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REPORT TO THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

RELEASED

Observations On The Implementation Of Title VI Of The Civil Rights Act Of 1964 In The Hill-Burton Program For The Construction And Modernization Of Health Facilities

B-164031(3)

Department of Health, Education, and Welfare

BY THE COMPTROLLER GENERAL
OF THE UNITED STATES

DEC. 13, 1972

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D C 20548

B-164031(3)

Dear Mr Chairman

In accordance with your June 3, 1971, request, the General Accounting Office examined the implementation of the Civil Rights Act of 1964 in the Federal program for financial assistance for the construction and modernization of health facilities (the Hill-Burton program) administered by the Department of Health, Education, and Welfare Your associated request for similar work on the Medicare and Medicaid programs is the subject of a separate report

We discussed this report with appropriate Federal officials, but we did not obtain their formal written comments. We obtained formal written comments from State officials in Pennsylvania and Texas responsible for administering the Hill-Burton program Comments received have been considered in preparing this report.

In accordance with an agreement with the staff of your Subcommittee No. 4, copies of this report are being sent to the Chairmen of the Senate and House Committees on Appropriations and Government Operations. We are also sending copies of this report to the Secretary of Health, Education, and Welfare and to officials of the Hill-Burton State agencies in Pennsylvania and Texas.

Sincerely yours,

Elmer B. Staats

Comptroller General
of the United States

The Honorable Emanuel Celler
Chairman, Committee on the Judiciary
House of Representatives

Contents

ABBREVIATIONS

GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
HSMHA	Health Services and Mental Health Administration

COMPTROLLER GENERAL'S REPORT
TO THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

OBSERVATIONS ON THE IMPLEMENTATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 IN THE HILL-BURTON PROGRAM FOR THE CONSTRUCTION AND MODERNIZATION OF HEALTH FACILITIES

Department of Health, Education, and Welfare B-164031(3)

D I G E S T

WHY THE REVIEW WAS MADE

At the request of the Chairman of the House Committee on the Judiciary, the General Accounting Office (GAO) examined (1) certain aspects of the Hill-Burton health facilities construction and modernization program and (2) related aspects of the Medicare-Medicaid programs of the Department of Health, Education, and Welfare (HEW) A report on the implementation of title VI by the Medicare and Medicaid programs was issued to the Chairman on July 13, 1972

This report concerns implementation of title VI of the Civil Rights Act of 1964 by the Hill-Burton program Title VI prohibits discrimination on the basis of race, color, or national origin under any program or activity receiving Federal financial assistance GAO's review of the Hill-Burton program covered selected areas with substantial minority populations in Texas and Pennsylvania These States ranked first and second, respectively, among all the States receiving grant funds under the Hill-Burton program through fiscal year 1971

GAO placed emphasis upon those elements of the Hill-Burton program which have a potential for adversely affecting minority groups, these elements include the determination of the relative needs of service areas for health facilities and the determination of service area boundaries

FINDINGS AND CONCLUSIONS

In planning for health facilities, each State is divided geographically into service areas The State determines the need for health facilities for each service area and establishes relative priorities that generally guide the allocation of funds for the construction and modernization of health facilities under the Hill-Burton program

GAO found that the specific consideration given to each of the factors in the HEW criteria for establishing the boundaries of service areas was not documented by either the Texas or the Pennsylvania State agency GAO's examination of selected service areas showed, however, that the service areas were not structured in a manner which inhibited access to existing health facilities from locations within these service areas which had substantial minority populations (See p 29)

GAO examined the relative needs of selected service areas with substantial minority populations and the areas' records of past participation in the Hill-Burton program This examination, coupled with discussions with local hospital and health planning officials,

disclosed no information indicating that projects within these areas had been precluded from receiving Hill-Burton program assistance which would have resulted in discrimination against persons to be served by the projects (See p 29)

The State plans do not identify service areas with substantial minority or low-income populations There is no assurance that the relative priorities established by the State plans for such areas on the basis of population and hospital utilization are an adequate indication of the health facility needs of such populations within the service areas The Hill-Burton State plans should include an identification of service areas having substantial minority or low-income populations, and State Hill-Burton agencies should be required to determine periodically that the health facility needs of such populations are being adequately met (See p 31)

Certain service areas, both with and without substantial minority populations, have had, over an extended period of time, the greatest need for health facilities but have not received Hill-Burton financial assistance Hill-Burton program regulations do not require HEW or the State agencies to determine why service areas with the greatest need do not apply for, or receive, Hill-Burton assistance and to take action to generate projects in such service areas (See p 31)

Methods for monitoring nondiscrimination compliance, as outlined in the Texas State Department of Health's statement of compliance with title VI of the Civil Rights Act of 1964, were not applicable to Hill-Burton projects Although Hill-Burton applicants are required to provide assurances that they will comply with title VI of the Civil Rights Act, the State had no formal system for monitoring their continuing compliance (See p 34) GAO found that Pennsylvania did have a system established for monitoring compliance (See p 32) After GAO completed its fieldwork, the Texas State agency established a formal system for monitoring nondiscrimination compliance by licensed hospitals, including those which received Hill-Burton assistance (See p 36.)

GAO also found that HEW had not provided specific guidance to its regional staffs, to the State agencies, or to program applicants for implementation of a Hill-Burton program requirement that health facilities receiving Hill-Burton assistance agree to provide a reasonable volume of free or below-cost services to persons unable to pay On July 22, 1972, HEW published in the Federal Register interim regulations for determining compliance with, and enforcement of, this poverty-related assurance GAO believes that the regulations were needed and that they should assist in the administration of the program (See p 37.)

RECOMMENDATIONS

HEW should require the State agencies to examine service areas which have had the greatest need for health facilities for an extended period of time but which had not received Hill-Burton financial assistance in order to verify the legitimacy of the determination of the need shown in the State plan and to actively pursue ways to meet the need (See p 31)

Hill-Burton State plans should identify service areas with substantial minority or low-income populations, and State Hill-Burton agencies should be required to periodically determine that the health facility needs of such populations are being adequately met (See p 31)

Comments of HEW and State agency officials

The Director of HEW's Health Care Facilities Service agreed with our recommendation that State agencies examine service areas with the greatest need for health facilities He stated that economic (low income) characteristics should guide the selection of service areas to determine that their health facility needs are being adequately met

The Pennsylvania Secretary of Public Welfare noted that action to generate projects in areas of greatest need should be taken by local planning organizations which are responsible for developing comprehensive health plans (See p 31) She pointed out that the lack of timely and accurate data was a basic problem in identifying service areas with substantial minority populations

The Texas Commissioner of Health informed us that the State Hill-Burton agency did not see the need to identify service areas with substantial minority populations and pointed out that the Hill-Burton program was directed at the health facility needs of the entire population and that the relative need for all service areas was determined in accordance with the Federal formula (See p 30)

Formal comments furnished by State officials are included as appendixes III and IV We discussed this report with HEW officials, and their comments, as well as those received from State officials, have been considered in preparing this report

Tear Sheet

CHAPTER 1

INTRODUCTION

At the request of the Chairman of the House Committee on the Judiciary, the General Accounting Office (GAO) examined the implementation of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) in the Hill-Burton program for health facilities' construction and modernization. (See app. I.) The Chairman also requested that we perform similar work with respect to the Medicare and Medicaid programs of the Department of Health, Education, and Welfare (HEW). Our work on these programs was the subject of a separate report.

Our work with respect to the Hill-Burton program was done at HEW headquarters and its regional offices in Philadelphia, Pennsylvania (Region III), and Dallas, Texas (Region VI), and at the Hill-Burton State agency offices in Pennsylvania and Texas. We obtained information on selected service areas in Pennsylvania and Texas through examination of State agency and HEW records and through discussions with officials of health facilities and services planning organizations; local political and community leaders; Federal, State, and local government health officials, and hospital administrators.

We examined the degree of indicated need for, and location of, health facilities, especially general hospitals, in relation to the location of substantial minority populations.

Accordingly, we did not evaluate the overall effectiveness with which the Hill-Burton program met its legislative objectives, but we did evaluate the carrying out of legislative objectives in compliance with title VI of the Civil Rights Act of 1964. Title VI prohibits discrimination on the basis of race, color, or national origin under any program or activity receiving Federal financial assistance.

We discussed this report with appropriate HEW officials and obtained their oral comments. Written comments were obtained from State officials. The comments received have been considered in preparing this report.

As used in this report, the terms "nonwhite" and "minority" refer to members of racial groups other than Caucasian.

LEGISLATIVE BACKGROUND

Title VI of the Public Health Service Act (42 U.S.C. 291 et seq.) authorizes a program of Federal assistance to States[1] for the construction and modernization of health facilities. This program, commonly known as the Hill-Burton program, is administered by the Health Services and Mental Health Administration (HSMHA) of HEW.

In August 1946 the Hospital Survey and Construction Act (Public Law 79-725) was enacted to provide financial assistance to States for developing adequate hospital and other health facilities. The initial Hill-Burton legislation provided Federal grants to States for

--surveying needs and developing plans for the construction of hospitals and public health centers and

--assisting in constructing and equipping needed public and voluntary nonprofit general, mental, tuberculosis, and chronic-disease hospitals and public health centers.

Since 1946 Congress has extended and significantly revised the Hill-Burton program eight times. Some of the more substantive changes are described in appendix II.

At the inception of the Hill-Burton program, the need for health facilities was most acute in rural areas with low per capita income. The enabling legislation included a formula which generally resulted in a higher per capita share of funds being made available to States with lower per capita incomes, because the formula gave greater effect

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[1]As used in this report, "States" means the 50 States, the District of Columbia, American Samoa, Guam, Puerto Rico, Virgin Islands, and the Trust Territory of the Pacific Islands.

to income than it did to population, its other variable element These same elements are currently in the formula used to distribute funds to the States for assisting in the construction of new health facilities The Hospital and Medical Facilities Amendments of 1964 created a separate category of assistance for modernization of existing health facilities, funds for this purpose are to be distributed in accordance with a formula which gives consideration to each State's modernization need No change was made in the formula for making new construction funds available to the States

The Medical Facilities Construction and Modernization Amendments of 1970 directed that a study be made by the Secretary of HEW of the present formula for making Hill-Burton funds available to the States The results of the study of the current formula, together with any recommendations and justifications for change, were to have been reported to the Congress on May 15, 1972

The 1970 amendments expanded Federal financial assistance to include low-interest direct loans and loan guarantees with interest subsidies Although available, direct loans and loan guarantees were not utilized in fiscal year 1971 The amendments also provided, at the option of the State agency, a Federal participation rate of up to 90 percent in the cost of certain Hill-Burton projects. Prior to the 1970 amendment, the maximum Federal participation rate for all projects varied up to 66-2/3 percent within individual States. The maximum allowable rates for Pennsylvania and Texas were about 50 and 57 percent, respectively

The 90-percent level of financial participation is limited to health facility projects that (1) will provide services primarily for persons in an area determined by the Secretary of HEW to be a rural or urban poverty area or (2) offer potential for reducing health care costs through shared services among health care facilities, through interfacility cooperation, or through the construction or modernization of freestanding (separated from hospitals) outpatient facilities Regulations implementing the changes to the Hill-Burton program under the 1970 amendments were issued by HEW on January 6, 1972

TYPES OF ASSISTANCE

Assistance under the Hill-Burton program is available as grants or low-interest direct loans and loan guarantees with interest subsidies for construction or modernization projects involving the following public or private nonprofit health facilities.

--Hospitals and public health centers

--Long-term-care facilities.

--Outpatient facilities (diagnostic and treatment centers)

--Rehabilitation facilities

Hill-Burton projects can take the form of.

--New buildings or expansion of existing buildings.

--Alteration, major repair, remodeling, or renovation of existing buildings.

--Initial equipment for new, expanded, or modernized structures.

--Equipment-only projects which provide a new community service.

Under the loan guarantee authority, private nonprofit agencies arrange loans with private lenders. These loans are guaranteed by the Federal Government. The loan guarantee includes an interest subsidy to reduce by 3 percent the net effective interest rate paid by the borrower. Direct loans may be made by the Federal Government to public agencies at interest rates comparable to the rates paid by private nonprofit agencies assisted under the loan guarantee program.

PROGRAM ACCOMPLISHMENTS

From the inception of the Hill-Burton program through fiscal year 1971, a total of 10,748 projects had been approved. Public agencies and nonprofit organizations had

received financial assistance through grants of $3 7 billion to help meet total health facility project costs of $12 8 billion The loan and loan guarantee, authorized in June 1970 (see app II), was available but was not utilized in fiscal year 1971 The following schedule shows the number of projects assisted and the total Federal funds obligated, by type of health facility, from the inception of the Hill-Burton program through fiscal year 1971

Type of health facility	Projects		Funds	
	Number	Percent	Amount (millions)	Percent
General hospitals	5,787	54	$2,635	71
Long-term-care facilities (including long-term-care units of hospitals, nursing homes, and chronic-disease hospitals)	1,733	16	523	14
Outpatient facilities	1,078	10	204	5
Other health facilities (including public health centers, mental and tuberculosis hospitals, rehabilitation facilities, and State health laboratories)	2,150	20	355	10
	10,748	100	$3,717	100

FEDERAL ADMINISTRATION

The Health Care Facilities Service of HSMHA is responsible for administering the Hill-Burton program. Direct program administration has been delegated to the HEW regional offices, with support and guidance from the Health Care Facilities Service.

Hill-Burton program funds made available for fiscal year 1972 for the construction and modernization of hospitals and other health facilities totaled about $195 million Also during fiscal year 1972 direct loan and loan guarantee authority for projects totaling $1 billion was made available.

Each State is required to designate a State agency to administer the program for the construction and modernization of its health facilities. The designated agency must annually develop a State plan which sets forth the relative needs for new and modernized health facilities Each State

designates specific geographic service areas to assess the relative needs for health facilities. HEW regulations require that service areas, and the criteria used in delineating their boundaries, be described in the State plan.

The regulations call attention to the importance of service areas in relation to the planning function and state that the design of service areas should be determined after considering the location and size of, and services provided by, existing health facilities; the size and distribution of the population, patient residence data, the availability of health manpower; socioeconomic conditions; and trade, geographic, transportation, and time-distance factors.

In estimating the need for new health facilities in each service area, State agencies use information concerning the current utilization of existing facilities and the current and projected population of the service area. The basic formula for determining needs assumes that the current rate of use of health facilities by the present population will remain constant over time, so that future needs for health facilities can be estimated by applying the current utilization rate to the projected future population. Construction standards have been established by the Hill-Burton program for use in the determination of modernization needs. State agencies may subjectively adjust the determination of service area needs, provided that each adjustment is explained to and approved by HEW.

After each service area's needs for health facilities have been determined, all the service areas within the State are ranked according to need--from greatest to least. Projects requesting financial assistance under the Hill-Burton program are to be considered for assistance in the order of priority established for the service area in which they are located. Consideration for financial assistance on a statewide basis is given to projects involving health facilities providing certain types of specialized care and services that extend beyond the service area in which they are located--for example, tuberculosis hospitals.

Each State submits an annual project construction schedule to HEW, in addition to the annual State plan. The project construction schedule presents State agency recommendations for projects to be assisted under the Hill-Burton program from among all the project applications received. The HEW regional offices are responsible for reviewing and approving annual State plans and project construction schedules.

Assurances of compliance with the Civil Rights Act by recipients of Hill-Burton assistance

HEW regulations state that every applicant for Federal financial assistance must provide an assurance that it will comply with title VI of the Civil Rights Act of 1964, which provides that:

> "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

To meet the requirements of title VI, the Hill-Burton program guidelines provide that facilities receiving assistance may not establish criteria or use methods of administration which would impair the civil rights of an individual. Health facilities accepting funds under the Hill-Burton program may not deny, on the basis of race, creed, color, or national origin

--admittance to patients,

--patient access to any service,

--privilege of practice to professionally qualified persons, or

--training opportunities to technical or professional staff.

When the Civil Rights Act of 1964 became effective, the requirements of title VI of the act were made mandatory

for all Hill-Burton future projects, including those which had been approved but were not completed as of the effective date of the act. Although Hill-Burton assistance may be sought for a project that involves only a part of a facility, the nondiscrimination provisions of title VI must be applied to the entire facility.

The assurance of compliance with respect to the nondiscrimination requirements of title VI, and all requirements of the HEW regulations issued to implement title VI, is one of the standard assurances which accompanies each application for Hill-Burton assistance.

Assurances that recipients of Hill-Burton assistance will provide a reasonable volume of below-cost or free services

Another required assurance of compliance which bears indirectly on the question of service to minorities is that each project applicant must indicate a willingness to provide a reasonable volume of free or below-cost services to persons unable to pay. Any applicant not providing this assurance must justify the waiver of the requirement on the basis that the facility cannot afford to provide such services.

CHAPTER 2

EXAMINATION OF SERVICE AREAS

The elements of the Hill-Burton program that have the greatest potential for being misused either deliberately or unknowingly to the detriment of minorities are (1) the determination of relative needs for health facilities for use in the development of service area priorities and (2) the determination of service area boundaries For our consideration of these elements we examined the administration of the Hill-Burton program by Texas and Pennsylvania Texas and Pennsylvania ranked first and second, respectively, among all the States receiving Hill-Burton funds cumulatively through fiscal year 1971 Since the program's inception, these two States combined have received funds for approved projects that amounted to about 12 percent of the total grant funds available to all States under the Hill-Burton program We concentrated our work on general hospitals because, through fiscal year 1971, 54 percent of all Hill-Burton projects and 71 percent of the Hill-Burton funds have involved this type of facility

The Pennsylvania Bureau of Medical Facilities Planning, as part of the Office of Medical Services and Facilities, is responsible for operating the Hill-Burton program under the designated State agency, the Pennsylvania Department of Public Welfare In Texas, the Health Facilities Construction Section of the State Department of Health is responsible for operating the Hill-Burton program under the designated State agency, the Texas State Board of Health

Discussed below are the results of our examination of (1) the establishment of service area boundaries and the development of service area priorities, (2) selected service areas with substantial minority populations, and (3) selected service areas with substantial unmet needs for health facilities

SERVICE AREA BOUNDARIES AND DEVELOPMENT OF PRIORITIES

Pennsylvania

The fiscal year 1971 State plan for Pennsylvania provided for 78 service areas. The State plan indicated that their boundaries were established essentially by using HEW criteria (see p 10), however, information on the specific consideration given to each of the factors in the HEW criteria for establishing service areas was not documented by the State agency The boundaries of 35 of 78 service areas follow county or multicounty boundary lines Although the fiscal year 1972 State plan had not been approved at the time of our fieldwork, State agency officials advised us that revisions to be made to the fiscal year 1972 State plan may include a redesign of the service areas so that the boundaries of each individual service area or groups of service areas coincide with county or multicounty boundary lines.

We selected four service areas in Pennsylvania for review of the development of service area priorities Three of the four areas selected contained relatively high percentages of minority populations. We examined the manner in which the fiscal year 1971 State plan was developed and the data used to develop priorities for construction and modernization of general hospitals in the selected service areas. Our examination showed that the service area priorities were developed without any apparent discrimination and in a manner consistent with that described in the State plan for all service areas

Texas

In fiscal year 1971, the Texas State plan provided for 142 service areas. The service area boundaries were generally designed to follow county lines. The State plan indicated that service areas were developed with consideration given to HEW criteria (see p. 10), however, information on the specific consideration given to each of the factors in the HEW criteria for establishing the boundaries of service areas was not documented by the State agency The fiscal year 1972 Texas State plan realigned the service areas so that

no service area was in more than one of the State's planning regions This realignment reduced the total number of service areas from 142 to 134.

We selected six service areas in Texas for review Our review included an examination of the manner in which the fiscal year 1971 State plan was developed and the data used to develop priorities for construction and modernization of hospitals and long-term-care facilities in the selected service areas In testing the validity of the data used to establish priorities, we found that there were errors made by the State agency in determining service area priority rankings However, none of the errors noted by us seemed to adversely affect areas with substantial minority populations to the benefit of other areas, and we were satisfied that the service area priorities were developed without any apparent discrimination and in a manner consistent with that described in the State plan for all service areas

HEW regional officials stated that, before State plans are approved, they are reviewed for compliance with Hill-Burton regulations This review is guided by a check sheet which requires an examination of State plans for such matters as the use of approved techniques for developing an estimate of the need for health facilities. The check sheet provides for a verification of the (1) accuracy of applying the basic elements in the formulas for determining need and (2) uniformity of treatment afforded to all service areas in establishing the relative priorities of each service area's needs The State plans do not identify service areas having substantial minority populations, and there is no assurance that the relative priorities established by the State plans for such areas on the basis of population and hospital utilization are an adequate indication of the health facility needs of such populations within the service areas The HEW review and approval process only signifies that uniform treatment in the application of the formulas was afforded to all service areas in the development of relative priorities

SELECTED SERVICE AREAS WITH SUBSTANTIAL MINORITY POPULATIONS

Pennsylvania

According to the 1960 census, about 32 percent of the population of Pennsylvania lived in Philadelphia and Allegheny Counties. These counties also contained about 77 percent of Pennsylvania's total nonwhite population During the 9-year period ending with fiscal year 1970, Philadelphia and Allegheny Counties received about 42 percent of the total Hill-Burton funds distributed throughout the State

From the inception of the Hill-Burton program through fiscal year 1970, there had been 358 Hill-Burton projects approved in Pennsylvania. Of the projects, 58 were in Philadelphia County and 46 were in Allegheny County We selected one service area in each county for detailed examination--the South Hills service area in Allegheny County and the West Philadelphia service area in Philadelphia County--because they had large minority populations.

South Hills service area

There are five service areas in Allegheny County. The service area which we examined--South Hills--contained about 33 percent of both the total population and the total nonwhite population of Allegheny County. About 9 percent of the service area's population is nonwhite.

Of the 46 Hill-Burton projects in Allegheny County, 25 had been classified under the Hill-Burton program as general hospital projects providing inpatient beds. Eight of these projects were in the South Hills service area and had received one-third ($6.7 million) of the total Hill-Burton assistance ($20.1 million) provided for such projects in Allegheny County. Five of the eight projects, at a program cost of $5.1 million, were within the city of Pittsburgh, where 92 percent of the service area's minority population lived.

According to the fiscal year 1971 State plan, the South Hills service area had six general hospitals with a total of 1,563 beds and a projected need for 56 additional

beds. Also, five medical school and specialty hospitals within the South Hills service area had a total of 1,759 beds. Our analysis of the relationship between the location of existing hospitals and the location of the minority population disclosed that 92 percent of the minority population of the South Hills service area lived no further than 2 miles from a hospital and that most of the hospitals were located within, or immediately adjacent to, areas with heavy concentrations of minority populations.

There was a substantial need for modernization of the existing hospitals in the South Hills service area particularly because 1,052, or two-thirds, of the general hospital beds and 273, or 15 percent, of the medical school and specialty hospital beds were classified as nonconforming to Hill-Burton construction standards. The South Hills service area ranked first among the 78 service areas in Pennsylvania for hospital bed modernization need.

West Philadelphia service area

There are six service areas in Philadelphia County. The service area we examined--West Philadelphia--contained 16.7 percent of the county's total population and 31 percent of the county's total nonwhite population. About 64 percent of the service area's population is nonwhite.

Of the 58 Hill-Burton projects in Philadelphia County, 20 had been classified under the Hill-Burton program as general hospital projects providing inpatient beds. Three of these projects were in the West Philadelphia service area and had received about 14 percent ($2.9 million) of the total Hill-Burton assistance ($21.5 million) provided for this type of project in Philadelphia County.

According to the State plan, the West Philadelphia service area had three general hospitals with 937 beds. There was a projected need for 914 general hospital beds--23 fewer than the existing number. Three medical school and specialty hospitals with 1,428 beds were also located in this service area. Our analysis of the relationship between the locations of existing hospitals and the location of the minority population disclosed that more than 98 percent of the minority population of the West Philadelphia service area lived within 2 miles of a hospital and that most

of the hospitals were located within, or immediately adjacent to, areas with heavy concentrations of minority populations.

There was a substantial need to modernize the existing hospitals in the West Philadelphia service area, because 381 general hospital beds and 677 medical school and speciality hospital beds were classified as nonconforming to Hill-Burton construction standards. The West Philadelphia service area ranked 10th among the 78 service areas in the State for bed modernization need.

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Because of the need to modernize a substantial number of the existing hospital beds in both the South Hills and West Philadelphia service areas, we spoke with officials of selected hospitals and local health planning agencies about meeting this need through the Hill-Burton program. We also asked them and officials of other nearby hospitals about the possibility of discriminatory practices within the Hill-Burton program Our discussions disclosed that some of the hospitals were currently planning projects to meet their modernization needs. None of the officials of hospitals identified as serving the minority community indicated that this service would be a factor in preventing them from obtaining Hill-Burton financial assistance.

Texas

From the inception of the Hill-Burton program through fiscal year 1970 there had been a total of 504 Hill-Burton projects approved in Texas. Of these projects, 39 had been in Harris County which has four service areas. We selected one of these areas--Houston--for detailed examination. In addition, we examined the Harlingen service area which covered the southeastern Texas counties of Willacy and Cameron where a large percentage of the residents are Spanish surnamed.

Houston service area

The Houston service area contained about 82 percent of the total population of Harris county and about 96 percent

of the county's total nonwhite population. About 25 percent of the service area's population is nonwhite.

Nine of the Harris County Hill-Burton projects had been classified under the Hill-Burton program as general hospital projects providing inpatient beds. Eight of these projects were in the Houston service area and had received 95 percent ($5.2 million) of the total Hill-Burton assistance ($5.5 million) provided for this type of project in Harris County.

According to the State plan, the Houston service area had 34 general hospitals with 7,322 beds and a projected need for 7,214 general hospital beds--108 fewer than the existing number.

The Houston service area ranked 30th among the 142 service areas in the State for bed modernization need, with 1,042 general hospital beds classified as nonconforming under Hill-Burton construction standards. Two general hospitals--Hermann and Rosewood General--accounted for a substantial portion of the total beds in need of modernization The State plan showed that Hermann Hospital needed to modernize 478 of 647 beds and that Rosewood General Hospital needed to modernize 73 of 362 beds. We spoke with officials of these hospitals about the Hill-Burton program and about their plans for modernizing the facilities

The director of Hermann Hospital informed us that the facility had received its first Hill-Burton modernization grant of $1 million during fiscal year 1970 More recently the hospital applied for assistance for a modernization project which would result in 239 beds being reclassified as conforming to Hill-Burton construction standards, however, no Hill-Burton modernization funds were available. The hospital was planning to undertake its modernization project without Hill-Burton program assistance. Statistics provided to us by a hospital official showed that in 1970 the Hermann Hospital provided inpatient services to a total of 28,145 cases, of which 6,649, or about 24 percent, involved Negro patients.

The administrator of the Rosewood General Hospital told us that the hospital had not applied for assistance under

the Hill-Burton program and did not intend to because of the excessive costs involved in meeting program construction standards. He advised us that very few Negro patients were served by the hospital because there were only about 250 Negro families living in the vicinity.

Harlingen service area

According to the 1970 census, the southeastern Texas counties of Willacy and Cameron had total populations of about 15,600 and 140,000, respectively. The number of Spanish-surnamed residents included in these figures was not available. However, the prior census showed that 68.4 percent of Willacy County residents and 64 percent of Cameron County residents were Spanish surnamed. Therefore, we believe that this two-county area--the Harlingen service area--can be considered a minority area.

From the inception of the Hill-Burton program through fiscal year 1970, four projects in the Harlingen service area providing 187 general hospital beds had received Hill-Burton assistance of $1.9 million. According to the State plan, this service area contained 427 general hospital beds and needed 65 more The Harlingen service area ranked 95th among the 142 service areas in Texas for relative need for additional general hospital beds.

In the existing general hospitals, 405 beds were rated as conforming to Hill-Burton construction standards. General hospital facilities with 22 beds, or 5 percent of the total, were in need of modernization. The Harlingen service area's ranking in the State plan for modernization of general hospital beds was 63d among the 142 service areas in Texas.

More than 70 percent of the population of the Harlingen service area resided in four cities. Three cities in Cameron County--Harlingen, Brownsville, and San Benito--had over 72 percent of the population of the county. Raymondville had over 51 percent of Willacy County's total population. Each of these cities had a general hospital.

Of the general hospital facilities in need of modernization in the Harlingen service area, 15 of the total of 22

nonconforming general hospital beds were in the Raymondville Memorial Hospital. According to the State plan, this hospital had a licensed capacity of 26 beds and a capacity established by survey of 15 beds. Because of the need for this hospital to modernize to conform to Hill-Burton construction standards, we spoke with local officials to determine why it had not received program assistance. At the time of our visit to the Raymondville Memorial Hospital, more than 4 years of effort had not succeeded in replacing the existing facility.

The president of the Raymondville Memorial Hospital Board stated that the community had a need for a 25-bed hospital and not the minimum 50-bed facility that the Hill-Burton program would fund. He stated that access to inpatient facilities in the city of Harlingen, as well as the shortage of doctors to practice in the Raymondville Memorial Hospital, was causing the low occupancy rate at the facility, which he estimated at less than 50 percent. The average daily census computed from statistics in the fiscal year 1971 State plan was 9.4, or about 63 percent of capacity. He further noted that, if the establishment of a hospital district was approved by the voters, a 25-bed hospital would be built with local resources. If the hospital discontinues inpatient services, it may continue operation as an outpatient facility

The Texas Commissioner of Health informed us that limitation of Hill-Burton funds to hospitals with 50 or more beds was based on the opinion of the State's Hospital Advisory Council that at least that number of beds would be necessary to meet Medicare-Medicaid nursing requirements. We were informed, however, that the Hospital Advisory Council's recommendation that Hill-Burton funds be limited to hospitals with 50 or more beds has been modified with the provision that fewer beds could be funded in some cases

The Director of HEW's Health Care Facilities Service advised us that hospitals with fewer than 50 beds were generally considered to be inefficient and stated that Texas was moving toward the consolidation of its smaller facilities.

SELECTED SERVICE AREAS WITH SUBSTANTIAL UNMET NEEDS FOR HEALTH FACILITIES

In considering whether health facility projects within service areas containing substantial minority populations had been systematically excluded from Hill-Burton funding, we identified service areas which ranked high in need over recent years but which had not received financial assistance under the Hill-Burton program. Our purpose was to determine if these high-priority areas with unmet needs for health facilities had substantial minority populations and why they had not received Hill-Burton assistance.

We found, in both Pennsylvania and Texas, that there were service areas which had had, over an extended period of time, the greatest need for health facilities but had not received Hill-Burton financial assistance. Meanwhile, projects within service areas with lower priorities had received assistance under the Hill-Burton program. Hill-Burton program regulations do not require HEW or the State agencies to determine why high-priority service areas with the greatest need do not apply for, or receive, Hill-Burton assistance and to take action to generate projects in such service areas. We also found that such service areas did not necessarily have relatively high percentages of minority populations. The principal common denominator in service areas in the category of greatest need we reviewed where eligible facilities were not obtaining Hill-Burton program financial assistance appeared to be the facilities' difficulty in providing for the local share of total project costs.

Pennsylvania

In Pennsylvania, for fiscal years 1968 through 1970, we identified two service areas which had ranked among the highest in relative need in the construction category and one service area which had ranked among the highest in relative need in the modernization category for general hospital beds in each year, which had not received Hill-Burton assistance. We visited two of these three service areas to determine why their general hospitals have not received Hill-Burton assistance.

Greene County service area

The Greene County service area is a rural area Nonwhites comprise less than 1 percent of the county's total population. It had one general hospital with 118 beds. The Greene County service area had been ranked among the highest in need for new hospital beds for more than 3 years, holding priorities five, six, and two for fiscal years 1968, 1969, and 1970, respectively, among all service areas in Pennsylvania

The administrator of the Greene County Memorial Hospital stated that he was aware of the service area's high priority in recent years and that he had applied for Hill-Burton funds for a project but that the amount of financial assistance offered by the State Hill-Burton agency was not sufficient to enable the hospital to undertake the project

Both the administrator of the hospital and the chairman of the local component of the Western Pennsylvania Regional Comprehensive Health Planning Agency commented that the present one-third Hill-Burton participation was insufficient to enable hospitals in rural areas to undertake needed projects These hospitals do not normally have the resources to finance their share of the project costs

In commenting on our draft report, the Pennsylvania Secretary of Welfare informed us that the Greene County service area was subsequently funded under the Hill-Burton program by a combination grant and loan for 70 percent of the cost of the project

Kensington service area

In Philadelphia County the Kensington service area is densely populated, with about a 46-percent nonwhite population The area contains about 23 percent of Philadelphia's total population and about 31 percent of the county's total nonwhite population. The fiscal year 1971 State plan showed a general hospital need of 1,722 beds and an existing total of 1,839 general hospital beds. However, there was a substantial need to modernize the existing general hospital facilities--more than one-half of their beds were rated as nonconforming to Hill-Burton construction standards. The

Kensington service area had been ranked among the highest in need for modernizing hospitals for more than 3 years, holding priorities one, one, and two for fiscal years 1968, 1969, and 1970, respectively, among all service areas in Pennsylvania.

Discussions with officials of selected general hospitals in the Kensington service area that had a substantial need of modernization elicited the following comments.

--Hospital A was building a new hospital in another service area, and it had plans to close the existing hospital within 10 years.

--Hospital B wanted to construct a new facility. However, hospital officials stated that they could not undertake their project without a grant for 70 to 75 percent of the total project costs.

--Hospital C wanted to construct a new facility However, the hospital administrator would not say that a project would be undertaken if Hill-Burton assistance were available, noting only that any proposed project would have to be considered by the hospital's board of directors.

A planned meeting to discuss modernization needs with officials of another hospital was canceled by the hospital administrator when the facility became involved with a strike which occurred because the hospital could not pay its employees' salaries.

Texas

In Texas, for fiscal years 1969 through 1971, we identified seven service areas in the Hill-Burton assistance categories of new construction or modernization of general hospital and long-term-care facilities which had not received Hill-Burton program assistance despite being ranked among the highest in relative need throughout the State in each of those years. According to the 1970 census, counties in Texas which include these service areas had nonwhite populations ranging from less than 1 percent to 34.7 percent. The 1970 census information on the number of

Spanish-surnamed residents in these counties was not available at the time of our review However, the previous census showed that these counties had Spanish-surnamed populations ranging from less than 1 percent to 34 2 percent of the total county population

We visited the three selected service areas where the identified need was for modernization of the existing general hospitals Existing hospitals in two of the service areas--Tomball, one of the four service areas in Harris County, and Terrell, which covers Kaufman County--were proprietary and, therefore, ineligible for assistance under the Hill-Burton program Local officials said that there were no current plans for creating organizations which would be eligible for assistance under the Hill-Burton program. The Terrell service area had rankings of five, three, and four among all service areas in Texas for priority in the modernization of hospitals during fiscal years 1969, 1970, and 1971, respectively. During the same period, the Tomball service area ranked first in hospital modernization needs.

In the other service area (Gonzales), a hospital which was eligible for assistance had expressed an interest in May 1971 in applying for a grant and loan under the Hill-Burton program. State agency officials discussed the application procedures with the hospital administrator The potential applicant later informed the State agency, without explanation, that no application would be made for fiscal year 1972 Hill-Burton program funds.

The Gonzales service area which covers the entire county of Gonzales had rankings of three, five, and ten among all service areas in Texas for priority in the modernization of hospitals during fiscal years 1969, 1970, and 1971, respectively.

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The director of the Pennsylvania Bureau of Medical Facilities Planning informed us that his agency did not actively solicit Hill-Burton project applications and did not attempt to encourage or persuade facilities in service areas with the greatest need to apply for Federal funds. The reason for this was that the State agency has annually

received requests for Hill-Burton financial assistance which exceed the amount of available grant funds, requiring the State agency to determine the distribution of funds among many potential projects.

A Texas State agency official stated that at the beginning of the Hill-Burton program it was necessary to actively promote the program. This is no longer necessary since the dollar value of applications substantially exceeds the funds available for allocation For fiscal year 1972 the State agency received applications totaling $41.8 million and had only $11.3 million available in grants.

The program planner for the Texas State agency gave us the following reasons for service areas not applying for Hill-Burton assistance

1 Potential applicants lack adequate financial resources.

2 A service area is unable to establish an organization eligible for assistance

3 A service area may have adequate financial resources and can establish an eligible organization, but it lacks community support.

The program planner told us that most areas did not apply because of the first two reasons If a prospective applicant does not contact either the local Council of Governments; the State agency; or the State hospital, medical, or nursing home associations about applying for Hill-Burton assistance, then the State agency believes the prospective applicant has little interest in the program. The Texas State agency makes no specific determinations as to why prospective applicants in service areas with the greatest need do not apply for assistance under the Hill-Burton program.

An HEW regional official stated that neither the HEW regional office nor the State agencies have attempted to determine why projects cannot be generated in service areas with the greatest need. He commented that the State agencies would be responsible for making such determinations because the Hill-Burton program was administered by the State

As previously discussed, the 1970 amendments to the Hill-Burton legislation provided for Federal funding of up to 90 percent of the cost of projects in designated poverty areas This level of Federal participation could enable certain service areas with high-priority needs to participate in the Hill-Burton program.

A Pennsylvania State official informed us that the rate of Federal Hill-Burton participation would continue at a uniform one-third of total project costs Pennsylvania had no current plans to provide up to 90-percent funding for health facility projects providing health services to designated poverty areas

We were advised that the State agency was not categorically opposed to higher Federal participation rates. The State agency's current policy is based on the belief that, with the current level of Hill-Burton program funds being provided to Pennsylvania, it is more effective to contribute to as many health facility projects as possible at a lower participation rate than to contribute up to 90 percent of the cost for a limited number of projects We were informed that this policy will be reviewed at least annually and would be revised to be responsive to significant changes in the total amount of Hill-Burton funds provided to Pennsylvania.

Current plans in HEW Region III are to encourage State agencies to exercise their 90-percent funding options in approving fiscal year 1972 projects. However, HEW officials recognize that they cannot require the State agencies to fund Hill-Burton projects at a rate of Federal participation above the basic rate indicated within the approved State plan

Texas State officials commented that the current Federal participation rate of 50 percent elected by the State, coupled with a $1 million project maximum, stretched the Federal dollars and enabled more funds to be available for assisting smaller projects

In commenting on our draft report the Texas Commissioner of Health stated that:

"*** At the time of the survey by the GAO no guidelines had been furnished by the federal government indicating the basis upon which poverty areas were to be established It was at that time impossible for state agencies to evaluate the possible impact of increased funding *** The program director did not wish to limit assistance entirely to poverty areas but was not opposed to the general concept of 90% funding of poverty areas in selected instances."

The commissioner's comments went on to note that the Texas State agency had recommended 90-percent Federal grant participation in a project at the Starr County Memorial Hospital in Roma, Texas, which served a poverty area on the Texas-Mexico border

CONCLUSIONS AND RECOMMENDATIONS

HEW regulations specifically state that service area boundaries should not necessarily coincide with the boundaries of any political subdivision unless such boundaries represent the most logical service areas for planning health facilities. Both Pennsylvania and Texas have chosen to generally follow county lines in determining their service area boundaries.

Although the specific consideration given to each of the factors in the HEW criteria for establishing the boundaries of service areas was not documented by either State agency, our examination of selected service areas showed that the service areas were not structured in a manner which inhibited access to existing health facilities from locations within these service areas which had substantial minority populations.

In commenting on our draft report, the Texas Commissioner of Health stated:

> "*** that service area boundaries are periodically reviewed by the state agency to assure that all service area residents maintain reasonable access to as full a range of health facilities as it is possible to provide within the economic constraints under which the system functions."

The commissioner also pointed out that regional planning organizations had been given the opportunity to comment on the establishment of service area boundaries.

Our examination of the relative needs of selected service areas with substantial minority populations and of their record of past participation in the Hill-Burton program and our discussions with local hospital and health planning officials disclosed no information indicating that projects within these areas have been precluded from receiving Hill-Burton program assistance which would have resulted in discrimination against persons to be served by the projects.

However, the State plans do not identify service areas with substantial minority populations, and there is no

assurance that the relative priorities established by the State plans for such areas on the basis of population and hospital utilization are an adequate indication of the health facility needs of such populations within the service areas.

In our draft report we proposed that the Hill-Burton State plans identify service areas with substantial minority populations and that State Hill-Burton agencies be required to periodically determine that the health facility needs of these populations are being adequately met.

In commenting on our draft report, the Pennsylvania Secretary of Public Welfare stated that our proposal was under review and pointed out that the lack of timely and accurate data was a basic problem in identifying service areas with substantial minority populations. The Texas Commissioner of Health informed us that the State Hill-Burton agency did not see the need to identify service areas with substantial minority populations. The commissioner pointed out that:

> "*** the Hill-Burton plan is based on relative need for health facilities for all segments of the population and the state agency makes no distinction on the grounds of race, color or national origin in making the ranking. The Hill-Burton program is based solely on the unmet need exhibited by the area in accordance with the federal formula."

The use of the formula referred to by the Texas Commissioner of Health results in health facility needs being computed on the basis of population and hospital utilization. (See p. 10.) In our opinion, reliance on such a formula for computing need for service areas with substantial minority populations without adjustment for possible low utilization rates provides no assurance that the relative health facility needs for such populations are appropriately reflected in the State plan.

The Director of HEW's Health Care Facilities Service informed us that economic (low-income) characteristics should guide the selection of service areas for a determination that their health facility needs are being adequately

met. We agree with the Director that low income should be a consideration in the identification of service areas to be examined. We believe that the Hill-Burton State plans should include an identification of service areas with substantial minority or low-income populations and that State Hill-Burton agencies should be required to periodically determine that the health facility needs of such populations are being adequately met. Therefore, we recommend that the Hill-Burton State plans identify service areas with substantial minority or low-income populations and that State Hill-Burton agencies be required to periodically determine that the health facility needs of these populations are being adequately met.

There are service areas, both with and without substantial minority populations, that have had, over an extended period of time, the greatest need for health facilities but have not received Hill-Burton financial assistance. This situation is, in our opinion, incompatible with Hill-Burton program objectives (providing financial assistance to areas of greatest need, see p. 10) and is contributed to by the fact that the priority system used to decide on the distribution of funds operates only after applications for proposed projects are received. Hill-Burton program regulations do not require HEW or the State agencies to determine why service areas with the greatest need do not apply for, or receive, Hill-Burton assistance and to take action to generate projects in such service areas.

We recommend that HEW require the State agencies to examine service areas with the greatest need for health facilities where the needs have gone unmet for an extended period of time in order to verify the legitimacy of the determination of need as shown in the State plan and to actively pursue ways to meet the need, including the use of up to 90-percent Federal funding, if appropriate.

The Director of HEW's Health Care Facilities Service agreed with this recommendation The Pennsylvania Secretary of Public Welfare expressed the opinion that local comprehensive health planning organizations should be responsible for taking action to generate health facilities projects where they are needed.

CHAPTER 3

MONITORING OF NONDISCRIMINATION AND POVERTY-RELATED ASSURANCES

Each application for Hill-Burton assistance includes an assurance that the applicant will be in compliance with title VI of the Civil Rights Act of 1964. Also, unless the requirement is waived by HEW, applicants must give assurance that a reasonable amount of free or below-cost service will be provided to those unable to pay. We discussed the monitoring of both the nondiscrimination and poverty-related assurances with Federal and State agency personnel concerned with their implementation.

NONDISCRIMINATION ASSURANCE

Within HEW, the Office of Civil Rights is responsible for monitoring the implementation of title VI of the Civil Rights Act of 1964. HEW regulations require that a State agency administering a program involving continuing Federal financial assistance must, as a condition of receiving such assistance, provide for program administration methods which can be relied on by HEW officials for assurance that recipients of Federal aid under the program will continually comply with the regulations which implement title VI of the Civil Rights Act of 1964

Pennsylvania

In Pennsylvania, the Office of Human Services Compliance and the Bureau of Medical Care Facilities, both within the State Department of Public Welfare, are responsible for monitoring title VI compliance by all hospitals and nursing homes in Pennsylvania

The Pennsylvania Office of Human Services Compliance has the primary responsibility for the monitoring of title VI compliance. The director of this office informed us that he does not have the manpower to effectively carry out his monitoring responsibility. To provide assistance in this function, an agreement was reached with the State Bureau of Medical Care Facilities providing that the Bureau's

institutional standards representatives perform a title VI compliance review during their annual licensing review of hospitals and nursing homes in Pennsylvania. The compliance review is performed according to an "Interview Guide for On-Site Survey" which requires that information be gathered regarding the existence of, and publicity given to, the hospital's admission policy; the method of patient selection and the criteria for room assignment; and the availability of facilities and services to patients. Statistical information is to be compiled with a breakdown with respect to race for the numbers of:

--Patients admitted during the preceding year.
--Professional and nonprofessional employees.
--Patients receiving care on a given day.

The State Office of Human Service Compliance examines information concerning title VI compliance obtained during the annual licensing review and performs any followup compliance work that is deemed necessary or that may be needed to resolve questions about the data gathered.

The director of the State Bureau of Medical Facilities Planning informed us that a proposed Hill-Burton project did not receive final approval until HEW certified that the project applicant was in compliance with title VI. The HEW compliance review relies substantially on the data developed by the institutional standards representatives of the Bureau of Medical Care Facilities.

HEW does not have a program for continuous monitoring of medical facilities in the State for compliance with title VI. However, we were informed by HEW regional officials that future plans provided for reviewing, either on a total or a sample basis, the results of the annual compliance reviews performed by the Pennsylvania institutional standards representatives and that detailed compliance review work would be undertaken by HEW personnel to answer questions raised through this review.

Texas

On August 17, 1967, the Texas Commissioner of Health issued a statement of compliance with title VI of the Civil Rights Act of 1964, which specifically covered, among other things, Hill-Burton grants.

The statement provides that no application for Federal financial assistance will be approved until the applicant provides assurance of compliance with title VI. The statement outlines methods of administration to insure compliance with title VI, including the establishment of a Civil Rights Complaint Committee within the State Department of Health. Among the committee's responsibilities is the random monitoring of health facilities' compliance with the nondiscrimination assurance. The committee is charged with reviewing compliance at least annually. However, according to State officials, the requirements for random monitoring and annual compliance checks are not applicable to the Hill-Burton program. The chairman of the Civil Rights Complaint Committee informed us that the committee does not monitor compliance with the nondiscrimination assurance by health facilities receiving Hill-Burton assistance. A regional HEW official informed us that he believed the statement's reference to annual compliance checks applied to public health centers and local health departments but not to hospitals.

The component of the State Department of Health which directly administers the Hill-Burton program--the Health Facilities Construction Section--monitors health facilities having Hill-Burton projects for compliance with operational and maintenance standards established by the State as required under the Hill-Burton program. The Texas State standards for hospitals require the governing board of a hospital having a Hill-Burton project to provide an acceptable nondiscrimination policy and evidence that the policy has been explained to the staff and that the necessary procedures to implement the policy have been established. This monitoring system does not require statistical analyses of the hospital's records for indications of nondiscriminatory practices. The chief of Health Facilities Construction Section stated that his section's monitoring activities did not include a determination of the compliance of health facilities with their nondiscrimination assurances.

The State Commissioner of Health stated that reliance was placed upon HEW and the Division of Certification and Consultation--an organizational unit in the State Department of Health--to monitor nondiscrimination assurances made by applicants under the Hill-Burton program. The Division of Certification and Consultation is responsible for certifying hospitals and nursing homes for participation in the Medicare program The director of the division stated that compliance with the nondiscrimination assurances was not specifically covered under the procedures for certifying hospitals and nursing homes for participation in the Medicare program, however, surveyors are alert for violations, or possible violations, of title VI The director noted that the division has never uncovered discriminatory practices during hospital and nursing home certification visits and that the division has never received a complaint of discrimination.

The HEW regional office reviews and clears each proposed Hill-Burton project for compliance with title VI. However, a regional official stated that HEW does not monitor compliance through periodic reviews of health facilities Compliance clearance is normally given on the basis of information in the HEW regional office files. However, site visits are made when discrimination complaints are involved or when the available HEW information is considered to be inadequate or too old for clearance purposes.

An HEW regional official estimated that responses to between 75 and 90 percent of clearance requests are from information available in HEW regional office records. The available information on a facility includes records of previous clearance reports which contain information on the nondiscrimination policies, procedures, and practices and on statistical information on the race of personnel and patients and records of any discrimination complaints and their disposition. We were informed that very few discriminatory practices in health facilities were currently being disclosed by HEW clearance surveys.

Beyond the initial clearance of Hill-Burton applications there was no documentation available to show that there was any comprehensive formal system for monitoring nondiscrimination compliance by past recipients of Hill-Burton assistance on which HEW could rely in accepting assurances of compliance with title VI. Accordingly, in our draft report we

recommended that HEW require Texas to establish methods for monitoring continuing compliance with title VI by health facilities having Hill-Burton projects.

We were informed by HEW's Office of Civil Rights and the Texas State agency that, after we completed our fieldwork, a formal system had been established for monitoring title VI compliance by licensed hospitals in Texas, including those which have received Hill-Burton assistance. In commenting on our draft report, the Texas Commissioner of Health stated that in December 1971.

> "The Hospital Licensing Division of the Texas Health Department was assigned the responsibility of monitoring all hospitals in the State, including those built with Hill-Burton funds, for compliance with Title VI *** on a regular routine basis."

The Director of the Office of Civil Rights stated that the title VI review conducted in Texas by personnel of the State Health Department was similar to the compliance review conducted in Pennsylvania, with the Office of Civil Rights reviewing the compliance reports and conducting inspections on a sample basis to insure the correctness and the adequacy of the State's review.

POVERTY-RELATED ASSURANCE

The Hospital and Medical Facilities Amendments of 1964 provided that the Secretary of HEW may require assurance from a Hill-Burton applicant that a reasonable volume of free or below-cost services will be furnished to persons unable to pay, except where such a requirement is not financially feasible. The Secretary of HEW elected to require such an assurance, and Hill-Burton program regulations require an applicant to submit a statement that a reasonable volume of free or below-cost services will be provided or to submit a written justification why such services cannot be provided to obtain a waiver from the requirement. Until July 22, 1972, however, HEW had not provided specific guidance to its regional staffs, to the State agencies, or to program applicants as to what constituted a reasonable volume of free or below-cost services to persons unable to pay. HEW regulations provided only for a general consideration of the

conditions in the area to be served by the applicant, including the amount of free or below-cost service available from sources other than the applicant

The director of the Pennsylvania Bureau of Medical Facilities Planning informed us that his agency had never attempted to monitor the poverty-related assurance from Hill-Burton applicants, primarily because HEW had never provided a definition or an explanation of a reasonable volume.

The HEW regional office had not required the State agency to monitor the implementation of the poverty-related assurance. We were informed by HEW regional officials that they would, until a definition of reasonable volume was provided by HEW headquarters, encourage State officials to develop and utilize their own definitions

In Texas the State agency had not recently attempted to monitor compliance with the poverty-related assurance. At the request of the HEW regional office, the State agency asked officials of facilities with approved but uncompleted Hill-Burton projects to furnish the percentage of patients that had been provided with charity care by their facilities during the past year. The percentage of charity care provided at 32 operating health facilities that had Hill-Burton projects ranged from one-half of 1 percent to 100 percent. One-half of the facilities reported that 16 percent or less of their total cases were charity cases.

The HEW regional office request for this information indicated that it would assist HEW headquarters in developing criteria for use in determining what constituted a reasonable volume of free or below-cost services. On July 22, 1972, HEW published in the Federal Register interim regulations for determining compliance with, and enforcement of, the poverty-related assurance. These regulations require the establishment of controls by the State agencies for monitoring the poverty-related assurance and should assist in the administration of the program

U S HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20515

June 3, 1971

The Honorable Elmer B. Staats
Comptroller General of the United States
General Accounting Office Building
Washington, D.C. 20548

Dear Mr. Staats:

In the interest of fulfilling the Committee's oversight responsibilities with respect to civil rights legislation, we are planning to examine the enforcement of Title VI of the Civil Rights Act of 1964 with respect to selected Federal programs. To assist the Committee in this endeavor, we would appreciate having the General Accounting Office make a review and provide a report on certain aspects of the Hill-Burton health facilities construction and modernization program and the Medicare-Medicaid programs of the Department of Health, Education, and Welfare.

With respect to the Hill-Burton program, it is requested that your Office review the policies and practices followed by the Department of Health, Education, and Welfare and selected State agencies in: 1) establishing service planning areas in formulating the State plans for facilities construction, and 2) approving construction projects--to determine if there are inherent factors in performing such functions which may make it difficult for certain communities to obtain Federal funds for health facilities, particularly where the communities may be largely composed of minority groups. For example, we would be interested in: 1) an evaluation of the criteria used in establishing State-wide service planning areas under the Hill-Burton program; and 2) an analysis of the composition of service areas with consideration given to the location of medical facilities and minority areas, and 3) an explanation as to why priority areas may have been passed over in approving construction projects.

With respect to the Medicare-Medicaid programs, the Committee would be interested in an analysis of available data in selected areas in order to obtain information as to whether the benefits of the Medicare and Medicaid programs are being made available to minority groups to the same degree as to others. In this regard, examination into the Department of Health, Education, and Welfare's Office of Civil Rights compliance monitoring activities might be helpful in determining whether hospitals, extended care facilities, and nursing homes participating in the Medicare and Medicaid programs are complying with Title VI.

These matters have been discussed with your staff. Any other suggestions you or your staff may have in fulfilling our objective will be appreciated.

Your report on these programs would be most helpful if it could be available to the Committee by December, 1971.

Sincerely yours,

Emanuel Celler
Chairman
House Committee on the Judiciary

EC:jh

Summary of
Selected Legislative Changes
to the
Hill-Burton Program

he Amendments to Hospital Survey and Construction Act
Public Law 83-482, July 1954)

rovided for specific grants for the construction of public and
oluntary non-profit nursing homes, diagnostic or treatment centers, and
ehabilitation and chronic disease facilities This Act also changed the
ederal participation in the total construction cost of each project from
3 1/3 percent to a range of 33 1/3 percent to 66 2/3 percent The
tates were given the option of establishing the rate of Federal participation
ithin that range

he Hospital and Medical Facilities Amendments of 1964
Public Law 88-443, August 1964)

uthorized the modernization and replacement of existing health facilities
nd provided for the transfer of funds between construction and modernization
ategories This Act provided for the assignment of priority to modernization
rojects for health facilities serving densely populated areas

he Medical Facilities Construction and Modernization Amendments
f 1970 (Public Law 91-296, June 1970)

Expanded the financial assistance portion of the program to include
ow interest direct loans and loan guarantees with interest subsidies
his Act changed the assignment of priority to hospital construction projects
erving rural communities from a mandatory requirement to a State option It
rovided for the assignment of priority to projects which would provide
1) outpatient facilities in poverty areas, and (2) facilities which provide
omprehensive health care, training in health or allied health professions,
nd treatment of alcoholism. In addition, Federal grants were authorized
or up to 90 percent of the total cost for projects providing facilities
hich offer services to persons in a rural or urban poverty area, and projects
hat offer potential for reducing health care costs through shared services
mong facilities or through the construction and modernization of free-
tanding outpatient clinics

APPENDIX III

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
HARRISBURG

HELENE WOHLGEMUTH
SECRETARY

TELEPHONE NUMBER
787 2600 787 3600
AREA CODE 717

August 22, 1972

Mr Willis L. Elmore
Assistant Director
United States General Accounting Office
Manpower and Welfare Division
Washington, D. C 20548

Attention Mr Frank Degnan

Dear Mr Elmore

We acknowledge receipt of the draft report on "Observation on the Implementation of Title VI of the Civil Rights Act of 1964 in the Hill-Burton Program for the Construction and Modernization of Health Facilities "

On the whole, the report presents an objective picture of the program as administered in Pennsylvania The visitors relied upon evidence which could be documented or checked by interview with actual and potential recipients The knowledge and the informed judgmental aspects of administration are not so easily documented.

There is little available documentation of State Agency efforts to coordinate and to promote projects in areas of greatest need but these efforts are ongoing, and are part of most every conference with health care agencies

Sixty-three of our sixty-seven counties are served by Regional Comprehensive Health Planning Councils It is our belief that these Agencies, which are responsible for developing the areawide comprehensive health plan, should take action to generate needed projects regardless of the source of funding

The recommendation that the State Plan should specifically identify the service areas having substantial minority populations is under review The basic problem is the lack of data except for the decennial census The use of the 1960 census data if applied to the past five years would have resulted in distortion of the actual conditions The administrative unit is aware of the neighborhood changes and their impact upon health facility planning The documentation of such knowledge is limited

The report notes that current plans in HEW Region III are to encourage State agencies to exercise their 90 percent funding options

Under the Federal requirements set for financial feasibility studies, and the limitations set by the Price Commission, the 90 percent funding, while permissible is scarcely practical. The State Agency and the Region must be assured that a project has adequate financial resources to cover the operational costs Constructing and equipping are the first steps in the continuum to provide a needed service

The statement that prior to the 1970 Amendments the maximum Federal participation rate was 66 2/3 percent is in error The maximum for Pennsylvania was set by HEW at 49 85 percent.

In relation to the specific service areas noted, we are pleased to report that the Greene County service area was funded by grant and loan up to 70 percent from 1971 funds This was made possible by the 1970 amendments

The Kensington Service Area has undergone significant change in population characteristics The proportion of minority groups has increased This area has a current occupancy rate of 77 percent despite the loss of 205 beds since 1960-61 There is a great need for modernization and H-B funds could be allocated to projects which would bring about better utilization of acute beds and provide increase of outpatient services Each of the five major facilities continues to plan as an individual with no effort to coordinate its plans to meet the area needs The report of the interviews with Hospital A-B-C in your draft documents this pattern of individualized planning.

Thank you for giving us an opportunity to review and comment on the draft report If you wish to discuss or comment, please call George Kuchta, Director, Division of Health Facilities Planning and Construction, telephone (717) 787-4072

Sincerely yours,

Helene Wohlgemuth

(Mrs) Helene Wohlgemuth

APPENDIX IV

Texas State Department of Health

JAMES E PEAVY M D M P H
COMMISSIONER OF HEALTH

J B COPELAND M D
DEPUTY COMMISSIONER

AUSTIN TEXAS

August 8, 1972

Mr Willis L Elmore
Assistant Director
Manpower and Welfare Division
United States General Accounting Office
Washington, D. C. 20548

Dear Mr Elmore

Thank you for the opportunity to review and comment on your draft report on the implementation of Title VI of the Civil Rights Act of 1964 in the Hill-Burton program for construction and modernization of health facilities, administered by the Department of Health, Education, and Welfare.

We do have some suggestions for amendments to the proposed draft. The Hospital Licensing Division of the Texas Health Department was assigned the responsibility of monitoring all hospitals in the State, including those built with Hill-Burton funds, for compliance with Title VI, in December of 1971. The inspectors from that division were sent to Dallas for an orientation period with regional federal Title VI personnel in January of 1972. Following the orientation period for Title VI guidelines, all the Hospital Licensing Division personnel in addition to making their surveys now also monitor the hospitals for compliance with Title VI on a regular routine basis. In addition, the Medicare inspectors have been instructed to continue to correct any violations of Title VI that come to their attention.

As you stated in your report, we have received written assurances from all Hill-Burton applicants that they will comply with Title VI of the Civil Rights Act, and we have gone even farther with a formal system of monitoring.

There must have been a misunderstanding concerning the statement that State Agency officials oppose the 90% funding for poverty areas. At the time of the survey by the GAO no guidelines had been furnished by the federal government indicating the basis upon which poverty areas were to be established It was at that time impossible for state agencies to evaluate the possible impact of increased funding under this provision of PL 91-296. The program director did not wish to

limit assistance entirely to poverty areas but was not opposed to the general concept of 90% funding of poverty areas in selected instances. As soon as the guidelines for allocation of '71 funds were received, the Board of Health recommended the allocation of funds to Starr County Memorial Hospital in Roma, Texas, for the full 90% funding. This hospital is on the Texas-Mexico Border and is at the top of the poverty list. All of us with personal knowledge of the hardships in that area and the dedication of the physician and his staff who run the hospital and outpatient services were gratified over the aid this area could receive under the poverty guidelines.

In regard to the Hospital Advisory Council's recommendation that Hill-Burton funds should be limited to hospitals with 50 or more beds, it should be pointed out that this recommendation was modified with the provision that a lesser number of beds could be funded in some cases The Advisory Council however was of the opinion that it would normally require this many beds to meet the nursing requirement of Medicare and Medicaid. Without such participation a new or modernized hospital would immediately be in serious financial difficulty. We would consider it a disservice to a small hospital contemplating new beds or modernization of existing beds to be encouraged to apply for Hill-Burton when another federal program has requirements that would prohibit the operation of a small hospital. In fact, we were advised by the regional office that we should phase out smaller hospitals in the State for consolidation into larger, centrally located, hospitals. We do recognize that it would be foolhardy to build small hospitals with federal funds and then deny them participation in another federal program because they could not qualify under the staffing requirement.

Since the draft report includes the statement that the representatives of the General Accounting Office "were satisfied that the service area priorities were developed without any apparent discrimination and in a manner consistent with that described in the State Plan for all service areas" we fail to perceive a need for identification and special treatment of service areas having substantial minority populations. We would point out that service area boundaries are periodically reviewed by the state agency to assure that all service area residents maintain reasonable access to as full a range of health facilities as it is possible to provide within the economic constraints under which the system functions. In connection with this re-evaluation of service area boundaries, periodically opportunities are afforded to the regional planning councils throughout the State to make comments with regard to service area boundaries.

In regard to identification and special treatment of service areas with substantial minority populations, the Hill-Burton plan is based on relative need for health

facilities for all segments of the population and the state agency makes no distinction on the grounds of race, color or national origin in making the ranking The Hill-Burton program is based solely on the unmet need exhibited by the area in accordance with the federal formula. The top priority might well be in a service area with a substantial minority population. However, this would be based on relative need rather than just population composition.

Again, we appreciate the opportunity of making comments on your draft proposal and hope that some of the thoughts herein expressed can be incorporated in your final report.

Sincerely yours,

J. E. Peavy, M. D.
Commissioner of Health