal agencies with the Circular, relying on documented complaints as a basis for instituting corrective action;

--OMB issued policy interpretations and decisions to individual parties without notifying other organizations which might be affected.

These factors have contributed to the inconsistent implementation of the Circular by participants at all levels.

To help OMB discharge its responsibility for administering the Circular, Federal Regional Councils were delegated responsibility for coordinating the implementation of the Circular by the regional components of Federal agencies. In principle, we concur with OMB's decision but believe that the success that Councils can achieve depends on how OMB addresses certain factors, such as

--limited Council staffing and

--inconsistent commitment by Federal agencies to the Councils, unless USG and OMB provide management direction and support.

RECOMMENDATIONS

We recommend that:

--OMB discontinue its reliance on complaints as the principal means for ascertaining whether Federal agencies are complying with Circular A-95. We recommend that instead OMB adopt an aggressive system of positive monitoring of administration of the Circular by initiating periodic direct contact with Federal agencies, clearinghouses, and applicants to determine whether (1) the regulations and procedures of individual Federal agencies and their components are consistent with the Circular, (2) Federal agencies are complying with their own regulations and procedures and OMB requirements, and (3) OMB policy interpretations and decisions are being communicated to and uniformly adopted by Federal agencies and clearinghouses.

--OMB define the responsibilities of A-95 liaison officers at the headquarters level of the Federal agencies and use the officers to the extent possible in helping OMB monitor administration of the Circular.

--USG and OMB provide definitive direction and firm support to the Councils in carrying out their role of helping OMB administer the Circular.

--OMB define (1) the responsibilities of the A-95 coordinators and A-95 liaison officers to be designated in each of the Councils and (2) the working relationship of these coordinators and liaison officers to OMB and to the A-95 liaison officers at the headquarters level of the Federal agencies.

--OMB provide Councils with the staff necessary to pursue aggressive monitoring. We recommend, as a minimum, the appointment of a full-time A-95 coordinator in each Council, drawing upon the resources of (1) OMB, (2) the staff of a management-oriented organization, such as the Office of Federal Management Policy of GSA, or (3) the staff of the regional director of a Council agency.

AGENCY COMMENTS

OMB generally agreed it could improve its oversight of the implementation of Circular A-95. OMB felt the Federal agencies were responsible for administering the legislation underlying the Circular. OMB's role was to:

--Develop the rules and regulations, namely the Circular itself, to implement the legislation.

--Provide an overview of the implementation of the rules and regulations to make necessary adjustments.

--Encourage and assist in effective implementation of the rules and regulations by the Federal agencies.

OMB added that by itself it cannot insure that the Circular is implemented. Effective implementation requires action by the leadership of the Federal agencies with the support and encouragement not only of OMB and the Executive Office but also of the Congress and its agencies.

OMB plans to study means by which existing Federal staff can be more effectively used in monitoring implementation of the Circular. Applying additional OMB resources, OMB felt, was not the only approach to improving administration of the Circular; Councils were expected to have a strong monitoring role.

OMB noted USG and the Councils have specified that the Councils' activities regarding Circular A-95 have to be performed within existing resources with no foreseeable attempt to increase them. OMB further noted that using OMB or GSA staff to perform Council functions extends beyond consideration of Circular A-95, involving the future role, status, and organization of Councils, OMB, and GSA, including internal relationships among these entities. OMB added that, since the Councils have been delegated responsibilities for the oversight of Circular A-95 only since September 1974, there has not been sufficient experience to determine if additional Council resources are necessary. OMB, with USG assistance, will assess the performance of Councils regarding the Circular in early 1975.

We recognize that OMB and the Federal agencies at both the headquarters and field levels are faced with budgetary restrictions that make providing additional resources difficult at this time. We concur in OMB's approach of evaluating the experience of Councils in assisting with the administration of the Circular after a reasonable time. However, if OMB's evaluation shows that Councils need additional resources, OMB and the Federal agencies should make every effort to either reapply existing resources or obtain additional ones.

Further, OMB was charged with the responsibility for coordinating the actions of Federal agencies regarding the Circular, in order to attain consistent and uniform action by the agencies. We believe that only OMB is in the position to insure that regulations and procedures of individual Federal agencies and their components are consistent with the Circular.

CHAPTER 7

OBSERVATIONS ON THE REGIONAL GRANT INFORMATION SYSTEM

Two major nationwide efforts have been made to institute more specific and consistent procedures for the flow of data on Federal assistance applications through PNRS and through the Federal agencies' systems for reviewing and acting on such applications. Both efforts were affected by problems (1) in PNRS of Circular A-95 discussed in this report and (2) in obtaining information from applicants, clearinghouses, and Federal agencies.

FEDERAL AID CONTROL SYSTEM (FACS)

An early effort to develop specific and consistent procedures for the flow of Federal assistance data was undertaken by the Office of Economic Opportunity (OEO) in 1970 under FACS. This two-part system was to rely on data from two different sources. Data on assistance applications was to be obtained as part of PNRS under OMB Circular A-95. Data on grant awards was to be obtained from Federal agencies, as required by OMB Circular A-98. This Circular, based on section 201 of the Intergovernmental Cooperation Act of 1968, required Federal agencies to report data to the States on grant awards. Responsibility for administering the Circular was recently transferred from OMB to the Treasury Department, which reissued it as Treasury Circular 1082.

The State of Louisiana and OEO developed FACS as a computerized system. One purpose of FACS was to facilitate the monitoring of selected applications of State agencies and political subdivisions for Federal assistance under programs covered by Circular A-95.

FACS was adopted at different times over a period of several years by 37 States with assistance from OEO. Although the FACS concept was kept intact, the configurations of the computer systems of each State necessitated changes in the FACS software package before the system could become operational. Major technical problems coupled with declining OEO resources caused the States to become dissatisfied with FACS. The principal reason for dissatisfaction, however, was the inadequacy of information on grant awards provided to the States by the Federal agencies.

Further, data available to FACS on the amount of Federal funds being requested was limited because the information could be obtained only from programs covered by Part I of Circular A-95. Program coverage from July 1969 to December 1973 ranged from 51 to 128 programs. The number of Federal assistance programs providing funds during that period was substantially higher.

FACS was an information system to serve the States and therefore was to be operated by them. It enabled a State to trace and record its agencies' and political subdivisions' applications for Federal assistance. Louisiana undertook this venture because it had no other means for determining who requested and received Federal assistance, for what purpose the assistance was being used, and where the assistance was having impact. The information accumulated in FACS was periodically provided to the State's areawide clearinghouses, which included local officials; to the State's congressional delegation; and to other interested parties.

Approximately 15 States currently operate some version of FACS. Although its use has declined, a major benefit of FACS was the introduction of formal procedures into the A-95 process. FACS prompted Louisiana to:

--Develop a standard form as a means of gathering data uniformly and consistently, thereby facilitating automation.

--Establish a routine flow of proposals from the applicants to the clearinghouses, back to the applicants, and on to the Federal agencies.

--Establish a focal point for contact among the applicants, clearinghouses, and Federal agencies to minimize confusion, to expedite the review and comment procedure, and to provide for prompt and consistent responses to inquiries.

--Assist its political subdivisions and congressional delegation by providing timely information on Federal assistance that was being sought and that had been provided.

REGIONAL GRANT INFORMATION SYSTEM

OMB and several States, in another effort to improve the flow of data through all stages of the process of obtaining Federal assistance, developed the Regional Grant Information System (REGIS).

Like FACS, REGIS relied on data from two sources. Data on applications was obtained through PNRS, while data on grant awards was provided by Federal agencies pursuant to Treasury Circular 1082.

The following discussion is limited to the PNRS phase of the REGIS process--that which occurs up to the time that a Federal assistance application is accepted by a Federal agency for review.

REGIS was developed and tested in the Boston and Dallas Federal Regions. The tests were a joint effort involving the 11 States in the regions, USG, OMB, and the Federal Regional Councils.

In 1971 an OMB survey of the information requirements of the Councils identified a need for an information system for Federal agencies' regional directors to provide (1) a background for specific discretionary grant decisions and (2) a basis for more systematic interagency and intergovernmental coordination. The May 30, 1974, OMB final evaluation report on REGIS concluded that, as it had evolved during the pilot test, its use in response to individual regional agency needs had generally been minimal.

During the pilot tests, REGIS was to facilitate planning by providing information to a State and its local governments on the amount of funds being requested by organizations within the State from Federal programs covered under Circular A-95.

After the test, USG decided in June 1974 to expand REGIS to all 10 Federal regions; OMB was working toward that end when, in October 1974, USG reversed itself. As designed, the PNRS segment of REGIS was an automated system for tracking grant proposals covered under Circular A-95.

Some features of FACS were incorporated into REGIS. For example, the data for tracking applications for Federal assistance was gathered using a single standard form. Using a standard form facilitated gathering uniform and consistent data and made automating data easier. Further, procedures were established to control the flow of the standard forms through the PNRS process.

REGIS, however, did not include some elements of FACS. For example, REGIS did not provide for a focal point for controlling applications and clearinghouse actions within a State. As discussed on page 36, the lack of central control causes uncertainty among applicants and Federal agencies as to when PNRS within a State is completed. Also, the REGIS standard form provided space for only one clearinghouse's receipt and clearance dates even though programs covered by A-95 must generally go to two clearinghouses. REGIS would therefore have provided incomplete data to States, local governments, and clearinghouses. Further, incomplete data made it difficult for any organization to monitor compliance with Circular A-95.

Whereas FACS was a State-operated system to meet State needs, REGIS was a federally operated system with all data for the PNRS segment provided by applicants and clearinghouses. Under a State-operated system, factors such as

--access to the system,

--data to be stored in the system,

--frequency of access,

--format of the input and output of information, and

--financing of the system

are controlled by the State. Under REGIS, however, these factors were controlled by the Federal Government.

For example, a major concern of State clearinghouses was the limited program coverage under REGIS. REGIS encompassed 120 of the 138 programs covered by Part I of Circular A-95. As discussed in chapter 3, certain States, cities, and clearinghouses have substantially increased the number

of programs covered by PNRS. These organizations might not have been willing to pay the user charges which would have been assessed if they had requested that this additional information be included in REGIS.

The decision to limit the number of programs in REGIS to those covered under A-95, in opposition to demands by State and local governments and Regional Councils for full program coverage, raised the question of the value of REGIS to State and local governments. Limited program coverage contributed to the decline in use of FACS.

REGIS directly affected the relationship between a State and its political subdivisions. The philosophy underlying FACS, as developed in Louisiana, was that States were responsible for providing information on Federal assistance to their political subdivisions. The philosophy underlying REGIS, as adopted by USG in June 1974, was that the Federal Government is responsible for providing such information directly to any unit of government.

Our review included work in the two regions where REGIS was pilot tested. Although we did not make an in-depth assessment of REGIS as it was being tested, we noted significant problems in the PNRS segment.

For example, we analyzed a January 1974 REGIS report on the status of applications from Massachusetts to determine data accuracy. The report did not even differentiate between applications for programs covered by Circular A-95 and those covered by Circular A-98. Thus, we could not determine from the report whether applications subject to the PNRS requirements of Circular A-95 had been submitted to clearinghouses for review and comment.

We also noted data in the REGIS report that was incomplete or inaccurate. Analyzing assistance applications under five Federal programs, we found that entries for key dates in the PNRS process were frequently missing, as shown below.

Federal program	Number of applications	Number of entries missing: Date of clearinghouse receipt	Number of entries missing: Date of final clearinghouse action	Number of entries missing: Date of receipt by funding agency
A	45	44	42	7
B	70	20	60	70
C	25	17	15	3
D	5	2	4	4
E	47	27	44	35

By reviewing the files of applicants, clearinghouses, and Federal agencies, we determined that, for the applications in question, the clearinghouse process had been completed and the applications had been received by the funding agencies before the date of the REGIS report. We subsequently found that clearinghouses and funding agencies were simply not submitting current information on applications to REGIS.

REGIS, like FACS, did not use the Federal agencies' internal grant information systems. Data for REGIS during the pilot tests was provided on a separate form which was not an essential part of the series of forms normally used for grant applications by applicants, clearinghouses, and Federal agencies. As a result, the processing of REGIS forms was added to the normal workload of processing grant applications and received little emphasis.

Most Federal agencies have devoted considerable time and resources to develop internal grant information systems using data from grant applications and related agency documents. Agency officials said they did not use data from the REGIS form or reports because their internal systems provide sufficient data to meet their needs. As a result, the REGIS form provided data for REGIS and grant applications and related agency documents provided data for agencies' internal

systems. In our opinion, REGIS would have remained independent of the internal information systems of the Federal agencies.

CONCLUSIONS AND AGENCY ACTIONS

USG's decision to expand REGIS nationwide represented a Federal Government commitment to assume responsibility for providing information to State and local governments and clearinghouses on the progress of assistance applications through PNRS. We concluded that, as long as REGIS remained independent of the agencies' internal systems, the agencies would continue developing and using their systems while devoting limited effort to developing and using REGIS.

We proposed that OMB study the relationship between REGIS and the Federal agencies' internal information systems before major resources were committed to REGIS expansion.

According to an OMB interim reply dated November 7, 1974 (see app. II), USG discussed our comments and other problems concerning REGIS expansion plans and concluded that, in light of our comments and the inability to obtain a firm agreement by the Federal agencies on financing, the REGIS pilot tests should be terminated. Terminating REGIS would save at least $2.7 million annually.

The termination of REGIS breaks a link in the communication chain between the Federal agencies and State governments. Because the Federal agencies already have their own information systems, consideration should be given to using these systems to implement the REGIS concepts.

Furthermore, the problems with the PNRS of Circular A-95 require correction before any grant information system can rely on the process as a source of data.

RECOMMENDATION

We recommend that OMB evaluate and consider using agencies' internal systems to implement the REGIS concepts.

AGENCY COMMENTS

OMB said it will fully discuss our comments and recommendation on REGIS in its reply to our report on implementing Treasury Circular 1082. In the above-mentioned interim reply, OMB said USG agreed to support a proposed OMB review of possible more extensive use of the Federal agencies' internal information systems to provide grant award data to the States.

CHAPTER 8

SCOPE OF REVIEW

Our review, made primarily during October 1973 to May 1974, included an examination of OMB's Circular A-95, which is designed to implement parts of the Metropolitan and Demonstration Cities Act of 1966 and the Intergovernmental Cooperation Act of 1968. These acts established procedures to allow State and local governments to review and comment on proposed Federal and federally assisted activities. Parts I and II of Circular A-95, except the environmental impact and civil rights aspects, were reviewed to determine if the legislative objectives were being met.

We reviewed (1) the legislative history of these two acts and the succession of OMB circulars preceding the current version of Circular A-95 and (2) evaluation reports prepared by OMB, Federal agencies, and private consultants.

Our fieldwork was done in the Washington, D.C., headquarters of OMB and in Federal agencies and regional offices of 14 Federal agencies in regions I (Boston), V (Chicago), VI (Dallas), and IX (San Francisco). We worked extensively at five areawide and four State clearinghouses in California, Massachusetts, Michigan, and Texas and obtained supplemental information at four areawide and three State clearinghouses in three States. We made approximately 70 contacts with State agencies, local governments, and other organizations that had either applied for or commented on Federal or federally assisted projects. We interviewed representatives of these governments and organizations and obtained documents covering their activities.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 7 1974

Mr. Victor Lowe, Director
General Government Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Lowe:

Enclosed is the Office of Management and Budget's consolidated review of the draft GAO report, Improvements in OMB Circular No. A-95 Will Enhance Intergovernmental Cooperation. The report was widely distributed among Federal agencies, Federal Regional Councils, State and areawide clearinghouses, and public interest groups. The consolidated review attempts to reflect major areas of consensus among the respondents. GAO is, of course, welcome to examine the written reports that we received.

OMB found many of the recommendations in the GAO draft report constructive and actionable. Others, while constructive may require additional resources that are not discernibly at hand. In a period of fiscal stringency at Federal, State and local levels, this means that such needs must be met through reallocation and better utilization of existing resources. This will require substantial study and analysis at all levels of government and improvements will need to be made incrementally as circumstances permit.

Vincent Puritano, my Deputy for Intergovernmental Relations and Regional Operations, and his staff will be available to discuss the draft report and our response with your staff at your convenience to assure our mutual understanding of the issues raised.

We are looking forward to your final report.

Sincerely,

Robert H. Marik
Associate Director for
Management and Operations

Enclosure

APPENDIX I

OMB CONSOLIDATED REVIEW OF THE DRAFT GAO REPORT:
"IMPROVEMENTS IN OMB CIRCULAR NO. A-95 WILL ENHANCE
INTERGOVERNMENTAL COOPERATION"

I. GENERAL REMARKS

The Report was distributed widely to Federal departments and agencies, to Federal Regional Councils and through them to all State clearinghouses and to a sampling of areawide clearinghouses, and to major public interest groups representing State and local governments. There was wide consensus that the Report accurately identified the major shortcomings in the implementation of OMB Circular No. A-95. There was also general support for the recommendations but many respondents had substantial reservations centering on the question of resources to carry out the recommendations.

A. The Report proceeds from the assumption that Circular No. A-95 is a valuable and productive instrument for improving the management of Federal domestic assistance programs, but that achievement of its real potential depends on a broader coverage of programs and a much more rigorous prosecution of its implementation by the Federal Government. However, the universal coverage recommended in the Report and the prescribed level of compliance monitoring by OMB and agency A-95 liaison

officers in Washington and by the Federal Regional Councils and regional office staff would require the application, both by the Federal Government and by clearinghouses, of additional resources or resources diverted from other activities through a reordering of priorities. In a period of substantial "belt-tightening," the latter appears the more likely, so our first reaction is that many improvements will have to be sought within existing resources.

This limitation will be of equal concern to Federal agencies and to State and local clearinghouses. Federal agencies must consider expansion of program coverage in light of resources available within tight budgets. State and local clearinghouses, particularly the latter, must consider the impact of full-scale expansion of PNRS on available resources and the present level of quality in reviews.

Therefore, we would have to say that, while OMB agrees that Circular No. A-95 has a great potential for improving the management of Federal and federally assisted programs, the GAO recommendations will have to be approached selectively. Some can be implemented within existing resources through revisions to the Circular, others will have to be considered within the limitations of available resources, both in terms of scale and timing.

B. Some of the actions OMB feels that can be undertaken promptly that lie outside the resource question include:

- Consideration of a Circular revision that would provide many of the clarifications recommended in the Report.

- A study of selective expansion of PNRS coverage to assure inclusion of programs having major impact on State, areawide, and local plans and programs.

- An examination of means by which existing Federal staff resources can be more effectively utilized in monitoring A-95.

- Exploration of the feasibility of having agencies include evaluations of A-95 compliance in their internal audits of Federal agencies.

With respect to the last point, OMB suggests that GAO itself could contribute to more conscientious agency implementation by including an A-95 element in its program performance audits.

C. The GAO Report takes cognizance of the recent OMB action (July 25, 1974) to decentralize day-to-day implementation responsibility for A-95 and to charge the Federal Regional Councils with coordinating that effort. We regard that step as most significant and anticipate that it will result in substantial mitigation of a number of implementation shortcomings noted in the Report. However, that action is a recent one. The effective date was September 25, 1974. There will, of course, be a shakedown period during which the Regional A-95 Coordinators and agency liaison people are thoroughly familiarizing themselves with A-95 and the problems of the State and areawide clearinghouses in each region. OMB will be

working closely with them during this period in clarifying our respective roles and responsibilities and working out relationships between headquarters and the field.

As this shakedown period comes to a close -- sometime early in 1975 -- we expect to see improved performance in agency response to A-95 requirements and the emergence of effective working relationships between Councils and clearinghouses.

D. Several other observations by agencies, clearinghouses, or OMB staff should be noted before discussing the specific recommendations contained in the Report.

- Many of the respondents felt that the Report should have dealt with Parts III and IV of A-95 and recommend that GAO evaluate these requirements. Similarly, some felt that the failure of the investigators to consider the role of A-95 in assessing environmental impacts and civil rights aspects detracted from its otherwise thorough treatment of Parts I and II of the Circular.

- The comments on REGIS were useful, but a number of respondents felt that a more thorough analysis of REGIS, including the relationship to Treasury Circular 1082 and OMB Circular A-102, was warranted before GAO reached its conclusion that REGIS should not be expanded without further study. The more recent GAO report on TC 1082 contains many of the same observations noted in the A-95 Report. We therefore plan to provide a full response on the REGIS recommendations in reply to the GAO TC 1082 Report and will not deal with it further in this response to the A-95 Report.

E. We would like to make a few general observations relating to responsibilities for implementing A-95. The Report, taken as a whole, leaves the impression that the full responsibility for implementing A-95 is OMB's alone rather than being the interagency, intergovernmental cooperative effort that it is. Without attempting to evade or minimize OMB's role and responsibilities, which are substantial, it may be useful to refer back to the legislation on which A-95 is based to see what Congress seemed to have in mind.

A perusal of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and Title IV of the Intergovernmental Cooperation Act of 1968 reveals the pervasive scope of responsibility through the whole of the Executive Branch. OMB, acting under delegation from the President, is assigned the responsibility of prescribing "such rules and regulations as are deemed appropriate for the effective administration" of those laws by the various agencies. But it is clear that actual administration of those laws is the responsibility of the departments and agencies.

OMB's proper role, then, is to develop those rules and regulations, to provide overview of their implementation in order to make appropriate adjustments in them, and to encourage and assist their effective implementation by the departments and agencies. But OMB, by itself, cannot assure their implementation. This requires action by agency leadership with the support and encouragement, not only by OMB and the Executive Office, but of the Congress and its agencies.

Therefore, we are most encouraged by the interest of GAO in the strengthening of A-95 and look forward to its continuing cooperation and support in the efforts of OMB and the departments and agencies to realize the full potentials of the Circular.

II. COMMENTS ON THE RECOMMENDATIONS

Following is a consideration of the specific recommendations contained in the GAO Report on OMB Circular No. A-95. The majority of the responses from agencies, Federal Regional Councils, clearinghouses and others focused on the first recommendation: expanded coverage under Part I, the Project Notification and Review System, of A-95. Other recommendations for improving Part I received somewhat scattered reaction as did recommendations on Part II and OMB Administration of Parts I and II. REGIS recommendations received substantial attention.

A. The Project Notification and Review System. This recommendation that the PNRS be expanded so as to cover "all Federal programs involving the provision of funds" received qualified endorsement, particularly by clearinghouses. At the same time, many respondents, primarily Federal, but including many clearinghouses, observed:

- The probable need for selective coverage and gradual expansion unless additional resources were provided to clearinghouses to meet staffing demands caused by expanded coverage.

- The possible impropriety or impracticability of including certain types of financial assistance under coverage.

- The desirability of giving priority to making the system work under present coverage rather than to expanding the coverage.

This last point is very significant. While there was considerable sentiment among the clearinghouses for increasing coverage, it is reasonably clear that they feel that improved Federal implementation has a substantially higher priority.

The question of propriety and practicability also deserves further consideration in the view of OMB. The legislation on which A-95 is based is concerned with the impact of Federal and federally assisted programs and projects on State, regional (areawide), and local plans and programs. Our interpretation of this legislation is that it limits the types of programs or projects that should come within the scope of PNRS. At least two categories of Federal financial assistance seem to fall outside of that scope:

(1) Payments and assistance to individuals for personal betterment (welfare, education and training, housing, etc.) and economic improvement (farm improvement, crop support, business insurance, etc.).

(2) Various types of research of a scientific and technological nature, or basic or abstract research of a non-local character (except where the development of capital facilities is involved).

Under (1), assistance to individuals (including certain types of loans or insurance to business enterprises), laws relating to invasion of privacy may also preclude coverage under PNRS. In any event, a loan to a farmer to buy a new tractor, a scholarship or loan to a needy student, a guarantee on an individual home loan, riot insurance to a ghetto shop owner, or similar aids could be considered to have little if any significant impact on State or local plans and programs except perhaps, in an aggregate sense. In some cases, programs of this type are subject to gubernatorial review under Part III of A-95. The same is true of various research programs such

as biomedical and other scientific/technological/non-place-oriented research. We should make a distinction here between programs covered by A-95 where the objective is impact assessment, and those covered by TC 1082 where the objective is provision of information about Federal resource flows into States. The latter suggests substantially broader coverage.

If such types of programs are excluded, plus some others of dubious impact on State, regional, and local plans and programs, then it is doubtful that more than 150 additional programs should be considered for coverage under PNRS. Nevertheless, without some clearer picture of PNRS benefits and the kind of resource demands that would be generated, an immediate hundred percent increase in PNRS coverage to 300 programs could cause severe upset to even the present limited effectiveness of PNRS.

Actually, a probably more significant area of coverage (under Part I or Part II) and one of much more discernible impact within the scope of A-95 legislation, is the issuance of permits or licenses for development or other activities affecting State, regional, and local development. Consruction of power facilities, dredging, permits for development on public lands not only may affect the natural environment but the economic environment in which local development must take place.

As noted above, OMB will study the potential coverage of the PNRS with an eye to selective expansion, taking into account the relative community impact of the various programs, including issuance of permits and licenses, the expressed needs of the clearinghouses, and the resources available to them for carrying out the review process in an effective manner.

B. Improvements to Part I of the Circular. Not all of these recommendations, particularly those relating to clarification, can be easily accommodated in the text of the Circular itself. Perhaps OMB has attempted too much economy of expression in A-95, but the text could become far too discursive while at the same time forcing a rigidity that would not accommodate the diversity of circumstances under which projects are submitted and reviewed. OMB has preferred to use the pamphlet "A-95: What It Is - How It Works" and other media to clarify how the system should work under variable conditions. Nevertheless, an attempt is made in the discussion of individual recommendations below, to suggest alternative wording which might serve to clarify or reinforce a requirement.

(1) Clarify point in time at which applicant should notify clearinghouse. This is not easily specified. Paragraph 2.b. of Part I says, "at the earliest feasible time." This might be elaborated to say, "at such time as the applicant has decided to submit an application and can supply most of the summary information indicated in paragraph 2.a." However, this might just as easily serve to delay the notification. There is presently clarifying language in "A-95: What It Is - How It Works" (p.8).

(2) Encourage early applicant-clearinghouse contact by emphasizing benefits. This OMB has consistently tried to do -- in "A-95: What It Is - How It Works" and in numerous speeches, articles, correspondence and other media. Many of the clearinghouses have been most diligent in this effort. However, the departments and agencies should provide more emphasis on the "early warning system" feature of the PNRS to potential applicants. We expect the efforts of the FRCs to be productive in this area.

(3) Clarify length of time for review before applicant permitted to submit application to Federal agency. (Note: Instead of "permitted," the PHRASE, "is eligible," would be more accurate. The applicant can submit the application at any time after the allotted period has passed.) "A-95: What It Is - How It Works" contains a step-by-step outline, a "decision-tree" diagram, and a textual discussion of the process. These are sometimes incorporated into agency instructions or regulations.

However, it must be admitted that the two thirty-day period concept is still perplexing to many people. As part of our analysis of the need for possible revision of A-95 in the next few months, we shall consider, therefore, the following rewording of paragraph 4 of Part I (underscoring indicates new wording, brackets indicate deleted language):

"4. Consultation and review. a. State and areawide clearinghouses may have a period of 30 days after receipt of a project notification in which to inform State agencies and local or regional governments or agencies (including agencies authorized to develop and enforce environmental standards and public agencies charged with enforcing or furthering the objectives of State and local civil rights laws) that may be affected by the proposed project and arrange, as may be necessary to consult with the applicant thereon. The review may be completed during this period and comments may be submitted to the applicant.

"b. If the review is not completed [~~d~~] during this initial 30-day period [~~and during the period in which the application is being completed~~] the clearinghouse may work with the applicant in the resolution of any problems raised by the proposed project.

"c. The completed application may be submitted to the clearinghouse at any time after the end of the first thirdy-day period, and [6] clearinghouses may have, if necessary, and additional 30 days to complete the review [~~the completed application~~] and to transmit to the applicant any comments or recommendations the clearinghouse (or others) may have. In cases where no project notification has been submitted, and the clearinghouse receives only a completed application, the clearinghouse may have 60 days to review the applicant. Written comments . . . etc. . . . should be listed."

(4) Encourage clearinghouses to establish a focal or control point for receiving and clearing proposals. This relates to providing for arrangements for the notification to go to either the State or the areawide clearinghouse rather than both at once. The recipient clearinghouse would transmit to the other. Such arrangements would give better assurance that both State and areawide clearinghouses were involved in the review of any given project and would tend to promote better review coordination.

We shall consider language for inclusion under paragraph 4 of Part I and for "A-95: What It Is - How It Works." A new subparagraph g. of paragraph 4, for instance, might read:

"g. State and areawide clearinghouses are encouraged to develop arrangements whereby an applicant would need to submit his notification (or application) to only one clearinghouse, the State or the appropriate areawide clearinghouse. The clearinghouse State or areawide, receiving the notification would be responsible for assuring that the other received

it. The process would otherwise proceed as indicated, but all comments would be transmitted to the applicant through the receiving clearinghouse."

(5) Require clearinghouses to arrange for consultation to attempt to resolve all comments (issues?) generated prior to submission of the application to the Federal agency. This is not an enforceable requirement and calls for clearinghouse staff resources and capacities that many do not have. Moreover, the appropriateness of a Federal requirement for such intervention is open to question. Paragraph 3.C does suggest liaison between applicants and other parties as a clearinghouse function; and paragraph 4.b. indicates that the clearinghouse may work with the applicant to resolve any problems raised. Without providing the necessary resources, it is hard to do more than encourage such efforts. Beyond such encouragement, we believe it is inappropriate for the Federal Government to require State and local clearinghouses to enter into broad-based State and local problem-solving even if the Federal Government could provide resources. However, many clearinghouses do, in fact, attempt such resolution on their own initiative.

(6) Require clearinghouse clearance letters to list the parties involved in the review and indicate those who have commented. Language to this effect may be found in paragraph 4.c. of Part I.

(7) Direct Federal agencies to refuse to accept an application unless clearinghouse comments or clearances are attached or the time permitted for review has elapsed. Paragraph 6.b. requires agency procedures to assure

"that all applications for assistance . . . have been submitted to appropriate clearinghouses for review prior to submission to the funding agency." Many of the Federal agencies objected to this recommendation on the basis that stronger language could not accommodate the full range of circumstances where absolute adherence might be impacticable or inequitable. However, OMB will look more fully into this matter to see what steps can be taken to assure the fullest adherence to the objectives of the recommendation.

(8) OMB direct all agencies to include all PNRS requirements in their internal instructions to applicants. We have tried to assure this in reviewing agency draft A-95 regulations. However, this effort does require greater follow-through and we will undertake such a validation effort as a part of our own review of the Circular.

(9) OMB direct all funding agencies to notify clearinghouses of the disposition of applications. OMB already does so direct in paragraph 6.C. of Part I. However, agencies have been notably unresponsive to this requirement, and OMB efforts to secure consistent feedback have been, for the most part, unsuccessful. It has been a continuing source of clearinghouse complaints. In part, this may be due to confusion between this requirement and the requirements to TC 1082. We shall, therefore, attempt to devise language to make this distinction clear. Moreover, we expect compliance with this requirement to improve under prodding by the FRCs in carrying out their A-95 responsibilities.

(10) OMB consider uniform procedures for applicants, clearinghouses, and funding agencies. It is not clear from the Report what GAO has in mind here. However, we should note that, at least insofar as clearinghouses are

concerned, A-95 has been highly praised for recognizing the wide differences among States and regions and providing the flexibility to accommodate such differences; and clearinghouses objected strongly to this recommendation except as it applied to Federal agencies. To the extent that the GAO recommendations envision standardization that would undermine that flexibility, the result would be substantively negative, and OMB would be opposed to such action. However, we will seek, insofar as practical, to secure uniformity in Federal procedures.

C. Part II. The recommendations for improving Part II of the Circular, Direct Federal Development, were constructive and generally concurred in by respondents, with some caveats relating to limiting factors beyond agency control. Because of the variable constraints, both in the Executive Office and in Congress, on direct Federal development, clearer definition in procedures must be approached on a program-by-program and an agency-by-agency basis. Therefore, as a part of our study of possible overall revision, we shall consider revisions of Part II that would elicit specifications on appropriate procedures within the framework of their own regulations that would meet the objectives of the GAO recommendations with respect to:

(1) The nature and scope of projects to be covered and those that are not.

(2) The point during project development at which clearinghouses should be notified.

(3) The length of time that clearinghouses have to review and comment on the proposed project or action. We would add to this, "or the provision

of alternative arrangements for coordinating Federal agency and clearinghouse planning." This is of particular relevance in connection with military base planning. The Air Force provides a useful model, requiring memoranda of agreement between Air Force bases and areawide clearinghouses on coordination of base and civilian planning activities.

GAO recommendations on Part II address three other points:

(4) Define the issues that clearinghouses should routinely address in reviewing proposed projects. Paragraph 5 of Part I (subject matter of review and comment) can be referenced in Part II. However, it should be noted that the listing in Paragraph 5 is neither prescriptive nor comprehensive. The clearinghouses are not required to comment at all, and would resist incursions on their flexibility (see B(10) above).

(5) Prescribe procedures for agencies to follow in responding to clearinghouse comments and in providing feedback information on actions taken. While it is possible to indicate a requirement for feedback under Part II, we should point out that for many Federal civil and military works, a substantial period -- sometimes years -- may pass between the time site investigations, surveys, feasibility studies, and planning are completed and the necessary Executive Office and Congressional approvals and appropriations are secured for the actual project or projects involved, so that construction can begin.

D. OMB Administration of Part I and II. The GAO recommendations in this area tend to raise, as noted variously above, the question of the amount of Federal resources applied to A-95 implementation. There is

general concurrence, at all levels below Washington, that such resources should be provided, but, again, OMB feels that these recommendations require some reasonable cost-benefit analysis.

(1) OMB should adopt aggressive monitoring system through direct contact with agencies, clearinghouses, and applicants to ascertain:

-- consistency of agency regulations with A-95;

-- compliance of agencies with our A-95 regulations and OMB requirements;

-- compliance with OMB A-95 policy determinations and interpretations.

Although there is general agreement that OMB oversight responsibilities might be improved, this can only be done by increasing resources that OMB might apply to A-95. We do not believe, however, that an increased OMB "presence" is the best approach to improving administration of the Circular. It certainly cannot be the only approach. The FRCs, we expect, have a strong role to play here. However, as we noted above, the actual responsibility for implementation rests with the agencies, and the strong support and encouragement of Congress and GAO in their dealings with the agencies can be a significant factor in securing improved performace by the agencies rather than relying solely on OMB to make agency implementation more effective.

(2) OMB and USG should provide definitive direction and firm support to FRCs in carryingout A-95 role. This is the intent insofar as resources permit. However, FRC's must carry out many interagency and intergovernmental functions within existing and limited resources. Both the USG and the FRCs have stated explicitly that the FRC A-95 role has to be performed within existing resources with no foreseeable attempt to increase resources available to FRCs.

(3) FRCs should be provided adequate staff support to pursue aggressive monitoring policy in lieu of simply responding to complaints. This should be "in addition to" instead of "in lieu of." When the Under Secretaries Group approved the decentralization of A-95 to the FRCs, it was the clear understanding that A-95 activities would have to be carried out within the limitations of existing field and FRC resources. Since A-95 has been decentralized only since September of 1974, as yet we have no clear reading on experience under decentralization to understand what additional staff resources, if any, actually will be needed. OMB will evaluate, with USG assistance, the FRC experience with A-95 early next year. Until that time, it is doubtful that USG will allow additional resources to be applied to A-95 activities in the FRCs.

(4) OMB should define role of agency A-95 liaison officers and utilize them to assist monitoring. OMB will work with not only the Washington agency A-95 liaison officers but the Regional A-95 Coordinators and liaison officers over the next few months to define more clearly their appropriate roles and relationships and how to utilize them better in A-95 implementation.

(5) OMB should provide firm direction and support to FRCs.

-- Define responsibilities of regional A-95 Coordinator and liaison officers.

These matters we have tried to indicate in the decentralization memo and other communications with FRCs. However, refinements should wait upon experience. We will assess the need for refinements as experience is gained and will clarify responsibilities as necessary.

-- Provide for full-time regional A-95 Coordinator from OMB, GSA, or FRC staff.

Although OMB is in general agreement with the thrust of the GAO recommendation, all Federal agencies, including OMB and GSA, are currently faced with budgetary stringencies that make provision of expanded resources difficult at this time. In addition, the question of utilization of OMB or GSA staff to perform FRC functions is a question that extends substantially beyond A-95 considerations, going to the future role, status, and organization of FRCs, OMB, and GSA, including internal relationships among these entities. The decisions, in other words, are not A-95 decisions alone.

E. REGIS

Full discussion of the comments and recommendations on REGIS in both the GAO Reports will be covered in the OMB response to the Report on TC 1082 next month.

[See GAO note]

GAO note: Deleted comments refer to material contained in draft report which has been revised or which has not been included in the final report.

[See GAO note, p. 97.]

IV. SUMMARY

In summary, we agree that much progress can still be realized in terms of assuring adequate program coverage and agency compliance with the review and comment procedures of Circular A-95. However, we have reservations with the scope and nature of some of the specific recommendations which would add considerably to the workload of staff available to implement A-95. We do not feel that a major infusion of additional resources is feasible at this time, and we believe that changes will have to be worked out within existing resources.

Beyond this, we believe that many of the recommendations, particularly those involving improvements to the Circular itself, can be acted on with reasonable dispatch. We shall also consider some selective expansion of PNRS coverage, primarily to assure inclusion of programs of critical impact on State and local development.

We believe that much improvement to Federal implementation of A-95 requirements will be realized through decentralization, and OMB expects to work more closely with the agencies to assist them in improving their internal procedures for A-95 implementation procedures. As noted above, we believe Congressional interest and support can be a significant factor in achieving these improvements, and the GAO review of A-95 itself will have most salutary consequences.

We anticipate commencing work on a new revision of A-95 very shortly which will include the implementation of various GAO recommendations. Thereafter, we shall review the Circular semi-annually with an eye to needed amendment.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 7 1974

Mr. Victor L. Lowe
Director, General Government Division
General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Vic Lowe:

During the past few months, we have received two draft GAO reports on OMB Circular A-95 and Treasury Circular 1082 respectively. Both reports contained specific comments on the Regional Grant Information System (REGIS) including a recommendation that a review of agency internal information systems be completed before any major commitments of resources for expansion of REGIS.

At the October 24 meeting of the Under Secretaries Group, we discussed these and other problems related to expansion plans for REGIS and concluded that in light of the inability to obtain a firm agreement on financing as well as GAO's comments, the pilot tests should be terminated. A copy of the highlights of the meeting is enclosed for your information.

The USG also agreed to support a proposed OMB review of agency compliance problems with notice of grant award reporting and the opportunities for more extensive use of internal information systems to provide such data to the States. We will continue to work closely with your staff in developing plans for this review.

As you know, we are in the process of reviewing the entire draft report on Treasury Circular 1082 and expect to have our comments to you shortly.

Sincerely,

Robert H. Marik
Associate Director for
Management and Operations

Enclosure

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 1 1974

MEMORANDUM FOR THE UNDER SECRETARIES GROUP

Subject: Decision on the Future of the Regional Grant Information System (REGIS)

At its meeting of October 24, 1974, the USG reluctantly came to the decision that it will not be possible to proceed with the original plan for the expansion of REGIS, as adopted at the meeting of June 20, 1974. Three factors combined to lead to that conclusion:

- It had not been possible to reach final agreement on the provision of financing in FY 1976 and thereafter required for the expansion of REGIS. In the USG's June 20 discussion on REGIS, the concept of seeking a direct appropriation for FY 76 and beyond in a lead agency (GSA was recommended) had been endorsed by the USG. However, OMB had determined that such an approach runs counter to the existing policy of financing such programs through user fees levied on Federal agencies. Moreover, the participating Federal agencies could not give firm commitment to provide such funds in FY 1976 and thereafter.

- The General Accounting Office (GAO) had issued draft reports on A-95 and TC 1082 (A-98), both of which expressed serious reservations about the commitment of major resources to REGIS without further study of the relationship of REGIS and Federal agencies' internal information systems.

- A major tool of the President's top priority attack against inflation is strong restraint on Federal expenditures, including reductions in outlays previously planned as well as deferring new initiatives.

The USG still holds strongly, however, to many of the original objectives of REGIS, which were to develop the capability to provide current financial information about ongoing Federal domestic assistance programs to State and local officials, Federal Regional Councils and the Congress. The USG agreed to support an upcoming OMB study to determine other means of addressing the need for improved intergovernmental information flow including more systematic compliance with existing

requirements. The study will be completed by March 31, 1975, and will include the following considerations:

- Federal compliance with the requirements of A-95 and TC 1082 requires substantial improvement. The study should focus on ways and means to improve the flow of information required by these Circulars and compliance with the basic procedures established for each.

- The overall objectives of REGIS as a means of improving intergovernmental information flow on federally assisted projects are valid. Therefore, a second feature of the study should be an analysis of ways to achieve such needed improvements through other means including more extensive utilization of internal agency project information systems, development of improvements in project data standards, greater compatibility among agency project data systems, more timely dissemination of data, and the capability of consolidating individual agency reports for specific geographic or functional cross-cut reporting.

- FRCs and State and local governments should be consulted during this study because of their role in the development of REGIS, and the FRCs' continuing responsibilities for A-95 and intergovernmental coordination.

- Satisfying congressional needs including geographically based Federal aid information as required by the Legislative Reorganization Act should be covered. REGIS was intended to satisfy some of these needs and viable alternatives should be developed.

As a result of the decision by the USG, the REGIS pilot centers in Boston and Dallas will be terminated as soon as possible, but no later than December 31, 1974.

Robert H. Marik
Associate Director for
Management and Operations

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