

449 HHESS HB 890 - HB 913

26 Capital Budget Project Justification

OBJECTIVE: To increase the security classification at Palmer Correction Camp by providing security fencing and lighting for the facility.

Justify the project using the four headings below in the order they appear. Expand upon each section as required. Repeat heading when commencing response. Submit justification for each project listed in first column of Form 27. Attach feasibility studies, reports, or other documentation available. Use Form 23 as continuation sheet.

- I. DOCUMENTATION OF NEED (Cite quantitative and measurable need.) III. DOCUMENTATION OF ESTIMATED CAPITAL COST (Discuss degree of reliability.)
II. ANALYSIS OF IMPACT ON OPERATIONAL EXPENSE (Estimate and justify.) IV. IDENTIFICATION OF ALTERNATIVES CONSIDERED (State why rejected.)

- I. The Palmer Correction Center is currently a minimum security facility. Current and projected inmate populations indicate the need to classify more minimum/medium security inmates to that facility, so as to relieve the population at the other institutions and increase the overall capacity of the system. It is also desirable to increase the agriculture production program for reasons of economics as well as rehabilitation, and this objective requires a change in the current security facilities at the Palmer Center.
- II. The only operating cost impact directly related to the fencing and lighting project will be for the cost of utilities and maintenance of the lighting system. Utility requirements are based on 50 lighting units of 1000 watt rating utilized an average of 13 hours per 24-hour day on a year around continuous basis. Electricity cost is projected at \$250 per month plus \$500 annually for replacement of bulbs and other maintenance. Annual Debt Service - \$97,300.
- III. Cost estimates are provided by Mount McKinley Fence Co. to Alaska Correctional Institution Fencing Specifications, and reflect 6400 linear feet of interior run fencing, plus 6800 linear feet for the exterior run. Costs include wiring of 50 lighting units plus necessary surveillance and communication units at gates and a 3-foot concrete trench which will anchor the bottom 6 inches of fencing. The contractor has a high degree of credibility and reliability for this type of project. An administrative charge of 10% has been added to cover DOTPF costs for overseeing the project.
- IV. The only alternative to this project is to retain the present security status at the Palmer facility, which precludes an increase in the population of the facility and will result in ongoing overloads at other facilities, precluding maximum efficiency in the entire system.

AGENCY Health & Social Services PROGRAM Adult Confinement-Palmer CC PRIORITY NO. _____

Project Title: Security Fencing & Lighting
Palmer CC

26 CAPITAL BUDGET
PROJECT JUSTIFICATION

25 Capital Budget Proposed Project

Form 26 MUST BE COMPLETED AND ATTACHED WITH EACH PROPOSED PROJECT REQUEST

PROJECT TITLE Security Fencing and Lighting		OPERATING BUDGET BRU(S) Adult Confinement - Eagle River CC		NAMES		NUMBERS		
PRIORITY	PROJECT STARTING DATE 7/1/79	ESTIMATED DATE FACILITY IN USE BY: 12/1/80	TOTAL PROJECT COST \$437,700					
LOCATION(S) Eagle River		AREA SERVED Statewide	ELECTION DISTRICT 8					
SOURCE OF COST ESTIMATE McKinley Fence Co. - Anchorage			DATE OF ESTIMATE March, 1977					

DESCRIPTION

2800 linear feet of exterior run 13' high nonclimbable mesh coated to specs. 6 guage chain link fence with razor ribbon coils on each side. Construction includes 6" wide by 36" deep finished concrete filled trench, which will contain the bottom 6" of finished fencing.

Project costs include removal of existing one direction light fixtures and wiring for two directional, light sensitive, mercury vapor lights on existing light standards.

PROJECT TYPE	
BUILDING CONSTRUCTION	EQUIPMENT
OTHER IMPROVEMENT	LAND
<input checked="" type="checkbox"/>	<input type="checkbox"/>

PROJECT PURPOSE (Check all that apply)

Major Maintenance (Rehab)	<input type="checkbox"/>
Improvement of Services	<input checked="" type="checkbox"/>
Accommodation of Increased Demand	<input checked="" type="checkbox"/>
New Program or Service Accommodation	<input checked="" type="checkbox"/>
Supploment Previously Authorized Funds	<input type="checkbox"/>
Preliminary Feasibility or Cost Studies	<input type="checkbox"/>
Other	<input type="checkbox"/>

PROJECT EXPENDITURES	TOTAL	BUDGET YEAR	BUDGET YEAR PLUS 1	BUDGET YEAR PLUS 2	REMAINING COST
TOTAL ANNUAL EXPENDITURE (Capital Cost)	437,700	437,700			
PLANNING AND ENGINEERING					
LAND					
CONSTRUCTION	397,900	397,900			
EQUIPMENT					
ADMINISTRATION AND OTHER	39,800	39,800			

APPROPRIATION REQUEST

Federal Receipts	
Required General Fund Matching	
Other General Fund	
G. O. Bonds	437,700
ASHA Bonds	
Inter-Agency Transfers	
Other	
TOTAL	437,700

OPERATIONAL COST AND NO. PERSONNEL INCREASE (DECREASE)		ULTIMATE ANNUAL	BUDGET YEAR	BUDGET YEAR PLUS 1	BUDGET YEAR PLUS 2
FUNDING SOURCE	OTHER SOURCES				
	GENERAL FUND	39,800	19,950	39,800	39,800
TOTAL ANNUAL OPERATIONAL COST		39,800	19,950	39,800	39,800
POSITIONS	FULL-TIME EQUIVALENTS				

AGENCY Health & Social Services PROGRAM Adult Confinement-Eagle River PRIORITY NO. _____

25 CAPITAL BUDGET PROPOSED PROJECT

26 Capital Budget Project Justification

OBJECTIVE:

To increase the security classification status at the Eagle River Correctional Center by adding a second lighted exterior fence around the perimeter of the existing fence.

Justify the project using the four headings below in the order they appear. Expand upon each section as required. Repeat heading when commencing response. Submit justification for each project listed in first column of Form 27. Attach feasibility studies, reports, or other documentation available. Use Form 23 as continuation sheet.

I. DOCUMENTATION OF NEED (Cite quantitative and measurable need.)

III. DOCUMENTATION OF ESTIMATED CAPITAL COST (Discuss degree of reliability.)

II. ANALYSIS OF IMPACT ON OPERATIONAL EXPENSE (Estimate and justify.)

IV. IDENTIFICATION OF ALTERNATIVES CONSIDERED (State why rejected.)

- I. The Eagle River Correctional Center is currently a minimum/medium security facility. Current and projected inmate populations indicate the need to classify more medium security inmates to that facility so as to balance the population at other institutions and increase the overall capacity of the system.
- II. The only operating cost impact directly related to the fencing and lighting project will be for the cost of additional utilities and maintenance for the expanded lighting system. Utility requirements are based on converting existing lighting units to two-directional capability utilized an average of 13 hours per 24-hour day on a year-around continuous basis. Electricity cost is projected at \$250 per month plus \$500 annually for replacement of bulbs and other maintenance on communications and surveillance equipment. Annual Debt Service - \$36,300
- III. Cost estimates are provided by Mt. McKinley Fence Co. to Alaska Correction Facility fencing specifications and reflect 2800 linear feet of exterior run fencing plus conversion of light fixtures to two directional capability. A 3' by 6" concrete filled trench is to be provided which will anchor the bottom 6 inches of fencing. This contractor has a high degree of credibility and reliability for this type of project in Alaska. An administrative charge of 10% has been added to cover DOTPF costs of overseeing the project.
- IV. The only alternative to this project is to retain the present security status at the Eagle River facility which precludes an increase in the medium security inmate population of the facility and results in overloads at other facilities, precluding maximum efficiency in the entire system.

AGENCY Health & Social Services

PROGRAM Adult Confinement-Eagle River

PRIORITY NO. _____

Project Title: Security Fencing & Lighting

26

CAPITAL BUDGET
PROJECT JUSTIFICATION

25 Capital Budget Proposed Project

Form 26 MUST BE COMPLETED AND ATTACHED WITH EACH PROPOSED PROJECT REQUEST

PROJECT TITLE Food Storage & Processing Structure		OPERATING BUDGET BRU(S) Adult Confinement - Palmer CC		NAMES		NUMBERS	
PRIORITY	PROJECT STARTING DATE 1/1/79	ESTIMATED DATE FACILITY IN USE BY: 7/1/79	TOTAL PROJECT COST \$177,000				
LOCATION(S) Palmer		AREA SERVED Statewide	ELECTION DISTRICT 6				
SOURCE OF COST ESTIMATE DOTPF			DATE OF ESTIMATE 11/15/77				
DESCRIPTION 50 x 100 foot insulated metal type farm building electrified and heated. Includes a medium to low temperature type refrigerated storage room capable of handling farm produce - potatoes, carrots, etc. Machinery includes vegetable scrubber, grader-sorter and bagger.							

PROJECT TYPE		
BUILDING CONSTRUCTION	X	EQUIPMENT
OTHER IMPROVEMENT		LAND

PROJECT PURPOSE (Check all that apply)	
Major Maintenance (Rehab)	<input type="checkbox"/>
Improvement of Services	X
Accommodation of Increased Demand	X
New Program or Service Accommodation	X
Supplement Previously Authorized Funds	<input type="checkbox"/>
Preliminary Feasibility or Cost Studies	<input type="checkbox"/>
Other	<input type="checkbox"/>

PROJECT EXPENDITURES	TOTAL	BUDGET YEAR	BUDGET YEAR PLUS 1	BUDGET YEAR PLUS 2	REMAINING COST
TOTAL ANNUAL EXPENDITURE (Capital Cost)	177,000	177,000			
PLANNING AND ENGINEERING					
LAND					
CONSTRUCTION	75,000	75,000			
EQUIPMENT	75,000	75,000			
ADMINISTRATION AND OTHER	27,000	27,000			

APPROPRIATION REQUEST	
Federal Receipts	
Required General Fund Matching	
Other General Fund	
G. O. Bonds	177,000
ASHA Bonds	
Inter-Agency Transfers	
Other	
TOTAL	177,000

OPERATIONAL COST AND NO. PERSONNEL INCREASE (DECREASE)		ULTIMATE ANNUAL	BUDGET YEAR	BUDGET YEAR PLUS 1	BUDGET YEAR PLUS 2
FUNDING SOURCE	OTHER SOURCES				
	GENERAL FUND	20,700	7,350	20,700	20,700
TOTAL ANNUAL OPERATIONAL COST		20,700	7,350	20,700	20,700
POSITIONS	FULL-TIME EQUIVALENTS				

AGENCY Health & Social Services PROGRAM Adult Confinement-Palmer-CC PRIORITY NO. _____

25 CAPITAL BUDGET PROPOSED PROJECT

26 Capital Budget Project Justification

OBJECTIVE:

To enable the Palmer Correctional Center to increase vegetables production through its farm program so as to provide most fresh vegetable needs for the entire system.

Justify the project using the four headings below in the order they appear. Expand upon each section as required. Repeat heading when commoning response. Submit justification for each project listed in first column of Form 27. Attach feasibility studies, reports, or other documentation available. Use Form 23 as continuation sheet.

- I. DOCUMENTATION OF NEED (Cite quantitative and measurable need.)
- II. ANALYSIS OF IMPACT ON OPERATIONAL EXPENSE (Estimate and justify.)
- III. DOCUMENTATION OF ESTIMATED CAPITAL COST (Discuss degree of reliability.)
- IV. IDENTIFICATION OF ALTERNATIVES CONSIDERED (State why rejected.)

I. An adequate temperature controlled storage and processing structure will enable the Palmer Correction Center to process and store on a year-around basis those produce items grown under the farm program at the Palmer Center. Current production is limited by the lack of adequate storage and processing facilities. The increased production made possible by this structure will bring about substantial savings to all State institutions which utilize produce from the Palmer facility. These savings are projected to exceed the cost of the building after a reasonable amortization period and the side-benefit of a better rehabilitation program will also be realized.

II. Annual direct operating expense is projected at \$6000. The operating expense of the facility will primarily be for utilities to sustain the temperature control system, lighting, heating, and operation of the sorting and bagging equipment. This will be more than offset by savings through lower food costs to other institutions. Annual Debt Service - \$14,700.

III. The cost is based on delivery of a prefabricated "kit" type building such as a Butler & Boise - Cascade unit which would be delivered to the facility, erected and installed by inmate labor under the supervision of facility staff, with minor local contracts as necessary for wiring, plumbing, etc. Cost projections are as follows:

Unassembled structure delivered to site	\$75,000
Food processing equipment	25,000
Temperature control facilities	50,000

An 18% administrative charge is also reflected to cover costs incurred by DOTPF for overseeing the project.

IV. There is no alternative to this facility if the farm program is to be expanded which is cost-effective and desirable from a program standpoint. The alternative is to maintain the status-quo, which places definite limits on the scope of the agriculture production program.

AGENCY Health & Social Services PROGRAM Adult Confinement-Palmer CC PRIORITY NO. _____
Project Title: Food Storage & Processing Structure

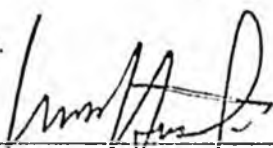
POSITION PAPER
House Bill #890

"An Act providing for the issuance of general obligation bonds in the amount of \$24,600,000 for the purpose of paying the cost of capital improvements for correctional facilities; and providing for an effective date."

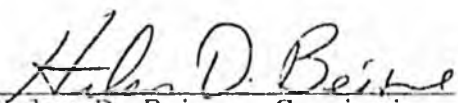
A comprehensive Justice Facilities Development Plan recently prepared by the consulting group of Gruzen & Partners/John Graham Company under contract to the Department of Transportation - Public Facilities addresses most projects included in the above amount. The purpose of the study is to provide the basis for executive and legislative decision-making with respect to the immediate facility requirements. Other closely related projects, such as security fencing/lighting have been added as interim requirements to handle exigencies of bed space pressures and program needs.

The individual capital budget project justification documents are attached for your consideration.

The Department recommends passage of House Bill #890.

Recommended by: 
William H. Huston, Director
Division of Corrections

3/23/78
Date

Approved by: 
Helen D. Beirne, Commissioner
Dept. of Health & Social
Services

3/28/78
Date

COMMISSIONER OF HEALTH AND SOCIAL SERVICES

HB

896

"An Act relating to emergency medical services."

House Bill No. 896 does several things:

- (1) Prohibits all persons from rendering emergency medical care unless they have a certificate from the Department of Health and Social Services authorizing them to do so (page 1, lines 24 to 28).
- (2) Requires the Department of Health and Social Services to establish procedures for the issuance of certificates authorizing persons to provide emergency medical services and/or operate an ambulance (page 1, lines 16 to 23).
- (3) Provides that the Department of Health and Social Services with the concurrence of the Department of Public Safety shall adopt regulations to implement the Certification process (page 1, lines 9 to 14).
- (4) Provides immunity from liability for civil damages for persons certified under the Act for good faith acts or omissions while rendering care to persons in life threatening situations. The immunity is also extended to the employer of the certified person (page 1, lines 29 and page 2, lines 1 to 13).
- (5) Provide immunity from liability for civil damages to a physician who transfers a patient to a hospital that is better equipped to treat the patient and where a prior transfer agreement has been obtained (page 2, lines 14 to 29).

The Department supports the concept of establishing minimum standards for pre-hospital emergency care personnel, vehicles, and ambulance operators as well as the extension of liability to certified providers, and physicians who transfer patients. However, the Department feels that the language regarding the issuance of permits and requiring certificates is too vague. For example the section under "Certificate Required" could, technically, prohibit the "Good Samaritan" in an extreme case, and a ski patrol member in the very realistic case, from rendering emergency care. The Department believes that the present bill should be amended to provide for only the following:

- (1) A mechanism that would give the Department authority to certify medical technicians (EMTs) as having completed an approved training course, and to recertify those who have maintained their skills.

- (2) A mechanism whereby the Department can authorize specific emergency medical technicians to perform advanced life support techniques under the written or oral direction of a physician.
- (3) A mechanism whereby the Department can certify those organizations who meet minimum operating standards to provide ambulance services.

The suggested amendments are attached.

The intended effects of the bill, if amended as suggested, would be to:

1. Establish a uniform standard for emergency medical technicians in the State of Alaska and convey the recognition by the state as meeting that standard through a certification process. At present time EMT training is carried out by over a dozen institutions with half following one standard and half another.
2. Establish uniform standards of advanced life support training and require that in order to practice those skills one must be certified by the State. While most basic EMT courses are based on a standard 81 hour national curriculum, there is no standard for teaching advanced life support techniques, nor is there a standard establishing who may provide them and under what circumstances. Advanced life support skills are those normally provided by physicians and paramedics. It is the glamor area of emergency care which is currently being abused with no way to control it.
3. Establish minimum standards for the staffing, ambulance design, equipping, and operation of an ambulance service and provide a certificate to those services that meet the standard. Currently a majority of ambulances are adequately equipped; however, others are less than adequate. Certification would be voluntary except for those that wished to provide advanced life support services. Air ambulance services would be included.
4. Provide an incentive for ambulance services and other organizations that use emergency medical technicians to use certified EMTs and provide an incentive for ambulance services to become voluntarily certified by providing immunity from civil liability for damages to those so certified.
5. Provide an incentive for physicians in small hospitals to transfer critical patients to better equipped hospitals without the fear of being held liable if the patient deteriorates during the transfer. This is especially important in Alaska where most of our hospitals are not capable of definitive care for the critically injured.

Long transport times, unstable patients and the current medical-legal atmosphere all tend to encourage the conservative treatment approach of doing all that can be done at the local level. However, the critically injured patient needs aggressive care, the kind that is provided at major hospitals and medical centers. Modern inter-hospital transfer techniques can usually provide a level of life support similar to that provided by the small hospital. Hence, the benefits of transfer outweigh the risks involved.

The Department has no intention of regulating the first aid functions of ski patrols, search and rescue groups or other health care providers licensed, certified, or regulated by Alaska Statutes.

As in the original bill, all regulations established by the Department would be concurred with by the Department of Public Safety. They will be based on realistic standards developed by the State Emergency Medical Services Advisory Council. It is not the intent of the amendments to limit the provisions of quality services but to provide an incentive to improve services.

The Department would, by regulation, delegate the personnel certification process to the Division of Occupational Licensing, Department of Commerce and Economic Development.

Recommended by: Robert I. Fraser 4/5/78
Robert I. Fraser, M.D., Director Date
Division of Public Health

Approved by: Heleen D. Beiring 4/7/78
Heleen D. Beiring, Commissioner Date
Department of Health & Social Services

Amendments to House Bill 896 proposed by the Department of Health and Social Services.

Sec. 18.08.082. ISSUANCE OF CERTIFICATES. The department shall prescribe by regulation a course of training or other requirements prerequisite to the issuance of certificates which provide for the following:

(1) certifies that a person meets the training and other requirements as an emergency medical technician;

(2) authorizes an emergency medical technician certified under this chapter to provide under the written or oral direction of a physician those advanced life support services enumerated on the certificate;

(3) certifies that a person, organization, or government agency which provides an emergency medical service meets the minimum operating standards prescribed by the department; and

(4) authorizes an emergency medical service certified under this chapter to provide under the written or oral direction of a physician those advanced life support services enumerated on the certificate.

2. Page 1, lines 24 to 28 are deleted and replaced with the following:

Sec. 18.08.082. CERTIFICATE REQUIRED. (a) No person may represent himself, nor may an agency or business represent an agent or employee of that agency or business as an emergency medical technician certified by the State of Alaska unless the person represented is certified as an emergency medical technician under sec. 82 of this chapter.

(b) No person, organization, or government agency may represent itself as an emergency medical service or ambulance service certified by the State of Alaska unless the person, organization, or government agency is certified as an emergency medical service under sec. 82 of this chapter.

(c) No person may provide, offer, or advertise to provide advanced life support services outside a hospital unless authorized under sec. 82 of this chapter or other chapters of these statutes.

(d) No person, organization, or government agency which provides, offers, or advertises to provide an emergency medical service may provide advanced life support services unless authorized under sec. 82 of this chapter.

3. Page 2, line 7 is amended to read:

"section does not preclude liability for civil damages which is the proximate"

4. Page 2, line 27 is amended to read:

"(3) the physician has secured a prior written agreement from the"

5. Page 3, lines 7 to 13 are deleted and replaced with the following:

(7) "advanced life support services" means emergency care techniques provided under the written or oral orders of a physician which include, but are not limited to, cardiac defibrillation, administration of antiarrhythmic agents, intravenous therapy, administration of specific medications and drugs and solutions, intramuscular therapy, or use of adjunctive ventilation devices;

6. Page 3, line 18 is amended to read:

"(9) "emergency medical care" means the services utilized"

7. Page 3, line 21 is amended to read:

"psychological illness or injury;"

8. Page 3, line 22. Add the following:

(10) "emergency medical service" means the provision of emergency medical care and transportation of the sick and injured. For the purposes of this chapter organized ski patrols and search and rescue teams are not included under the definition;

(11) "emergency medical technician" means a person trained in emergency medical care and certified in accordance with the regulations prescribed under sec. 80 of this chapter.

NORTON
SOUND
HEALTH
CORPORATION

P. O. Box 966

Nome, Alaska 99762

443-2261

March 29, 1978

Representative Charlie Parr
Pouch V
Juneau, Alaska 99811

Subject: House Bill 896

Dear Representative Parr:

The Norton Sound Health Corporation expresses its support of the intent of House Bill No. 896; however, as currently stated, it is confusing and conflicting. For example: Sec. 18.08.084 Certificate required, No person may provide, offer or advertise to provide emergency medical services, including advanced life support, nor operate, or offer or advertise to operate an ambulance on a regular basis, unless authorized by a certificate issued under Section 82 of this chapter.

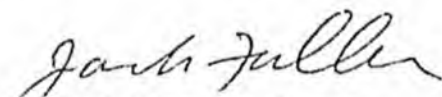
This implies that a citizen could not administer CPR or stop bleeding by applying direct pressure in an emergency on the street without prior authorization by the State. This would be totally disastrous and we cannot believe this is your intent.

In addition, the Health Aides in the villages have individual degrees of knowledge and proficiency. Because of the high degree of turnover in their ranks, many new aides function for a time without formal training until they can be brought into Nome for Community Health Aide classes.

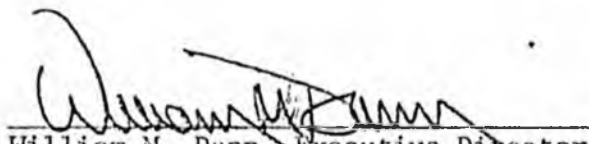
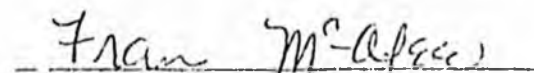
Under the bill as it now reads these people who provide the only health care in the village including emergency care would be guilty of a misdemeanor.

House Bill Number 896 as now stated just might have made the first "Good Samaritan" go right on by.

Sincerely,



Jack Fuller, Chairman
Board of Directors
Norton Sound Health Corporation


William M. Dann, Executive Director
Norton Sound Health Corporation
Fran McAfee, Coordinator
Emergency Medical Services
Norton Sound Health Corporation

cc: Myrtle Johnson, Office of the Governor
Nome

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Copies returned

Fairbanks Memorial Hospital

1650 Cowles St.

FAIRBANKS, ALASKA 99701

OPERATED BY
LUTHERAN HOSPITALS AND HOMES SOCIETY
FARGO, NORTH DAKOTA 58102

March 29, 1978

Representative Charlie Parr
Legislative Affairs
State Building, Rm. 144
Fairbanks, AK 99701

RE: House Bill 896

Dear Representative Parr:

We are very concerned that this bill dealing with transporting patients addresses both emergency medical technicians and physicians, but does not address the liability of nurses.

I would suggest that our hospital probably transports patients as much as any hospital in the State. I would guess that in 90 percent of these cases, a nurse accompanies the patient. We are very interested in getting this bill amended to cover nurses as well as physicians and emergency medical technicians.

Sincerely,

Tom Minger
Tom Minger
Administrator

TM/ed

Fairbanks Memorial Hospital

1650 Cowles St.

FAIRBANKS, ALASKA 99701

March 30, 1978

OPERATED BY
LUTHERAN HOSPITALS AND HOMES SOCIETY
FARGO, NORTH DAKOTA 58102

Charlie Parr
Alaska Legislature
Pouch V
Juneau, Alaska 99801

Dear Charlie,

Recently I obtained a copy of House Bill #896 and it is my understanding that the Hess Committee will be reviewing this bill next week.

Under Section 18.08.086 (b) the physician is protected from liability when arranging for the transfer of patients from one hospital to another as outlined in the bill. I would advocate that nurses who accompany the patients during transfer be included in the immunity from liability.

In practice physicians do arrange for the transfer as outlined in this bill. However, it is almost always a registered nurse that accompanies the acutely ill patient and is responsible for that patient's well-being during the air transport. Our hospital does not extend it's liability coverage to these nurses once they leave our facility. I have validated the fact that our hospital insurance carrier does not cover a registered nurse during the transfer time. Apparently the sponsor of this bill, Tom Scott, was under the impression that hospital liability coverage did extend to include these situations. It does not. Currently many nurses are reluctant to provide nursing care for transfer patients because they lack protection from liability.

Hospital employed nurses are not generally involved in the delivering of emergency medical services outside of the hospital. The one exception is the transport of acutely ill patients from one hospital to another. In Alaska this usually involves air transport. I would certainly encourage and support including registered nurses under the provisions of this bill and grant them the same protection given to physicians and EMT's. Registered nurses do assume a great responsibility when they provide nursing care for the acutely ill patient during the ground and air transport of that patient from one hospital to another.

Thank you for your time and consideration.

Sincerely,



M. J. Emmert, R.N.
Director of Nursing Service

Parr - plz return



THE AMERICAN RED CROSS

QUIANNA CHAPTER
P.O. BOX 966
NOME, ALASKA 99762
PHONE (907) 443-2261
March 29, 1978

Representative Charlie Parr
Pouch V
Juneau, Alaska 99811

Dear Representative Parr:

The Quianna Chapter of the American Red Cross of Nome, Alaska is concerned with Section 18.08.084 of House Bill 896. As currently stated, it is confusing and conflicting. For example: Sec. 18.08.084 Certificate required, No person may provide, offer or advertise to provide emergency medical services, including advanced life support, nor operate, or offer or advertise to operate an ambulance on a regular basis, unless authorized by a certificate issued under Section 82 of this chapter.

First Aid Training is one of the top priorities of the Chapter. As presently stated, First Aiders who attempt to or give first aid to their neighbors will be guilty of a misdemeanor unless they receive prior certification. Surely this is not the intent of the bill.

We have requested a teleconference on the issue through Myrtle Johnson and look forward to discussing House Bill 896.

Thank you for your attention.

Sincerely,

Fran McAfee

Fran McAfee
Quianna Chapter
American Red Cross
Box 966
Nome, Alaska 99762

cc: Myrtle Johnson, Office of the Governor
Nome

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THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 896
 Title An Act relating to Emergency Medical Services
 Requested by House HESS Committee Date 4/1078

II. FISCAL DETAIL

Agency Affected Health and Social Services
 Program Category Affected Health
 Budget Request Unit(s) Affected Certification and Licensing

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES			34.8	36.8	39.1	41.4
200 TRAVEL			5.3	5.6	5.9	6.2
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT			.4	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			40.5	42.4	45.0	47.6

FUNDING (Thousands of Dollars)

GENERAL FUND			40.5	42.4	45.0	47.6
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME			1/12	1/12	1/12	1/12
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This analysis assumes the responsibility for certification of ambulance services will be delegated to the Certification and Licensing Section, Division of Public Health. It is presumed that this function will begin July 1, 1979 following development of regulations by the Emergency Medical Services Section and the State Emergency Medical Services Advisory Council. Travel to inspect 40-45 ambulance services will be combined with inspections of other health facilities in the area for more efficient use of manpower and funds. Therefore projected travel amounts are only half as costs will be pro-rated among other funding sources within the Certification and Licensing BRU. A detailed analysis of expenditures is attached.

IV. DATE 4/12/78 PREPARED BY Thomas D. Scott
 AGENCY Public Health, EMS
 PHONE 465-3027
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Health Facilities Surveyor

R-18 2156 x 12 mos x 6%

inflation = 27,424

Benefits = 4730 FICA = 1659

Health Ins. = 986

\$34,799

Travel to inspect 40-45
ambulance services will
necessitate 15 trips to
areas throughout the state
at an average cost of \$700
per trip, including air fare,
auto rental and per diem.
15 x \$700 x 50%

5,250

Executive desk

300

Chair

85

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 896
 Title An Act relating to emergency medical services
 Requested by Health and Social Services Date 4/12/78

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development
 Program Category Affected Public Protection
 Budget Request Unit(s) Affected Regulation and Licensing of Professions

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES	/	/	18.6	19.7	20.9	22.1
200 TRAVEL	/	/	0	0	0	0
300 CONTRACTUAL	/	/	2.6	2.7	2.9	3.1
400 COMMODITIES	/	/	.2	.2	.2	.2
500 EQUIPMENT	/	/	1.5	0	0	0
600 LAND & STRUCTURES	/	/	0			
700 GRANTS, CLAIMS, ETC.	/	/	0			
TOTAL			22.9	22.6	24.0	25.4

FUNDING (Thousands of Dollars)

GENERAL FUND			22.9	22.6	24.0	25.4
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME			1/12	1/12	1/12	1/12
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This analysis assumes the responsibility for personnel certification will be delegated to Commerce by the Legislature. If it is not, no fiscal impact is expected. Travel funding is not requested as it is, further assumed Health and Social Services will fund hearings and facilities inspections. Inflation is computed at 6% per year and the effective date is presumed to be July 1, 1978. Health and Social Services has estimated certifiable personnel at 850. Twelve man months funding is requested based on this estimate. A detailed analysis of expenditures is attached.

IV. DATE 4/12/78 PREPARED BY SHARON ANDREW
 AGENCY OCCUPATIONAL LICENSING
 PHONE 465-2535
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

PERSONAL SERVICES

Occupational Licensing Examiner I, R-10	14,328
Benefits = 2,472; FICA = 867; Health Insurance = 986	<u>4,325</u>
	18,653

CONTRACTUAL

Communications: Postage, phones, tolls, etc.	1,040
Printing and advertising: Forms and notices	<u>1,500</u>
	2,540

COMMODITIES

Office and Library Supplies: General office consumables	200
---	-----

EQUIPMENT

Desk - secretarial with typing extension	362
Chair - secretarial	85
Utility table	95
File cabinet - five drawer legal with lock	213
IBM Selectric Typewriter	<u>792</u>
	1,547

HB 896
Ad 4/12/78

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

3/20/78

Date: _____

Mr. Speaker:

The Committee on HESS has had HB 896
"An Act relating to emergency medical services."

under consideration and (a majority of the committee) (the committee reports it back as follows)

- recommends it do pass () recommends it do not pass
- () recommends it do pass with attached amendmenc(s)
- () recommends it be replaced with CS for _____

and _____ () new title () same title

- () AND attaches a Letter of Intent () New Fiscal Note
- () reports it back without recommendation
- () and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

Chairman

HB

897



THE ALASKA PARAMEDIC ASSOCIATION
P.O. BOX 4-478 ANCHORAGE, ALASKA 99509

April 11, 1978

Mr. Charles Parr
Pouch V
Juneau, Alaska
99811

Dear Representative Parr:

The Alaska Paramedical Association is an organization of persons interested in improving emergency medical care in Alaska. It has come to our attention that your committee is currently considering emergency medical legislation.

After evaluating House Bills 896 and 897, the Alaska Paramedical Association would like to go on record as fully supporting both of these critical bills. The lack of emergency medical service regulation in this State has severely hampered the comprehensive development of EMS. Without a uniform approach to EMS, serious problems will develop. Right now anyone can establish a pre-hospital care activity, staff it with substandard personnel and equipment, and still represent themselves as an adequate service. If we are to truly assist our fellow residents, we must insure that the best possible training and equipment are available. One wrong procedure in removing a victim from an automobile wreck could result in permanent paralysis or death. It is estimated that a single spinal injury costs \$750,000 to rehabilitate. Proper prehospital care is the single most important event in precluding these injuries.

We must have your support if we are to improve our services to the patient. I and all the members of the Alaska Paramedical Association urge you and your colleagues to approve House Bills 896 and 897. We promise that this money will be well spent and show an improvement in Alaskan health care.

Thank you for your assistance.

Sincerely,

David Decker,
President
Alaska Paramedical Association
P.O. Box 900
Anchorage, Alaska 99510

1327 Nelchina
Anch. AK. 99501
March 10, 1978
Return #1. R¹⁰*

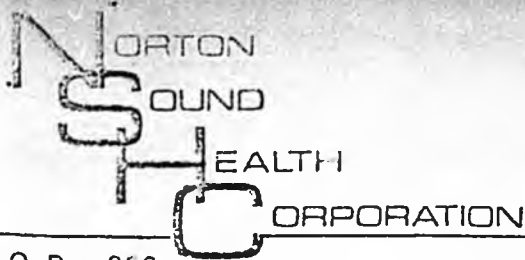
Alaska State House of Representatives
Pouch V State Capitol Bldg.
Juneau, AK. 99811

Dear CLARK GRUENING:

MR. LA FEVERS came to our class and talked about EMT's. What if I get hurt, I don't want know meat wagon picking me up if they do not know what they're doing. They could kill me. They might give me some medicine and they might not know what it is. He showed us some video tapes and talked to us how people go and get a license so they pick up people and don't know what to do. So for our protection would you please pass a Bill so other people could have MORE TRAINING.

Sincerely,

Dawn K. Manley



F. O. Box 966

Nome, Alaska 99762

443-2261

March 29, 1978

Representative Charlie Parr
Pouch V
Juneau, Alaska 99811

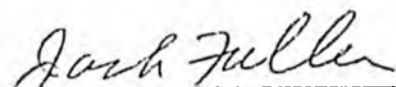
Subject: House Bill 897

Dear Representative Parr:

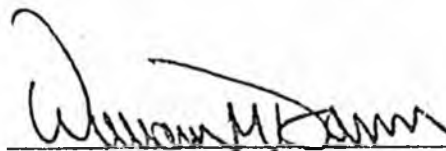
The Norton Sound Health Corporation expresses its support of House Bill No. 897 appropriating \$500,000 from the General Fund to the Department of Health and Social Services to meet expenses of operations and training of the EMT Training Program and to provide grants-in-aid for the support of emergency medical services.

Due to the vastness of Alaska and the limited federal dollars available we urge the immediate passage of House Bill No. 897 if we are to develop a medivac system capable of saving lives and reducing injuries.

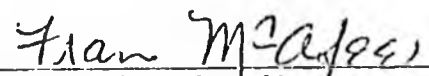
Sincerely,



Jack Fuller, Chairman
Board of Directors
Norton Sound Health Corporation



William M. Dann, Executive Director
Norton Sound Health Corporation



Fran McAfee, Coordinator
Emergency Medical Services
Norton Sound Health Corporation

cc: Myrtle Johnson, Office of the Governor
Nome

1001

- Research status of bill referred to (if not an appropriate)
- inform Stephen & details of development of bill CS etc.
- draft letter in support.

March 14, 1978

Representative Clark Gruening
Pouch V
Juneau, Alaska 99811

Dear Mr. Gruening:

It has come to my attention that a bill to provide state funds to help improve emergency medical services is soon to be considered by the State legislature. Research has shown that rapid response to the scene of sickness or injury greatly reduces needless suffering or death. Unfortunately, here in Alaska there are numerous areas where neither quick response nor adequately trained personnel are possible due to the lack of locally available funding sources. I believe that the people of Alaska have the right to expect proper medical treatment and that the State Government should assist in making such care possible.

Of particular concern to me is the proper training of Emergency Medical Technicians. Without a well trained group of EMT's it is impossible to provide suitable emergency care. The Southern Region Emergency Medical Services Council, a nonprofit corporation, has developed a traveling EMT training program which has greatly assisted in the development of ambulance personnel throughout the area and the state.

We believe that of all places, in Alaska where the emergency care provider must often be the sole care provider not for just minutes, but sometimes for hours or days, he must be well trained. He should be given his background in medical care from people who have a background in medical care. He must be taught not merely to act mechanically, but to understand what he is doing and why he is doing it. And he must be able to progress, to learn more, to become better at his job through continued education, refresher training and training advances whenever feasible and desirable.

I believe that the Southern Region EMS Council is best able to fill the training requirements of the Emergency personnel of Alaska. Their record and the testimony of the people they have trained and places where they have worked to improve emergency care will attest to that. Unfortunately, this program is funded by federal grants and there is a distinct possibility that these federal funds will not be available in the future.

The chances of surviving a serious illness or accident without suffering prolonged pain and/or permanent physical disability or death are improving. But there is still a long way to go. I urge you for my sake, for your sake, and for the sake of all Alaskans to support the bill to provide state funds for the development of Emergency Care systems in Alaska, and particularly for the continued development and training of EMT's by the Southern Region EMS Council.

Sincerely,



Stephen Lal'evers

Voter Registration #02480192

1210 Delch.
Anch, Ak. 9950
March. 14, --78

Alaska State House of Representatives
Pouch U State Capitol Bldg.
Juneau, Ak. 99811

Dear Clark Gruening,

Tuesday March 7, 1978 Mr. Lafzvers
came into our classroom & talked about E.M.T.s,
Emergency Medical Technicians. I would
like you to pass a law to all the cities to have
E.M.T.s instead of meat wagons. Thank
YOU

Sincerely,

Willie Wilpink

Even starting

Sincerely

Mr. Liffers came to talk to us about E.M.T.s. Emergency medical technicians. I would like you to pass the law that every town should have E.M.T.s. I don't think you or anyone would like to get picked up by a meat wagon. A meat wagon is a station wagon and some body with a license. Please pass the law that every town should have E.M.T. trainers.

Dear Clark Greening

Timothy, R.K., 99511

Pouch V State Bldg

Alaska State House of Representative

March 14, 1976

Anch AK 99501

933 E 11th St

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 897
 Title Special appropriation \$500,000, Emergency Medical Services
 Requested by House HESS Committee Date 4/10/78

II. FISCAL DETAIL

Agency Affected Health and Social Services
 Program Category Affected Health
 Budget Request Unit(s) Affected Emergency Medical Services

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES	/					
200 TRAVEL						
300 CONTRACTUAL		35.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		465.0	500.0	500.0	500.0	500.0
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		500.0	500.0	500.0	500.0	500.0
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This analysis is based on the total FY79 grant request for Emergency Medical Services of \$1,240.5 to carry out the following programs. Maintain the Emergency Medical Services Section to plan and coordinate the implementation of statewide Emergency Medical Services System. The State will award 1203(2) grants to the Nana and Southeast Regions to complete their implementation of a Basic Life Support (BLS) System. A grant will be awarded to South-central Region (consisting of Bristol Bay, Yukon-Kuskokwim, Bering Straits, and Southern Regions) for a cooperative effort to begin development of a Basic Life Support system for the entire area. Additionally the state will award a 1203(3) grant to the Interior Region and a one-year extension to complete their establishment of a BLS System, including a reimburseable services agreement with Division of Communications for the installation of equipment to

IV. DATE 4/12/78 PREPARED BY Thomas D. Scott
 AGENCY Public Health, EMS
 PHONE 465-3027
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

extend ambulance to hospital radio coverage from Fairbanks down the highway to Northway. (The Interior Region has exhausted its eligibility for 1203 federal funds for BLS implementation, but still has a year's work left to complete implementation before moving on to advanced life support planning and implementation). A grant will be awarded to the Southern Region Emergency Medical Services Council, Inc. based in Anchorage, to continue the statewide training and refresher training of Emergency Medical Technicians. Two contracts for additional statewide programs would be let. An ambulance reporting data system would be designed by the Data Services Unit, Department of Health and Social Services. A statewide air ambulance survey would be conducted to investigate emergency medical evacuations and to evaluate the impact if proposed FAA regulations are promulgated requiring all air services providing emergency evacuations to have medical personnel and equipment.

Based on funding levels for the past three years and indications from DHEW/EMS, Region 4, the state anticipates that it will receive \$740. in federal funds for FY79.

The following detailed analysis shows how the general fund appropriation will be used to supplement the federal funds.

<u>Category</u>	<u>State</u>	<u>Federal</u>	<u>Total</u>
Personal Services		154.7	154.7
Indirect Cost Rate		17.6	17.6
Travel		39.9	39.9
Contractual			
Rent, phone, etc.		17.6	17.6
Statewide programs*		72.0	72.0
RSA, Divn. Commun.	35.0		35.0
Data System		17.5	17.5
Air Ambulance Survey		50.0	50.0
Fuel, maintenance, Healy & Cooper Landing Ambulances	.5		.5
Supplies		2.5	2.5
Grants			
Mauneluk Assoc. Nana			
Region 1203(2)	30.0	73.0	103.0
Southeast EMS 1203(2)	90.0	205.2	295.2
Southcentral 1202(1)	90.0	90.0	180.0
Interior EMS 1203(3)	85.0		85.0
Statewide EMT Training	170.0		170.0
Total	500.5	740.0	1240.5

(*Includes Annual EMS and EDNA Symposium [12.0], Critical Care Consultants [24.0], Medical Director [24.0], Newsletter [9.0], A-V purchases and slide show [3.0])

"An Act making a special appropriation to the Department of Health and Social Services, Division of Public Health, for expenses of the Emergency Medical Services Section and to provide grants-in-aid for the support of emergency medical services; and providing for an effective date."

The Emergency Medical Services Section has been charged with coordinating the development of emergency medical services in the State of Alaska. To this point in time the program has been funded with grants from the U.S. Department of Health, Education and Welfare under Title XII of the Public Health Service Act, "Emergency Medical Services Systems". The only state general fund appropriation has been \$500 for gas and oil for the ambulances at Healy and Cooper Landing. (Title XII funds cannot be used for this purpose.)

The Act provides funds for Emergency Medical Service Systems on a regional basis. The program seeks to upgrade and organize all of those components necessary to care for the emergency facilities, critical care units, public safety agencies, transfer agreements, coordinated recordkeeping, consumer information and education, disaster linkage, mutual aid agreements, and evaluation of care.

For the purposes of this program the State has been divided into eight regions with each region eligible for up to six years of federal support divided into the following phases:

- (1) Feasibility studies and planning, 1 year (1202)(1)
- (2) Establishment and initial operation, 2 years (1203)
- (3) Planning for expansion, 1 year (1202) (2)
- (4) Expansion and Improvement, 2 years (1204)

The attached map shows the current status. The federal funds are seed funds and cannot be used to support the delivery of services.

The grant applications for FY 79 have recently been submitted to Region X for consideration. The applications request a total of \$1,236,672 and would provide funds for the following.

- (1) 1203 (2) grant to Southeast EMS Council Inc. in the amount of \$295,215.
- (2) 1203 (2) grant to Mauncluk Association in the amount of \$102,702.
- (3) 1202 (1) grant to Southern Region EMS to plan for the four Southcentral Regions: Bering Straits, Yukon-Kuskokwim, Bristol Bay and Southern. The amount requested is \$180,000.

- (4) 1202 (2) grant to Physician Services in Fairbanks to plan for the expansion and improvement of the Interior Regional EMS System in the amount of \$117,260.
- (5) Statewide EMT training grant to Southern Region EMS Council, Inc. in the amount of \$170,000.
- (6) Staff the EMS Section, Division of Public Health and the State EMS Advisory Council in the amount of \$231,955.
- (7) Miscellaneous contracts in the amount of \$139,500.

The outlook for receiving all of the funds requested is very poor. The indications are that there will be no funds available for 1202 (2) grants anywhere in the country this year. This means that the Interior Region program will go into limbo. Region X has indicated that there will be approximately \$700,000 to fund the rest of the program with priority going to 1203 grants for Southeast and Nana and support of the State staff and programs. However, the statewide EMT Training program would be a low funding priority as the funds are for system development and federal support for the training program has been available from USDOT and DHEW for six years. Therefore, Region X feels the program should be self-supporting or, if not, it should be supported from other funds.

Should this appropriation pass, the Department would recommend that it be used to fund those portions of the FY 79 grant request not funded by DHEW.

The Department of Health and Social Services supports the concept House Bill No. 897 but cannot recommend increases above the Governor's budget.

Recommended by:

Robert I. Fraser, M.D.
Director, Div. Public Health

30 Mar 78
Date

Approved by:

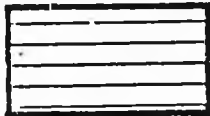
Helen D. Beirne
Helen D. Beirne, Commissioner
Department of Health and Social Services

4/4/78
Date

NO
ACTIVITY



1203(1)



1203(2)

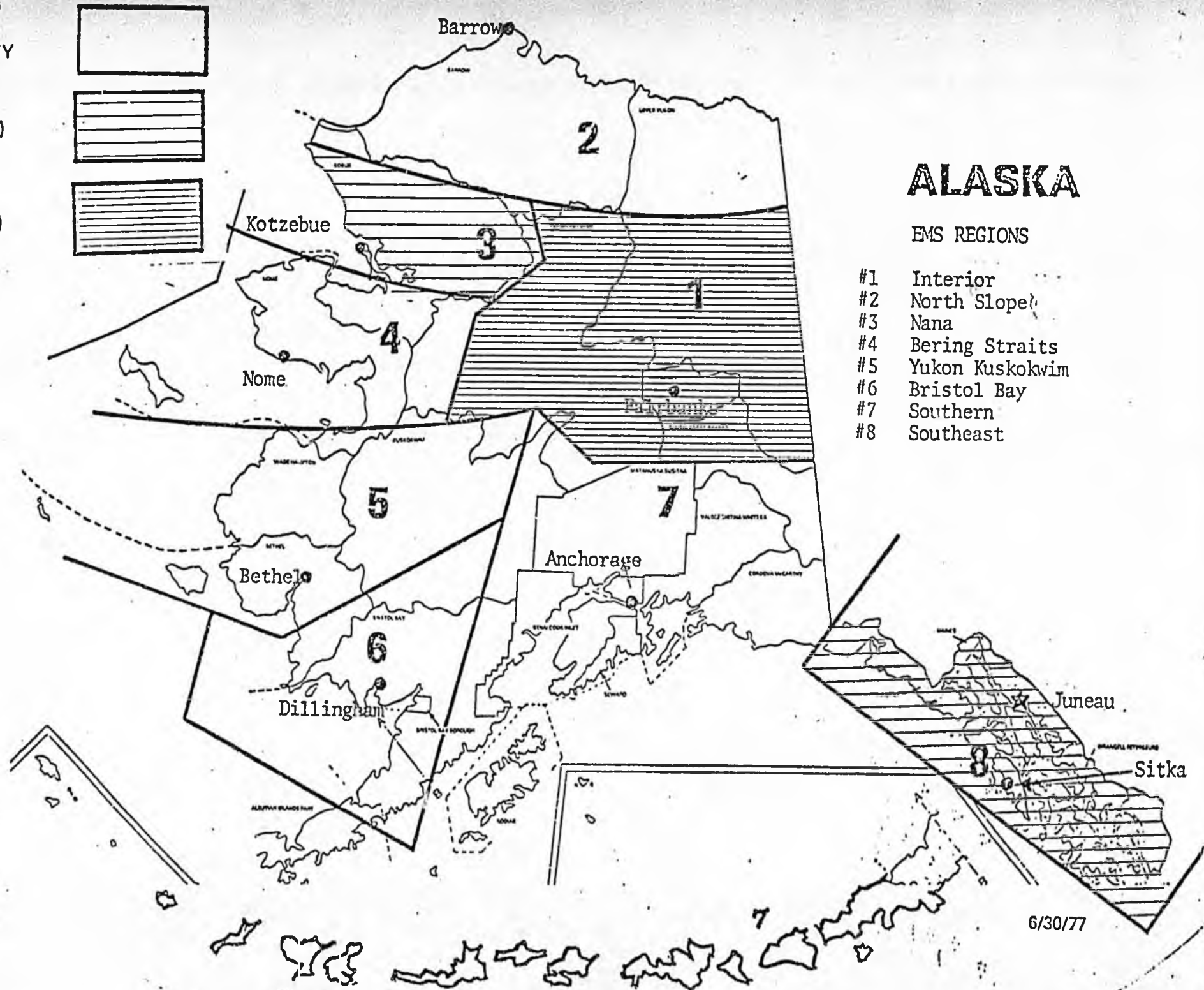


ALASKA

EMS REGIONS

- #1 Interior
- #2 North Slope
- #3 Nana
- #4 Bering Straits
- #5 Yukon Kuskokwim
- #6 Bristol Bay
- #7 Southern
- #8 Southeast

iii



HB

913

COMMITTEE REPORT

HOUSE

5/5/78

FURTHER: _____

Date: _____

Mr. Speaker:

The Committee on HESS has had HB 913
"An Act relating to day care programs."

under consideration and (a majority of the committee) (the committee reports it back as follows)

- recommends it do pass recommends it do not pass
 recommends it do pass with attached amendment(s)
 recommends it be replaced with CS for _____

and _____ new title same title

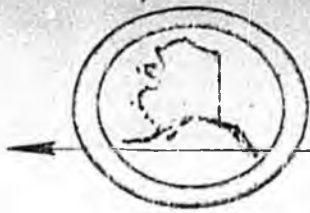
- AND attaches a Letter of Intent New Fiscal Note
 reports it back without recommendation
 and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

ADD OR ADPASS

Chairman



ombudsman

Frank Flavin

State of Alaska
360 "K" Street, Room 246
Anchorage, Alaska 99501

(907) 276-4011

October 20, 1977

Eric Lee, Director
Division of Community and Rural Development
Department of Community and Regional Affairs
Bayview Commercial Building Suite 230
619 Warehouse Avenue
Anchorage, Alaska 99501

Re: Ombudsman Complaint 77-1421
(Findings)

Dear Mr. Lee:

Please be advised that the above-noted complaint has been investigated and has been found to be a partially-justified complaint. However, based on conversations with my assistant, I believe we can come to a mutual agreement regarding future action in this case.

The complaint, filed by Dr. Frank Gold of Fairbanks, alleged that your office improperly and unfairly prevented him from obtaining a contract to administer the Day Care Assistance Program within the area of the Fairbanks North Star Borough. Letters from your office to the Borough Assembly and the Borough Mayor became the basis upon which that governmental body determined not to award a second year's day care contract to Dr. Gold.

Dr. Gold has charged that action, based on erroneous grounds outlined in the letters, was an abusive overextension of the State's authority in administering monies for the program.

We have reviewed the files, both in Anchorage and Fairbanks, interviewed several administrators of the day care program, Community and Regional Affairs personnel, Fairbanks officials, day care assistance recipients, and of course, Dr. Gold.

As the entire complaint and resulting situation is to be considered by the Borough assembly again soon, we find it appropriate, and hopefully helpful to all parties, to detail the history of this day care assistance administration in Fairbanks; our findings regarding the Division of Community and Rural Development; and our recommendations, based on those findings. Our intent, by means of the recommendations, is

Eric Lee
October 20, 1977
Page 2

to afford an impartial look at the record, set that past record straight, and hopefully, to suggest improvements for this needed program.

SUMMARY OF BACKGROUND RECORD

After the Fairbanks Borough determined there was need for day care assistance, as provided for in AS 44.47.250, the Borough began implementing its own program through funds provided by the Department of Community and Regional Affairs.

The program was administered directly by the Borough through the end of 1976. Due to a transfer of the Central Child Care Coordinator's office from Juneau to Anchorage in the summer of 1976, a timely approval of the FY 1977 Day Care Assistance grant to the Fairbanks North Star Borough was not possible until September, 1976. In a letter dated August 26, 1976, F. Harvey Pitts, the Child Care Coordinator, stated he had received the application for the next year's program funds. At that time, he said the proposal "appears in order and has my approval", but said until the final authorization came through, he would extend the FY 1977 contract to the end of September, 1976. It is important to note here that a copy of that letter was sent to Dr. Frank Gold, who had previously signed a contract with the Borough to begin administering the Day Care Assistance Program on July 1, 1976. Although the FY 1977 contract from the Department to the Borough was not finally approved until September 24, 1976, it was backdated to become effective July 1, 1976.

The Borough, State and Dr. Gold's files all are in agreement that Dr. Gold began administering the Day Care Assistance program in July of 1976. He had not solicited the contract, but rather, he had been approached and asked by borough officials if he would be interested in a contract. He was interested and soon took over full administration of the program.

Regarding legislative intent concerning the statute requiring the Department's permission prior to subcontracting, the record and your recollection of this provision indicate the inclusion was aimed at rural areas. Fairbanks is not a rural area, but the law does not distinguish a difference, between urban and rural areas, thus letting the Fairbanks Borough Assembly opt for subcontracting.

In FY 1977, (contract signed in September, 1976) there was no discussion of the merits of in-house versus subcontracting the program, nor was there any request or demand for permission to subcontract. The reading of the law at the time and the

interpretation up until this past May was that "permission to subcontract" meant the State could allow a municipal government to move the Day Care Assistance Program administration out of its own offices and subcontract. The involvement the State had in the actual subcontractor choice was negligible, at least according to the Borough's interpretation and the 1976 experience.

After a month and a half of program administration, Dr. Gold found he had more applicants than he had anticipated money for the rest of his contract term. Part of this reason was the expressed desire of the State that the program be advertised widely in the North Star Borough area. And, examination of the contract, the regulation manual and the statute are in conflict regarding what the responsibility of the administrator actually is in meeting the demands of all those applicants that qualify for the assistance.

The statutes potentially (from AS 44.47.250 through AS 44.47.3.0) allow for the Department to establish guidelines for parent eligibility, provides for subcontracting the assistance program administration, and sets out the parent responsibility in finding a licensed day care facility for his or her child. It does not directly address how eligible families are to be cut from the program.

The Day Care Assistance Manual (page 2) states: "It is not the purpose of this program to provide free day care to all qualifying for assistance. Current funding does not permit the State to subsidize all eligible families; therefore, lower income families will be given priority."

The contract between the State and the North Star Borough as well as the subcontract between the North Star Borough and Dr. Gold, however, both contain the following section (5) as part of Appendix A, which is to be considered a part of both contractual agreements:

"(5) The contractor agrees to serve all families with reasonable access to licensed day care facilities within the Fairbanks North Star Borough."

Observing that he had reserve money to fund AFDC and WIN recipients, and in light of the aforementioned conflict in interpretation limiting subsidies amongst eligibles, Dr. Gold chose to exercise the flexibility called for in the Day Care Assistance Manual's stated purposes and goals of the program. These purposes, directly quoted, are:

Eric Lee
October 20, 1977
Page 4

"The act gave responsibility for administration of the program to the Department of Community and Regional Affairs in the hope of encouraging local government participation in the delivery of day care services.* The Department will contract with local communities for direct program administration in order to allow as much local responsibility as possible while assuring the requirements of the law are met."

Where the law gave the department responsibility for allocating its appropriated funds, it also allowed -- and actually encouraged where applicable -- the local governments to subcontract to a local administering agency. The law (AS 44.47.250 (b) (2)) requires C&RA's permission to subcontract; the manual and subsequent contracts call for that permission to be in writing.

Less than one month after the State and Borough had firmed up their mutual contract for FY 1977 funds (on September 24, 1976), Dr. Gold determined that the contractual amount would be far short of the Fairbanks North Star Borough's demand. On October 18, 1976, he wrote to Pitts requesting an additional \$70,000 to \$100,000 to meet the needs projected for the entire fiscal year. Pitts responded in an October 20, 1976 letter that an additional \$22,125 was allocated to the Fairbanks program. He stated, "The problem is, of course, insufficient funding to accommodate all persons eligible for Day Care Assistance." He further suggested that a maximum monthly mean subsidy be established as a monthly ceiling. This would allow for continued funding of AFDC families for the entire year. Pitts stated that after the additional October allocation, there would be "no more additional funds which can be made available" to the Borough during fiscal '77. He suggested that to stay within the monthly ceiling allocations, Dr. Gold curtail assistance beginning with those recipients in the higher income groups.

On October 26, 1976 (or two days after receiving Pitts' letter), Dr. Gold computed a monthly average and sent out a letter to some of the recipients that their assistance would be dropped November 1, 1976. Copies of this letter were sent to both Pitts and Helen Blevens, the Borough's Treasurer.

* This is consistent with the statutory powers and duties of C&RA "to advise and assist local governments" (AS 44.47.050 (1); and to supervise, monitor, and otherwise help make local governments eligible for State, federal and other grants.

Eric Lee
October 20, 1977
Page 5

That letter, which became the form for future notification of other applicants who would have to be dropped to allow Dr. Gold to stay within his monthly mean averages, included the following paragraph:

"Due to the inadequate amount of funds provided to the Fairbanks North Star Borough Day Care Assistance Program, it is impossible to continue funding all day care payments for the entire year."

Pitts' Anchorage file shows this copy with no corresponding letter even mentioning--much less criticizing--the explanation Dr. Gold was using.

More low income applicants continued to apply for new Day Care Assistance, thus mandating Dr. Gold to rework his allowable "eligibles" list to stay within his monthly mean. In order to continue giving priority to applicants with lower incomes, even if they were newer applicants than some other higher income eligibles still getting subsidies, Dr. Gold had to revert to cutting off new groups of eligibles within the higher income brackets. This is his understandable explanation of the necessity of staggered elimination of higher income group recipients as the fiscal year progressed.

Admittedly, the above was not his only reason for delaying notification of those who eventually were cut from the program with only a few days' notice. Dr. Gold operated under apparently acceptable interpretations of the contractual terms of serving all eligible families in the Fairbanks Borough area and under the expressed C&RA desire for local flexibility. Dr. Gold considered this short notice (which caused some admitted hardships) as serving the client community until he was forced to cut them from the program. His explanation is that at least four Fairbanks legislators were openly working to expedite a speedy supplemental allocation to the Statewide program, with special attention to the Fairbanks plight.

More money from within C&RA was forthcoming on February 10, 1977, when Pitts and Dr. Gold discussed the new availability of \$18,054 which came from unspent day care assistance money not used by another community. With the initial \$106,495 contract monies, the October \$22,125 monies and this new February allocation of \$18,054, the Fairbanks North Star Borough allocation was a total of \$146,674. This figure was still some \$55,000 short of Dr. Gold's first forecast of the Fairbanks day care needs of \$200,000 in early fall--and about half his January, 1977 forecast to legislators based on increased demands for the assistance from Fairbanksans.

Eric Lee
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The administration of the program by Dr. Gold was of no serious concern to the Department's Chief Day Care Coordinator, as is evident in the letter Pitts sent Gold confirming the above additional allocation. Pitts, in a letter dated February 18, 1977, stated, "As in the past, Frank, keep up the good work. I still plan to stop by and visit with you as soon as I can find the time to get out of the office."

File records show that Dr. Gold had incurred no major criticism by the Department, at least through Pitts' previously mentioned letter. The first signs of unrest due to Dr. Gold's management can be evidenced in your trip report dated February 9, 1977 (which was prior to Pitts' above comments of good work.) In that report where you detail discussions with Dr. Gold, you stated, "It is difficult to get the idea across that this is not a "welfare" type program where everyone who meets the guidelines is entitled to service . . . We must address this as a political issue. I would strongly recommend against any supplemental appropriations to Fairbanks or other communities. In my opinion, a supplemental would be rewarding poor planning and mismanagement and penalizing those communities who have conducted a responsible program. They wanted flexibility and authority but are quick to shirk responsibility for problems created . . . We need to work more closely with the grantee communities in preparation of the FY '78 program to avoid a repeat of this years problems."

Ironically, it is about this time when Dr. Gold and other day care administrators statewide began to address this funding supply as a political issue also. They began intense lobbying with their respective legislators for more funds to last the FY '77 year. And since Pitts' letter followed your report to Commissioner McAnerney (with no subsequent comment to Dr. Gold), we cannot assume he was placed on any notice for rectifying any major or minor concerns you expressed.

Shortly after this public testimony before the legislature, apparent conflicts arose between the day care administrator (Dr. Gold) and the Department. After one visit by the Department's field officer (Jan Brewer) on March 30th, several errors (according to Brewer's March 31st field report) were noted in the administrator's operations. Since Dr. Gold had just hired a new program administrator, Brewer recommended that a subsequent visit to the Fairbanks office take place within a month to better review all the files

after the new program person was more familiar with the job and files.

Brewer returned to the Fairbanks office on April 11, 12 and 13, at which time relations between the local administrator and the agency deteriorated significantly. Dr. Gold, who admits he was made aware of the impending visit by Brewer, was reluctant to allow her access to any files, except the terminated ones, until his program assistant returned to work. He had said his assistant was out sick and Brewer reviewed only the closed files. The next day, (April 12) the assistant was still out sick and Brewer was denied access to the files. She had reminded Dr. Gold of Article VII in his contract with the Borough that mandated the files be open to the Department during regular business hours. Whether Dr. Gold opened his files to her on the following day (April 13) due to the fact his assistant had returned to work or because Borough Treasurer Helen Blevins had called him (at Brewer's request) to mandate Dr. Gold open the files (or a combination of both) is a matter of interpretation. In any event, the files revealed some audit exceptions.

Of the \$3,068 in auditable exceptions which Brewer reported on return from her April visit, \$822 were cancelled by the Department when adequate back-up paperwork was provided. Of the remaining exceptions, it is unclear where the responsibility falls in regards to the errors as the Borough paid at least portions of those exceptions. According to Borough Administrator Ron Garzini and Dr. Gold, several of the exceptions were based on miscalculations made while the Borough still administered the program in-house. Dr. Gold has stated he has not paid any of those audit exceptions in question.

Shortly after the April staff visit, Dr. Gold received a copy of a letter written by Pitts to Blevins in which he outlined the disallowed audit exceptions and detailed the problem regarding access to the files. The letter did not outline actions which Pitts thought were mandatory to insure continuation of the program with Dr. Gold nor did Pitts notify Dr. Gold of the severity of the actions in regard to denying access to the files. We refer here to the Department's Day Care Assistance Application Manual; Page 19, Article 5 of the Department's responsibilities in this program:

"5. When the Director finds that the local agency is not in compliance with the work program and contract, he shall notify the agency of the problem and the requirement for compliance. If after a reasonable period satisfactory

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adjustments are not made, he shall notify the agency that further payments will be withheld until the deficiencies are corrected."

Pitts' April 19 letter to Blevins, however, prompted Dr. Gold to fire off a rather inflammatory letter to Commissioner McAnerny asking that Pitts apologize for the letter, and for Pitts' failure to talk with Dr. Gold before concluding Dr. Gold was in the wrong. Dr. Gold recalls hand-delivering the letter to the Commissioner on April 26.

Dr. Gold received no response from the Commissioner, nor did he receive any letter from Pitts. However, the Anchorage file shows an interesting (however irrelevant) memo from Pitts which carries a date of April 27. It concerns a proposal by Dr. Gold for a drug abuse grant he applied for in another department--the Drug Abuse Office. The memo was initially written by Pitts on non-ordinary stationery and the copy in the Anchorage file we copied, shows a stamp as having been received by the Drug Abuse Office on May 16, 1977. The memo was written to McAnerney, but the only paragraph to mention Pitts' involvement with Dr. Gold in the day care contract experience vaguely questions Dr. Gold's management of the day care program and Dr. Gold's refusal to allow Brewer access to the files. The last paragraph recommends the following:

"I recommend that the A-95 Grant Request referenced above be denied and that a search be undertaken for a more suitable Drug Abuse Program Administrator."

During the same time Dr. Gold was testifying against C&RA day care proposals in front of legislative committees, the Department began collecting a variety of paperwork regarding Dr. Gold's other involvements.

For example, in the Anchorage day care assistance file on the Fairbanks program, there are some 61 different documents (at least as recorded in September by my assistant, Cathy Allen). Of those 61, 31 documents deal with subjects other than the day care program. A large portion detail problems and criticisms other people had with Dr. Gold's proposed mental health clinic. Eight other pieces of paper dealt with Borough zoning problems--some dating back two years.

Barbara Morse, a Departmental employee directly under your supervision, was also receiving day care assistance through Dr. Gold's administration. She had recorded problems with Dr. Gold's administration of the program as he had required more back-up paperwork in order to adjust the level

Omit

Only

of her income to what she thought was appropriate. The problems with her individual subsidies were not major ones, but it does cloud any involvement she might have had in discrediting Dr. Gold's administration of the program. Borough officials have reported she inquired about several different problem areas, including whether or not proper advertisement had preceded the request for new bidders. In the meantime, John Swan had also been interested as a potential administrator and Morse had been working to interest Swan in the day care program administration. He had been running a day care facility where Morse had taken her child. When you traveled to Fairbanks for your May 19 meeting with Blevins, Morse was in attendance.

That same trip report includes the following statement: "it was the borough's responsibility to monitor the activities of their subcontractor." You also stated, "that we would be very reluctant to approve a subcontract with Dr. Gold for next year, and recommended that they heartily consider operating the program in-house next year."

Regarding Brewer's field report from the next departmental trip on May 31, she reflected a much brighter picture of Dr. Gold's operation of the program. Though she details one case where a family had to have its payments terminated and the notice was somewhat short and indirect (the day care center was informed), the incident prompted her recommendation that a form and standard termination notice be worked out.

This Brewer report appears to contain other unfavorable impressions concerning Dr. Gold, but no examples were provided; they were requested for the future. Brewer's report states of Dr. Gold's administration of the program that applications were now complete; the back-up data was in place and no other close monitoring would be required before the "contracts are ready for renewal."

In the "Effectiveness of Program In Meeting Goals," Brewer wrote, "The program's effectiveness apparently has improved since the last visit. Applicants are now more carefully screened and clients are not being assisted at correct percentages for their income group."

To maintain a proper perspective, we should point out that the April field trip report with the same evaluation forms, detailed several problem areas: audit exceptions, refusal to allow access to all the files, files were incomplete, etc. To adequately insure we don't overlook that report, we have also included a copy of it as an attachment. The point is that

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with the prior report or without it, Dr. Gold's administration of the program as is reflected by Brewer, certainly improved.

There are two final letters (one June 24 and a second dated July 25) which culminated in the Borough's action of not awarding a contract renewal to Dr. Gold.

On June 24, you responded to a June 22 letter from Fairbanks Mayor John Carlson which indicated the Borough's intent to apply for day care funds for fiscal 1978. This letter includes the following paragraph:

"Alaska State Law (AS 44.47.250) allows the borough to subcontract its obligations only with the consent of the Department of Community and Regional Affairs. The Department in examining and evaluating the appropriateness of the grant application, must weigh the commitment, the plan and capabilities of the Borough in administering the program."

It also states:

"Unless the borough can present evidence to indicate and guarantee a significant change in the program management by Dr. Gold that will assure a proper level of performance, the Department will not grant approval to the Borough to subcontract.

Prior to this letter's arrival on Mayor Carlson's desk, the borough had informed Dr. Gold that he was the only agency that responded to the Borough's request for bidders. He was told that he would receive the contract though no official paperwork had been signed. The mayor then informed Dr. Gold of the Department's letter.

Dr. Gold took great exception to your letter in public testimony. The Borough opted to operate the program in-house until it could gather more information about the entire matter and seek proposals from others who might also wish to administer the program. Garzini, in public testimony said had there been no letter from C&RA threatening a discontinuation of the day care assistance funding with Dr. Gold, he would have had little objection to the Borough's renewal of the contract with Dr. Gold.

In a July 25 letter from your office, you further outline other problems with Dr. Gold's past administration of the program and offer the following:

"Subsequent to our initial rejection, the Department has become aware of many other circumstances related to Dr. Gold and his other business activities, contracts and zoning

problems which would preclude Dr. Gold from being acceptable as the administrator of this program under any conditions."

Since that second letter, the borough has requested and accepted applications from six sources. These applicants all presented proposals for the day care program's administration based on new proposal guidelines that we feel your agency properly assisted in developing. Certainly, with this relatively new program, guidelines for those who might administer the program would be hard to develop based on no prior experience. Also, since your office has noted problem areas--not only in Fairbanks but Statewide--it is appropriate you should assist the local governments in proposal guidelines.

Dr. Gold has since charged the nature of these guidelines was such that it sought to exclude him. Since some valid concerns with his administration of the program prompted such proposal guidelines, we do not find your involvement here to be faulty.

Presently, the Borough is operating the day care assistance program in-house, awaiting the settlement of this Ombudsman complaint, as well as other factors (such as the local election) before opting to award a contract to any of the six proposal applicants (which includes Dr. Gold).

According to Phil Younker, the Borough will take action--one way or another--on this matter in the near future.

FINDINGS:

Pursuant to AS 24.55.150, we have found Departmental actions: 1) to be arbitrary regarding the enforcement of rules set out in the Day Care Assistance Manual; 2) to be based, in part, on improper grounds; 3) to be unfair, procedurally; and 4) unreasonable in the scope of information and materials collected in regard to Dr. Gold.

A. Actions Found to be Arbitrary

In many areas, you have held Dr. Gold accountable for following rules and procedures outlined in the Day Care Assistance Applications' Manual (which was made part of the contract to the Borough and also the subcontract to Dr. Gold). His refusal to allow Brewer access to files; exact compliance with the subsidy scale; required back up information for each applicant; his determination of who should continue to receive subsidies and who should be cut off; and the Borough's failure

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to secure written permission from your division are all covered in the contract and/or manual.

Yet, page 19, article 5 of the manual calls for the Director (identified as you by manual definitions), to notify the agency (identified as Dr. Gold by means of the same manual definitions) of those problems inconsistent with either the work program or contract. If "after a reasonable period satisfactory adjustments are not made" the Director is then to notify the agency that payments will be withheld until the deficiencies are corrected."

Notification of the audit problems went to the Borough Treasurer almost immediately upon Brewer's filing of her trip report. The money was to be immediately withheld and Blevins was warned of the seriousness of Dr. Gold's refusal to allow the C&RA field worker access to all the files. No notice for compliance was given Dr. Gold.

B. Actions Found to be Based Upon Improper Grounds

The July 25 letter to Assembly Chairman Dave Brennan specifically outlined six major criticisms you defined as problems with the day care program administration by Dr. Gold. We find fault with four of those items discussed.

Item #2 and Item #4

We would like to couple Item #2 and Item #4 together as they are similar in our comparison of the facts regarding both. These criticisms deal with the original grant ceiling for the program being \$106,495; that Dr. Gold should have apportioned an equal amount each month for the program's subsidies so that the money would last the year; that there was no mandate to serve all "eligibles" (as you allege is clearly stated in the contract); and that his expressed shortcomings due to improper training is invalid due to four trips made by your staff for auditing and training purposes.

First, we find that although the original grant amount was \$106,495, Dr. Gold had been told from the start of his administering the program that there would be more money available. Pitts had told him that pending reports from other communities regarding whether these other areas would be able to use their allocated day care funds, more money would become available. Extra money was already accumulated from communities which could not get a program established for fiscal 1977 by the time Dr. Gold took charge of the Fairbanks program.

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Dr. Gold chose not to apportion money on a month-to-month average, which was reasonably his prerogative based on the manual, law and contract (plus subcontract). The contract does not state, as you say, "that not every eligible person in the Fairbanks area must or should be served". The contract (in Appendix A) states that the contractor "agrees to serve" all families with reasonable access to licensed day care facilities in the Fairbanks area. The contract states just the opposite, according to our reading, of what you list as its clear statement regarding who should be served.

Whether or not Dr. Gold chose to apportion his total amount on a month-by-month average seems to fall in the category of local flexibility. How else would you interpret Pitts' suggestion that a monthly average be determined and adhered to as was stated in his October 22 letter to Dr. Gold? As long as Dr. Gold held enough money aside for the total subsidizing of WIN and AFDC recipients, then he was not in violation of the contract, according to our review. And, as new applicants qualified as eligibles and had lower incomes than those still receiving subsidies, we believe Dr. Gold was following the priority expressed by the law, guideline manual, contract and subcontract to favor lower income eligibles.

Finally, the lack of training or auditing Dr. Gold alludes to as reason for his shortcomings in administration of the day care program is difficult to determine as valid or invalid. You indicate that he cannot blame base line data projections as his basis for not terminating higher income eligibles. From the first moment he realized he would run short on funding for the year at the maximum subsidizing of all those eligibles, you indicate he should have averaged out his funds based on a month-to-month average. Since the funds did increase (and he had confidence there would be more coming) and there were more new applicants with lower incomes applying for subsidies, we believe Dr. Gold showed a management plan that was not prohibited by his contract--nor even criticised by your agency until after he had terminated many of those on the program under his plan of serving as many as he could as long as he could. Regarding training and auditing help, the field trip report for October only states that Dr. Gold wasn't able to make a meeting. Your February report does not mention any training or auditing other than your attempt to bring home the point the program was not "a free lunch". (And, Dr. Gold's records show the meeting as more of a strategy one for the legislative effort for supplemental

and fiscal 1978 funding of the program). Brewer's March report allows that new staff were on board and that she would await that staff's familiarization with the back files before auditing. The April field report was covered above and the May report also indicates the Department's action in training Dr. Gold's staff and auditing the Fairbanks files. Proper training and auditing prior to the acknowledged problems in April are hard to detail in light of the field reports on file.

Item #5

The letter to Brennan questions Dr. Gold's method of cutting eligibles from the program; the short time frame in notifying eligibles that they are being cut; the explanation used in the form letter; and the lack of proper monitoring and analysis. The latter, you theorized, might have resulted in fewer cutbacks sooner and addition of new eligibles with lower incomes through natural attrition. Dr. Gold, however, cut eligibles, upon your October suggestion of terminating those from Group V, the Group IV, the Group III, etc. The time frame was short as he expected more funding and exercised his local management flexibility to keep eligibles in the program until the last moment. Regarding the misleading explanation you fault, Dr. Gold had sent the same letter terminating eligibles three different times (with copies to Pitts each time) using the same standard form letter he initiated in October for the first cut-off. No criticism was voiced until your July letter. Had Pitts voiced his concern over the explanation Dr. Gold used, it is likely (according to Dr. Gold) that the form letter would have been changed. Additionally, in the October 20, 1976 letter from Pitts which preceded Dr. Gold's first form letter, Pitts declared the problem "is, of course, insufficient funding to accommodate all persons eligible for Day Care Assistance." Dr. Gold's terminology to recipients of day care subsidies was, "Due to the inadequate amount of funds provided to the Fairbanks North Star Borough Day Care Assistance Program, it is impossible to continue funding all day care payments for the entire year." We don't find the two explanations significantly different.

Since it was (by contract and manual guidelines) the responsibility of both the Borough and the State to "monitor" the local program, we find it inconsistent to solely fault Dr. Gold with failure to properly monitor the program with regard to analyzing the list of eligibles in time to cut higher income eligibles to accommodate new applicants with lower incomes. In fact, the Borough received notice of its

monitoring problems, but the actual local administering agency (Dr. Gold) received none. Also, Dr. Gold's records show no natural attrition where he could have added those new eligibles in question with lower incomes.

Item #6

Here, you report that there were several audit exceptions "for which the borough is financially responsible." You further stated these exceptions "were due primarily to inadequate and inaccurate applicant screening on the part of Dr. Gold's staff". This is not true, according to your files and those of Dr. Gold, as well as information from Garzini. Your contract with the Borough and the subsequent subcontract with Dr. Gold holds the administrator responsible for problems in subsidy eligibility. The Borough paid all the audit exceptions that weren't adjusted after back-up information was obtained from the eligible applicants. Although Garzini states that Dr. Gold paid "a negligible amount" of the exceptions, his files show he paid none. Garzini clarified that most of the exceptions could be traced back to screening work done by the Borough when it first began the program--before Dr. Gold was contracted for the program's administration.

Information regarding the timely filing of monthly reports is difficult to detail except that the departmental files show the reports were late. Exactly how the reports should be filed, and what route each report should take through what local, Borough and State offices is unclear, but it is our finding that these reports were received in your offices late in at least three cases.

C. Action Found Unfair

Even if all the above criticisms and problems with Dr. Gold's administration of the Fairbanks program were accurate, we find it unfair to notify Dr. Gold (and at that, notify him indirectly through a letter to Mayor Carlson) of his total unacceptability for a contract renewal after the Borough has asked him to submit a letter requesting a contract renewal.

We have considered your argument that it was easier not to inform Dr. Gold of each problem as it arose in the hopes he would become a more conscientious administrator as time went by, but it, nevertheless, came as a surprise to him that you would not accept him as a subcontractor. Dr. Gold, and several other agency and local officials, certainly admit there were conflicts of philosophy between him and the Division. All admit there were deep personality conflicts (evident in Dr. Gold's letter to the Commissioner of April 26 and

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Pitts' letter to the Commissioner of April 27). The Borough obviously did not think the problems so severe that they would not have rejected the contract renewal with Dr. Gold. Dr. Gold, after Brewer's May 31 trip, did not think his administration so faulty that a contract renewal would be jeopardized or, he felt, he would have received some feedback, as the Department certainly had been vocal about the program in the past few months.

In addition, Brewer's last field report shows Dr. Gold as improving, though each piece of correspondence from the State to the Borough gets progressively worse in its assessment of Dr. Gold's operation of the day care program in Fairbanks.

In the interest of making the Fairbanks program viable, it is understandable your field worker would attempt (and is evident by her continued patience) to try and correct problem areas as opposed to confronting Dr. Gold and his assistants with each error or criticism. But this same patience also lent to the lack of due process we feel Dr. Gold should have been afforded according to the manual procedures which call for the Director's calling attention to contract and work program problems.

Brewer's last comments in the May field report that additional monitoring in person was not necessary until the "contracts are ready for renewal", raises an inference that the subcontract to Dr. Gold would be acceptable.

The paragraph precluding Dr. Gold from "being acceptable as the administrator of this program under any conditions" based on "other circumstances related to Dr. Gold and his other business activities, contracts and zoning problems," is an unreasonable statement concerning Dr. Gold. The paperwork in his Anchorage file regarding establishment of a new mental health association for possible State grant funding does not show any positive letters about the fledgling group (which is now in the final stages of being approved for funding). The Borough zoning problems you allude to are being pursued through the court system. The "other business activities" reflected in paperwork in the file could include the proposal by Dr. Gold for continued grant allocations for drug treatment programs. Although Pitts' letter pointed out problems with his proposal, Dr. Gold received another year's funding approval just recently. And last, references made by Pitts to my assistant about other "alcoholism" grants awarded Dr. Gold that might interfere with day care recipients using Dr. Gold's same premises,

simply do not exist. He does not now have (nor has he had recently) any alcoholism programs which he is running or administering.

It is in addition to the voluminous paperwork in our files that are not directly germane to the day care program's administration; the somewhat unprecedented letter by Pitts regarding Dr. Gold's drug abuse proposal; the harshness about Dr. Gold's running the program, as is reflected in your letters at the same time his field report evaluations by Brewer were showing improvement the questionable involvement of staff in Fairbanks; and the cloud of doubt by the non-specific paragraph cited above that prompt us to find your agency's actions unreasonable. These unreasonable statements figured heavily in Dr. Gold's not being awarded a second year's subcontract for the Fairbanks North Star Borough Day Care Assistance Program.

AGENCY ACTION JUSTIFIED

- A. Statewide perspective needed and obtained through C&RA monitoring

Since the entire amount of day care assistance monies comes from the State with no federal matching monies, the State is in the best position to judge Statewide need and it can best ascertain how the money should best be allocated to the different programs. Through surveillance and monitoring, it is in a better position to determine how any one program measures up to another. In this regard, it was indeed proper that C&RA did outline all problem areas; we only would ask that more time be afforded in reviewing the cited grounds presented to the Borough Assembly as background for the action against Dr. Gold. Careful review of the Department's file would have cleared up the most serious and certainly the majority of problem areas cited.

- B. Program problems properly outlined by the agency

The untimely filing of monthly reports, the refusal to allow field workers to review day care assistance recipient files at any time during the work day, as well as smaller, case-by-case details that required clarification or more attention are best brought out by the State agency. In some cases, the local government might not watch nor wish to closely monitor a program. The State, which has the background and knowledge of program administration throughout the State, is in a better position to pick up administrative

details that could tighten any single rural or urban program's administration. It would appear that at least some minor paperwork sloppiness as well as the lack of file access were proper criticisms for whatever reasons.

- C. Suggestions for future program proposal advertising and proposal guidelines proper and helpful.

The mere questioning of how the contract was advertised in May was appropriate and suggestions for future advertisement were proper. It is possible that the Borough did not think any other local agency would be interested in the day care program's administration as the local government had initially approached Dr. Gold and asked him to administer the program in July of 1976. If the State were made aware of other potential candidates for the administration, it is their duty to inform the local government of such concern. Also, the guidelines for future subcontractors as recommended and mutually-worked out by the Borough and the agency were appropriate. The role of the State in carrying out its statutory authority in this program is primarily to assist the local governments--which it did in both questioning the form and extent of the advertising and working with the Borough on guidelines for future subcontractors.

- D. However heavy-handed the C&RA action to discredit, the Borough chose not to challenge the State's authority and chose to accept its critical comments as basis for not renewing the day care contract with Dr. Gold.

If no fair comment had been afforded the subcontractor, we might have pointed out how unfair it was for a State agency--with all its implied power as a government authority--to barrel over a subcontractor. Obviously, given the advocacy talents of our complainant and the time he has been afforded before the Assembly to counter the C&RA comments, he was not precluded by the State from giving his side of the story.

The Borough may have based its action to nullify plans for renewing Dr. Gold's 1977 contract on the State's expressed authority mandating written approval of the exact subcontract. Or, the Borough may have based its action to readvertise the contract based on new guidelines worked out with the agency staff. Most likely, the Borough chose to accept the total accumulation of critical data from your agency along with your assertion that a subcontract with Dr. Gold would not be approved by them. The July 25 letter with the critical comments about advertising and the offer to work out better guideline proposals for subcontractors became the basis for

Dr. Gold's not getting a second year contract based on the old subcontract provisions.

In the same light, we feel it was the Borough's determination not to renew the contract, but that action was heavily based on your letter. Whether the Borough chooses to accept your authority is a matter of Borough or court jurisdiction. Whether the Assembly chooses to accept our analysis of the entire situation as a basis for reexamining their past action or future action is up to them. It is because we do not want to become overly involved in a related matter of municipal and State concern that we have offered these comments regarding action we think the State took that was justified and appropriate.

D. RECOMMENDATIONS

We hope that the review, as we have painstakingly presented it, will provide you with a careful enough review of the facts surrounding this complaint to weigh the following recommendations. It is my understanding that each recommendation has already been broached with you by my assistant. We hope these suggestions will provide you with meaningful alternatives that will tighten up the program's Statewide administration.

1. To straighten any confusion that might have been evidenced in this Fairbanks day care assistance program administration, we would suggest you begin the tedious but needed process of promulgating regulations, at least in the following areas:

A. What is the State's intent and interpretation of "permission to subcontract"? With that permission, is it then the responsibility of the Borough to determine the exact subcontractor? Other State agency examples provide for mixed interpretations as do court rulings on the authority of the State in subcontracting matters. Some rulings and agency examples reflect the contract law's strict interpretation of a due process of authority from the State to the contractor and the subsequent authority from the contractor to the subcontractor, with only minor connections from the State to the subcontractor.

B. In the application manual, it outlines how a day care assistance grant is made to a local government. However, the procedure of how one should obtain permission for subcontracting is not clear. For example, it calls for "written permission from the Department" for a

municipality to be able to subcontract. Yet, when should the permission, if so desired, be obtained? The application manual does not say, but alludes to subcontractor Articles of Incorporation as being necessary for the local government's complete grant application and possible approval. The manual also calls for subcontractor forms to be filled out after the grant is approved. Yet, with this complaint, the Borough was chastised for not seeking and/or obtaining prior written approval before it sent in the grant application for this upcoming year. One way or another, the procedure should be clarified.

C. Since the initial intent of the subcontractor option was to assist the particularly small communities, what kind of consideration should in-house vs. outside municipal subcontract administration be given? Should a municipal government have to substantiate why it prefers to operate the program through subcontracts as you once intended? This clarification might be opportune now with other clarifications sought and, perhaps with the promulgation of regulations.

D. What does the Department infer by the local administering agency's responsibility to serve eligibles in the designated grant area? The confusion that exists through not addressing this point in the statute but addressing it rather contradictorily in the manual and the contract appendix should be clarified. It might make more overall management and planning sense to prioritize eligibles from the start of the fiscal year and apportion monthly subsidies to a determined ceiling, as now appears to be left up to the local government's or local agency's mandate to determine. If you believe the program better run (Statewide) by stricter management guidelines, then those should be clarified and made part of regulations.

E. Other specific areas brought to light by this inquiry stemming from the 1977 Fairbanks program experience should also be clarified in this review process. These areas include exact breakdown of State, contractor (or local government) and subcontractor (or local administering agency) responsibility. Appropriate termination procedures for recipients whose money begins to dwindle faster than anticipated; methods of accurately informing recipients in a properly-designated time frame to insure adequate time for easier adjustment; guidelines important for subcontractors' proposals Statewide, as well as advertising for new proposals; and a spelled-out monitoring effort regarding how problem areas are to be discussed, corrected, challenged and made a basis for disciplinary action should be readied.

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Under litigation and court rulings regarding the applicability of the Administrative Procedures Act to agencies which have the permission to promulgate regulations (which you have in C&RA Day Care Assistance Program statutory authority--AS 44.47.250(b)(1), the courts have held that when you may promulgate regulations, you must.

Regulations for this program have already been discussed. Where we recognize a responsibility of your agency to establish some regulations to clarify the above-cited confusions, we would only suggest you begin work on these matters. However, if the line of agencies now awaiting regulations is too long to accommodate clarifications this year, we would suggest that the applications' manual include the needed clarifications. These additions and changes, as well as specific delineation of responsibilities might also--or might instead--be made a part of the applicable contracts and subcontracts. We are striving for equal enforcement of rules and regulations--no matter what form they should take.

An argument you have presented for not including all those points and matters within the policy manual as perspective regulations is the entire program's "armslength" attitude in its dealing with the general public. (Actually, we would like to see all manual procedures covered by regulation as the actual subsidy scale provides for the real flexibility you seem to desire in the program's administration.) Since a recipient's appeal is to Pitts' office, and since there have been recipients who have been penalized because the subsidy scale was not mandatorily followed by the administrator locally, we believe you have more of a direct link with the general public than your initial establishment of the program first indicated.

We would suggest, if you are considering these recommendations to tighten up on the mutual accountability of all agencies involved, that you expand your direct involvement with the public at large. More carefully outlining procedures and manual interpretations brings you into closer scrutiny by the public. We would suggest you further this involvement (not necessarily dramatically) and include selective recipient interviews in the field trips by your staffers. It is in this monitoring effort that you will get a more direct evaluation of a contractor or subcontractor's work effort.

As another step to involve the public, we would suggest public hearings or some public response mechanism where you might get the general response from State residents on the

matters outlined above. The public may have its own ideas about local versus State control and the guidelines for a contractor's involvement.

2. To clarify the record, which we hope we have detailed adequately to show problems with the grounds you cited for not wanting Dr. Gold involved in a subcontract for the day care program, we would recommend a clarifying letter be sent to Fairbanks Borough Mayor John Carlson and Fairbanks Borough Assembly Chairman Phil Younkers. We would hope the letter might explain the improper grounds we believe might have unfairly weighted Borough opinion against Dr. Gold. The same letter, we would suggest, also include a clarification of your apprehension of Dr. Gold as a future administrator. In talks with my assistant, you have indicated you would not protest Dr. Gold's acquiring of the contract (through criticisms or assertion of C&RA authority) if he were to abide by the guidelines worked out by you and the Borough staff. This explanation would be helpful in the recommended letter to the Borough Assembly and Mayor. Where we would appreciate a clarification of what we think are improper grounds, we would also offer that other proper grounds about Dr. Gold's administration of the program would appropriately be forwarded in this same letter. Assistance in the form of comments about other proposed administrators would also be pertinent and proper here, we feel. Suggested monitoring efforts that might correct future problems while still insuring the Borough and local administering agency the right to due process could be included in this same proposed letter.

3. We would suggest a letter to Dr. Gold, although a copy of the above letter to the Fairbanks Borough would be appreciated as an alternative. Acceptable guidelines that would allow him to obtain the contract without any State controversy should the Borough opt to contract with him again, should be specified in this second letter. A forward, clear assessment of his past performance as an administrator; day care program spokesman before the legislature; and outspoken public critic of the Department would appropriately be outlined in this letter. And, by means of this complaint resolution, perhaps a future meeting between you, Pitts, Dr. Gold, the Commissioner and appropriate Borough contracts could take place to iron out personality conflicts that might remain.

SPECIAL FINDINGS

In the perusal of the file, we took special note of the letter Pitts forwarded to Commissioner McAnerny regarding Dr. Gold's early spring proposal for drug abuse funding. Through the A-95 grant approval process (those being specific funds administered through the State), grant proposals are routinely circulated throughout sister agencies in the hopes that others having dealt with proposed contractors will comment about the contractor in question. The process, although still somewhat rudimentary and selective in the circulation of proposals, is a good one.

The State should have a central information system which would allow cross-referencing and more complete examination of contractors. In this case, comments forwarded by Pitts, however, lead us to examine this process more closely. We find no problem with the concept of cross review of contractors' past performances within the evaluating agency. But, Pitts' assessment of Dr. Gold's proposal is inappropriate. The two-page evaluation (for reasons we have not been able to justify) recommends that another contractor/administrator be found for the Fairbanks drug treatment program. In the six lengthy paragraphs critical of Dr. Gold's drug program proposal, only one paragraph deals with Pitts' direct dealing with Dr. Gold through the day care program he actually oversees. The memo to C&RA Commissioner McAnerny was written on April 27 by Pitts--a day after the Commissioner was hand-delivered an inflammatory letter by Dr. Gold about Pitts' actions in regard to Brewer's controversial field trip to Fairbanks in April.

As there are no regulations, laws, procedures, or even standard practices exercised in the review of A-95 grant application proposals, we cannot find direct fault in Pitts' action except to say it was inappropriate.

Since the comments apparently did not get to the Drug Abuse Review Board in time for their full consideration and since they chose to award the contract to Dr. Gold for this upcoming year, we suggest no future action in this matter. We do feel that the process of cross referencing evaluations be reviewed toward insuring objectivity, accountability and due process so that a valuable tool does not become a "blacklist".

We would recommend that future evaluation by C&RA staff of A-95 proposals be restricted to specific past

Eric Lee
October 20, 1977
Page 24

involvement with the contractor and that it be as precise as possible. Hopefully, through central agency, the Division of Policy Development and Planning personnel, there will be adequate response mechanisms afforded the contractor in question so that a fair evaluation is afforded by the State.

In summary, we hope this exhaustive look at the record has been helpful in your own review of the inquiry to our office by Dr. Gold. We have given much thought to the recommendations and options presented for your consideration in the hopes of bettering the program while setting the past record straight. In constantly weighing the findings and recommendations, we have attempted to set reasonable goals, which we believe are not arbitrary, given your initial discussions with our office last month. Please let us know if you have any questions or comments. We would like some response, even if it is an oral response within a week.

We are forwarding the exact copy of these findings, except for the section which details the staff situation and the details of any specific day care recipients as those names are confidential, to Dr. Gold, the complainant.

As everything but the names and files of day care assistance subsidy recipients are already part of the public record, in light of our prior consultation with you in regard to this matter, and the Borough's involvement as the prime contractor, we will make this report available to the Borough pursuant to their request as is outlined in the letter attached from Mayor Carlson. We will do this unless you have a reasonable objection to this procedure. If so, please give me a call this weekend (October 22 or 23; we plan to be in the office for a good part of the weekend) or call us on Monday or Tuesday, October 24 or 25.

We appreciate your cooperativeness in this matter and thank you for your consideration.

Sincerely,



Frank Flavin
Ombudsman

CA:FF:

cc: Jan Brewer, C&RA Anchorage staff
Harvey Pitts, Day Care Coordinator, C&RA Anchorage staff
Commissioner Lee McAnerny, C&RA
Dr. Frank Gold, former Fairbanks Day Care Assistance
Program Administrator

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

TO:

Eric Lee, Director of
Community and Rural
Development

DATE:

January 23, 1978

FILE NO:

TELEPHONE NO:

FROM:

Harvey
F. Harvey Pitts
Child Care Programs
Coordinator

SUBJECT: Recommendations by the
Ombudsman in his Octobet 20,
1977 letter to you concerning
Dr. Gold's complaint

Herein are my comments regarding the several recommendations for improving the DCAP which were set forth by the Ombudsman:

1. To straighten out any confusion that might have been evidenced in this Fairbanks day care administration, we would suggest you begin the tedious but needed process of promulgating regulations, at least in the following areas:
 - A. What is the State's intent and interpretation of "permission to subcontract?" With that permission, is it then the responsibility of the Borough to determine the exact subcontractor?...
 - B. ...the procedure of how one should obtain permission for subcontracting is not clear. For example, it calls for "Written permission from the Department" for a municipality to be able to subcontract. Yet, when should the permission, if so desired, be obtained?...
 - C. ...Should a municipal government have to substantiate why it prefers to operate the program through sub-contracts as you once intended?...
 - D. What does the Department infer by the local administering agency's responsibility to serve eligibles in the designated grant area?...should be clarified. It might make more overall management and planning sense to prioritize eligibles from the start of the fiscal year and apportion monthly subsidies to a determined ceiling..."
 - E. ...exact breakdown of State, contractor (or local government) and subcontractor (or local administering agency) responsibility. Appropriate termination procedures for recipients...; methods of accurately informing recipients in a properly designated time frame...; guidelines important for subcontractor's proposals statewide, as well as advertising for new proposals; a spelled-out monitoring effort....
2., we would recommend a clarifying letter be sent to Fairbanks North Star Borough Mayor John Carlson and Fairbanks Borough Assembly Chairman Phil Younkens.

3. We suggest a letter to Dr. Gold...and, by means of this complaint resolution, perhaps a future meeting between you, Pitts, Dr. Gold, the Commissioner and appropriate Borough contacts could take place to iron out personality conflicts that might remain."

As far as I can determine, the above are recaps of the Ombudsman's suggestions with extraneous remarks omitted. The following are my suggestions:

1. First, I am opposed to regulations-any regulations. They are cumbersome, not suited to community variations, and would serve to eliminate the flexibility we have to allow different communities, with unique cultural, traditional and economic needs, to serve their residents the way the local government feels they should be served. Because they have the effect of specific law they predestine a "big brother" approach similar to the federal government's FIDCR which is the prime reason the DCAP program was designed as it is by the legislature. The intent was for a great degree of flexibility. I believe that is why the legislature in its wisdom made promulgating regulations permissive rather than manditory. Indicated by the fact that no funds were appropriated for the promulgation process. That the Department is not required to promulgate regulations, contrary to what Mr. Flavin stated, has been verified by 3 Assistant Attorney Generals. This was the opinion of Dick Bradley (now with Legislative Affairs) when he was with the Department of Law, it is the opinion of Rodger Pegues in the Juneau office of the Department of Law, and is also the opinion of Ivan Lawner, general civil section, of the Anchorage office of the Department of Law. In fact, Mr. Lawner said that courts have held that written guidelines and contracts, such as we have, have been enforced by courts in the same manner as regulations. According to Mr. Lawner, Mr. Flavin is a strong proponent of regulations, but Mr. Lawner too, could not see the need for regulations as recommended by Mr. Flavin. In summary, it is my opinion that there is no need for regulations, that they would prove detrimental to the flexibility intended for the DCAP by both the legislature and the administration and that we should defer in their promulgation. Perhaps at some later point in time regulations might prove helpful. However, that time would come when history stabilizes the DCAP and not while it is under metamorphosis, certainly not in the near future, if ever. Assimilation of changes into our Day Care Assistance Program Application Manual, and thereby into our contracts, would serve the same purpose as regulations, and would be much more amenable to change with the program.

In paragraph A Flavin recommends that we clarify the Department's intent and interpretation of "permission to subcontract." This recommendation has merit and I suggest we do this in the manual by rewording the 3rd paragraph in Section III on page 2 to read as follows:

A participating government may choose to administer the program directly, and is urged to do so. However, the Department realizes that extenuating circumstances might exist in smaller or rural communities which would make it necessary for the community to subcontract for another appropriate local agency or group to perform local administrative functions. These functions include: outreach, screening of applicants, eligibility determination, authorization, payment to providers, and monthly reporting. If a community opts to subcontract for administration, it must request from and obtain the written approval of the Department to subcontract prior to execution of the subcontract. In no case will the Department allow a community to opt to subcontract or change the sub-contractor whom the Department has previously approved after a grant is made. Violation of this provision will result in immediate termination of the contract and grant.

I believe this would suffice to clarify our intentions regarding both subcontracting and the need to satisfy the Department of the qualifications of the subcontractor to adequately administer the program.

In paragraph 13 it is suggested that we clarify when permission to subcontract should be obtained. My above suggested change will also satisfy this recommendation, which too has merit.

In Paragraph C the suggestion is that we clarify whether a local government should have to substantiate why it prefers to operate the program through subcontracts. I think this suggestion has merit and I think the answer is yes they should. However, because of community variations I don't believe we will be able to spell objective criteria for acceptable needs for subcontracting that could satisfactorily encompass the entire State. Those guidelines inserted because of the above recommendation should suffice here.

Paragraph D suggests we clarify the intent of the LAA's responsibility to serve eligibles in the designated grant area. This can be done most succinctly in Appendix A of the Contracts for Service by deleting the words "to serve all" and replacing them with the words "not to deny assistance to" and adding the words "regardless of the location of the family's residence" to the end of the paragraph so that it reads:

The Contractor agrees not to deny assistance to families with reasonable access to licensed day care facilities within the Fairbanks North Star Borough regardless of the location of the family's residence.

In this same paragraph the Ombudsman also alludes to prioritizing eligibles and restricting monthly expenditures from the start of the fiscal year. It is my feeling that eligibles are prioritized in

the statute (preference shall be shown to low income and single parent families). Furthermore, establishing monthly maximums would be detrimental to the various communities wherein employment fluxuates by season such as in Petersburg and Kodiak or communities undergoing rapid development and construction. I therefore recommend retaining the status quo on priorities and monthly expenditures.

Paragraph E contains a mutiplicity of suggestions:

1. We should spell out the exact breakdown of State, Contractor, and Subcontrqctor responsibility. This is done in the latter half of our manual which is made a part of every contract. Any addition would be redundant, and therefore I recommend no action on this.
2. We should extablish appropriate termination procedures for recipients. At first glance this seems like an excellent suggestion. However, as I thought about ways this could be implemented, several things occurred to me... There are many reasons why clientele terminate from the program. They might marry another person whose combined income exceeds the maximum allowable. Termination in this case is simple - when the client marries, their assistance abruptly terminates. Another client might get a better paying job or might quit working. Again, termination in these cases is simple and abrupt. Perhaps a recipient family is eligible because a non working parent is suddenly incapable of caring for the child(ren) while the parent works either through accidental injury or onset of illness. Eligibility in this case, ceases when the attending physician certifies the incapaoipated parent is able to resume caring for the child(ren). Although abrupt, cessation of eligibility in these instances are foreseeable in advance based on information submitted by the client's physician. Therefore, no detailed plan is necessary beyond informing the client termination is a forced cutback as a result of poor planning and administration by the LAA. With our improved monitoring of monthly expenditures this should never happen. But if it does, it obviously will be the result of poor administration of the LAA. Since it is our philosophy to allow as much local control as possible, I believe we should leave this final decision with the LAA. However, since you feel an advance notice of at least 2 weeks should be given prior to termination of assistance, this can be accomplished by adding the following sentence to item #9 in Section V, C of the Program Manual:

"A minimum of 2 weeks notice must be given to any recipient prior to termination of day care assistance when the recipient continues to meet eligibility criteria."

3. Setting forth guidelines important for subcontractors as well as requirements for advertising for subcontractors are also recommended in this paragraph. Setting forth guidelines for acceptable subcontractors indeed merits implementation and I propose to do this by inserting the following paragraph between the existing paragraphs 3 and 4 on page 2 of the manual:

The following criteria are established as minimum for approving subcontractors:

A. REQUIREMENTS

1. Formal training or experience totalling at least four years in one of the helping professions.
2. Demonstrated capability to interpret and apply written instructions.
3. Demonstrated administrative ability to compute gross income and adjusted net income.
4. Administrative experience in program operation.
5. Experience or training in office organization or management.
6. Experience in administering a Social Service Program.
7. Must devote a minimum of 75% of administrator's worktime to the Day Care Assistance Program.
8. Administrative duties may not be delegated, person who meets above criteria must perform all administrative duties related to this program.
9. Must maintain regular office hours in a facility conducive to serving low income and single parents accompanied by children.

Insofar as advertising requirements are concerned, each municipality's ordinance or "regulation" is quite likely to be individual and distinct. I really believe that we would be infringing on local prerogative if we were to attempt to manipulate their bidding and advertising procedures. And yet, I really agree that the more notice and publicity that the municipality gives in seeking subcontractor proposals, the better the program administration will be. Rather than discount this suggestion, I would like to think about this a bit more.

4. A "spelled-out monitoring effort" is also suggested. I feel this suggestion is redundant since this is covered in each contract, wherein the Department reserves the right to examine documents related to the program in the body of the Contract as well as in Section V, D, paragraphs 4 and 5 on page 19 of the program manual.

The suggestion is made that "You expand your direct involvement with the public at large " including:

1. selective recipient interviews during field trips
2. public hearings or some public response mechanism from State residents

The suggestion has a great deal of merit, however, staffing and time constraints preclude its implementation. To implement this suggestion would require an additional full time Field Training Officer. However since public input is always a valuable consideration, beginning immediately we will select names on a random basis from recipient files during field trips for monitoring and will telephone a sample of recipients from each community. This will provide a forum for input by those directly affected by the DCAP. In these telephone calls we will stress confidentiality and that the calls are for obtaining public opinion only.

1. It is suggested that you send a clarifying letter to Borough officials in Faibanks regarding Dr. Gold. This you have done.
2. It is suggested that you write Dr. Gold, and that a meeting be arranged between the Director, myself, the Commissioner and appropriate Borough officials to iron out personality conflicts. I have no comment regarding the letter but agree that a meeting with Dr. Gold might prove beneficial if he were to continue to be involved. However, I see no reason to include the Commissioner since I'm sure she has no personality conflict with Dr. Gold. However, I'd like to point out that I don't consider differences of opinion Dr. Gold's defensive tirade in his letter wherein he demanded I apologize to him, a personality conflict. And even if a personality conflict did exist between Gold and myself, I feel I am actualized above petty resentment.

FHP/ad

MEMORANDUM
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

FEB 21 1978

TO: Eric Lee, Director
Community and Rural
Development

DATE: February 14, 1978

FILE NO:

TELEPHONE NO:

FROM: *Harvey*
F. Harvey Pitts
Child Care Programs
Coordinator

SUBJECT: Your memo of 1/25 regarding
implementation of Ombudsman's
recommendations.

All 6 of the directives in your above referenced memo have been implemented as of February 10, 1978.

The Appendix C's have been prepared and sent to all contractors with the exception of Fairbanks which we are holding per your instructions.

cc: Ombudsman file

FHP/ad

OCT 29 1977

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF COMMUNITY AND RURAL DEVELOPMENT

JAY S. HAMMOND, GOVERNOR

619 Warehouse Avenue
Suite 230
Anchorage, Alaska 99501

October 27, 1977

Mr. Frank Flavin
Ombudsman
360 "K" Street
Anchorage, Alaska 99501

Dear Mr. Flavin:

Re: Ombudsman Complaint 77-1421 (findings)

We have reviewed your findings in the above referenced complaint and offer the following responses to specific items mentioned in those findings. Items not specifically referred to, we agree with or do not view as significant enough for comment. All notations are in reference to your Letter of Findings of October 20, 1977.

To set the record straight, page 2 paragraph 3 of your letter states that "he (Pitts) would extend the FY 1977 Contract to the end of September, 1976." This is incorrect. It was the FY 1976 Contract which was extended.

A major point around which you have based your findings and which we have expressed concern in the program administration by Dr. Gold is the question of who may, should, or must be served (page 3).

We would agree that, to an uninformed party, there could appear to be a conflict between the language of Appendix A to the Contract and the Day Care Assistance Manual. The phrase, in Appendix A, "The Contractor agrees to serve all families with reasonable access to licensed day care facilities within the Fairbanks North Star Borough", was included in all the Day Care Contracts after a problem arose in Petersburg with City of Petersburg, as the Contractor, wanting to refuse "service" to persons living in the adjacent community of Kupreanof. "Service", by our definition, means "accepting applications from" or otherwise not discriminating solely on the basis of the geographic location of the individual clients residence.

Frank Flavin
October 27, 1977
Page Two

The phrase referred to in the Day Care Assistance Manual, which is part of the Contract, is absolutely clear that the program is underfunded and that it is not the intention to "subsidize" (as opposed to "serve") all eligible families. We are certain that all contractors and administrators were aware of this fact.

The fact that I specifically reinforced this in person with Dr. Gold is documented in my Trip Report of February 9, 1977 and referred to, by you, on page 6.

You indicate (page 15) that Dr. Gold admits a conflict in philosophy between himself and the Department. As subcontractor his duties were to perform the administrative functions necessary to deliver the required service not to establish policy. If, in fact, his philosophy of the program differed dramatically from that of the State, and his actions did lead to an imposition of his philosophy, there is a serious question of a conflict-of-interest in accepting the subcontract. Dr. Gold's direct and overt actions in the political arena (legislature) were only made possible as a result of information he had access to as a result of his contractual relationship.

As the agent for the Borough and the State, Dr. Gold was acting in a manner contrary to the policies of the agency with whom he was obligated to represent.

In this same regard, we would like to point out that contrary to your statement on page 8, paragraph 5; "During the same time Dr. Gold was testifying against Community and Regional Affairs day care proposals in front of legislative committees", the Department had no day care proposals before the Legislature. Dr. Gold on his own volition was attempting to have a supplemental appropriation introduced.

Much is made of local flexibility, by you, by Dr. Gold and certainly by Community and Regional Affairs. On page 4, paragraph 2 you indicate the law "...actually encouraged where applicable.. the local governments to subcontract to a local administering agency." The law is permissive, and permits subcontracting only with the approval of the Department. We can no where find where the law "encourages" subcontracting. You state (page 2) and we agree, that the subcontracting portion of the Statute was designed for rural areas. Fairbanks does not fall in that category.

We disagree with your chronology as portrayed on page 5, paragraph 4. Dr. Gold was instructed verbally (he never requested clarification in writing so it was never given) on more than one occasion that it was not mandatory that he cut off clients already on the program to "make room" for newer applicants with lower incomes. If this were true every program, every day, would need to realign their eligibles with each new applicant. The only requirement was that new AFDC or WIN recipients must be subsidized and an appropriate reserve of funds made available to this group only.

Frank Flavin
October 27., 1977
Page Three

In paragraph 5 of page 5, we feel that Dr. Gold was fully aware that he was not obligated to subsidize all eligible families in the area. His own actions and records will indicate he did not attempt to subsidize all eligibles.

His explanation of short notice to applicants, as stated in your letter, (page 5) was that certain Legislators were working for a speedy supplemental appropriation. It would be considered poor management (and probably illegal) if we were to over expend our funds on the supposition that the Legislature might appropriate additional funds to us in the future. It was no less poor management on the part of Dr. Gold. You indicate that in fact the money was appropriated. We would point out, however, that it was not "speedy" as Dr. Gold anticipated. It in fact was not appropriated until it was too late to be utilized to any extent. Fairbanks utilized only 15 percent of the supplemental.

Your letter reports on page 7 paragraph 3 that:

"Of the \$3,068 in auditable exceptions which Brewer reported on return from her April visit, \$822 were cancelled by the Department when adequate back-up paperwork was provided."

We would make note that actually \$943.96 was cancelled not \$822, as you report. The point is that, much of the paperwork referred to should have been done properly by Dr. Gold in the first place or in the 3-month reviews of applicant files. The matter as to who reimbursed the State is not of concern to us and is a matter between Gold and the Borough.

Page 7, paragraph 4, cites the Department for Mr. Pitts not notifying Dr. Gold of the severity of the actions in regard to denying access to the files. Dr. Gold did receive a copy of the letter to Blevins from Pitts and the attached monitoring report by Ms. Brewer which clearly outlines the severity of the problem.

We would agree with the finding that the Department technically erred in that the Director did not directly communicate in writing the problem of noncompliance with Dr. Gold. The procedure will be strictly adhered to on future actions. We submit however, that Dr. Gold was fully aware of the seriousness of the problem. The mere fact that he sent the "rather inflammatory" letter to Commissioner McAnerney is an indication that he felt threatened and was concerned.

Frank Flavin
October 27, 1977
Page Four

The situation as it relates to Barbara Morse was unfortunate. She was the only professional Divisional employee in Fairbanks. She also happened to be eligible for the DCAP. We would agree that this clouds her involvement. It, however, would have required undue expense to the State to have dispatched another employee to Fairbanks to undertake routine actions related to the program. For example, I specifically requested that she obtain from the Borough the information on the bidding procedures. Her activities on behalf of the Department were limited and had negligible influence on the actions taken.

You indicate that despite specific problems outlined in Brewer's April report she indicates an improvement in the administration. Improvement is only relative to the previous level and does not in any way indicate the acceptability of the "improved" level.

Findings:

A. Action found to be arbitrary

Concur in the technical sense that the procedure was not adequately followed. We do not agree that, as a result, Dr. Gold was not made aware of the seriousness of the problems.

B. Actions found to be based upon improper grounds

Item #2 and item #4

Dr. Gold had been told that there may be additional funds available later. It was indicated these would be in smaller amounts if at all.

In page 13 paragraph 1 you state "The Contract does not state, as you say, that not every eligible person in the Fairbanks area must or should be served". We still maintain that it does, in fact, state this. Article XIV Procedures and Guidelines to the Contract states:

The Contractor shall perform all services in compliance with the procedures and guidelines as outlined in the Department of Community and Regional Affairs Day Care Assistance Program Manual (revised June 7, 1976), attached hereto and made a part hereof (emphasis added), and Alaska Statute 44.47.250-310.

Frank Flavin
October 27, 1977
Page Five

The Manual (which is part of the Contract) states on page 2 paragraph 1

It is not the purpose of this program to provide free day care to all qualifying for assistance. Current funding does not permit the State to subsidize all eligible families;...

We have previously explained the phrase "to serve" as used in Appendix A.

We would agree with you in the statement that the choice to apportion the total funding on a month-by-month average or not, is one of local flexibility, provided:

1. The interests of the State are protected;
2. The interests of the clientele are protected;
3. The local administrator has justifiable grounds to show the advantages of expending the allocated funds in a manner other than on a monthly programmed annual basis;
4. The administrator accepts the responsibility for his management decisions;
5. That the local management decisions are in keeping with the philosophy and intent of the program.

We are of the opinion that Gold applied his own philosophy to the administration of the program; that he misled recipients, delegated program authority to inappropriate and unqualified members of his staff and did not maintain necessary supervisory controls; exercised poor judgement in expecting to receive all the necessary funding through political activity and operating the program accordingly; improperly used his position as program administrator in attempts to implement his personal policies and thus, exceeded the bounds of his contractual relationship.

Item #5

Your report consistantly refers to Dr. Gold cutting higher income clients to make room for lower clients as he felt he was obligated to do. Dr. Gold filed Monthly Statistically Reports with our office. We have indicated, and you have acknowledged, they were often late. In addition, they are of poor quality and provide conflicting information. One portion of these forms asks for the number of new families placed on the program during the month by income groups. Dr. Gold's reports indicate that he did add 9 new families in November;

Frank Flavin
October 27, 1977
Page Six

not all in the lowest group, but in groups I, II and III. The reports for December, January, and February indicate that no new families were added in any group. He does not begin adding again until he feels the Legislature might act in March. His explanation and interpretation of Appendix A, that he had to cut recipients in the higher group to make funding available for new applicants in the lower group, does not correspond with what Dr. Gold was actually doing by his own reports.

You also state "Exactly how the reports should be filed, and what route each report should take through what local, Borough and State offices is unclear, ..." The Department Forms Preparation Manual for the program specifically states on page 3: "This Manual outlines the purpose of each of the above forms as well as the steps for their completion and submission to the correct governmental unit or agency." The Manual then continues to do just that for each form. Dr. Gold received this Manual and was trained in its use.

C. Action Found Unfair

It is our position that the Borough acted prematurely in informing Dr. Gold he would receive the Contract, especially, in light of my meeting with Helen Blevins in May. Our relationship with Dr. Gold was completed upon expiration of the Contract with the Borough on June 30, 1977. We felt no obligation to deal directly with him after that date. You indicate that Dr. Gold was surprised that we would not accept him as a subcontractor. His surprise must have been that a State agency asserted its authority, not that his program administration was considered unsatisfactory.

Agency Action Justified

- A. Statewide perspective needed and obtained through Community and Regional Affairs monitoring.

Concur

- B. Program problems properly outlined by the agency.

Concur. In addition, this experience indicates fault on our part for attempting to work out the problem areas with Dr. Gold and the Borough on an informal basis. Our obvious intent was to maintain a cordial working relationship with both. However, as you have indicated (page 16, paragraph 3), "This same patience also lent to the lack of due process..." We have already revised our procedures and taken corrective actions in this regard.

Frank Flavin
October 27, 1977
Page Seven

- C. Suggestions for future program advertising and proposal guidelines proper and helpful.

Concur

- D. However, heavy-handed the Community and Regional Affairs action to discredit, the Borough chose not to challenge the State's authority and chose to accept its critical comments as basis for not renewing the Day Care Contract with Dr. Gold.

We concur with your conclusion that it was rightfully the Borough's decision. However, we would disagree that we were "heavy-handed". You refer to Dr. Gold's emotionally charged and slanderous remarks before the Assembly as advocacy talents and conclude that "he was not precluded by the State from giving his side of the story." We expressed our position in a straight forward manner, as we feel we have the authority and responsibility to do so.

E. RECOMMENDATIONS

We are, and will continue, to consider the recommendations presented. We offer comments on some of these at this time. Others will necessitate a more thorough review to determine their impact and appropriateness. A lack of comment on these here does not indicate a lack of action. We refer to your recommendations by their reference in your letter.

1. Regulations

We have expressed to your staff our position regarding regulations. It is our experience that regulations tend to restrict program flexibility and create bureaucratic barricades. In review of the first two-years operation of the Day Care Assistance program, we agree that some regulations may be appropriate and have begun an examination of the same.

The drafting and implementation of Statewide regulations cost approximately \$10,000. We will discuss submission of this in our Budget to the Legislature, where they can indicate their desire for regulations or not.

2. Letter to the Borough

Concur

3. Letter to Dr. Gold.

No comment.

Frank Flavin
October 27, 1977
Page Eight

SPECIAL FINDINGS

Since you chose to comment on the appropriateness of the A-95 Grant Review and approval system, we would also comment:

This Division (not related to the Day Care program) has for many months been promoting a more efficient, extensive and comprehensive review process.

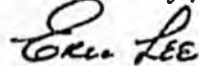
We would disagree that comments by agencies should only relate to that agency's experience with the Contractor. If this held true, a new applicant would receive no comments, either positive or negative.

This agency reviews several grant applications each month on a wide spectrum of subjects. They are reviewed for clarity, objectivity, budget soundness, contractor history, need for project, inter-relationship of the project to others, relationship to stated administration policies and philosophy. This is totally appropriate and in fact, absolutely necessary to objectively evaluate the merits of each proposal.

In summary, we feel the investigation of the complaint was conducted in a manner satisfactory to us. Your assistant, Kathy Allen, was very courteous and cooperative in her dealings with this office. Although, as we have indicated, we do not totally agree with your interpretations on some matters, we do completely agree with your final conclusion as stated in your October 21, 1977 letter to Dr. Frank Gold:

Please understand that we (Ombudsman) are not in a position to determine whether or not you should have, or should now receive the subcontract for the Fairbanks North Star Borough's administration of the Day Care Assistance program this next year. We believe that position is not one that our office can, should, or would want to take in light of our own statutory jurisdiction and responsibilities.

Sincerely,



Eric Lee
Director

EL/dt

cc: Lee McAnerney, Commissioner
John A. Carlson, Mayor,
Fairbanks North Star Borough
Phil Younkers, Chairman,
Fairbanks North Star Borough

ombudsman file

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

F. Harvey Pitts
Child Care Programs Coordinator

January 25, 1978

Eric Lee, Director *EL*
Community and Rural Development

Implementation of
Recommendations of
the Ombudsman

All directives in this memorandum are in reference to your January 23, 1978 memorandum on the subject of recommendations of the Ombudsman in his October 20, 1977 letter to you, concerning Dr. Gold's complaint. You are hereby directed to implement as soon as is possible and practical, within staff time restraints, the following:

- 1) Insert a clarifying paragraph dealing with permission to subcontract, per your memorandum.
- 2) Execute an appendix to all Contracts, redefining the term "to serve" as per your memorandum.
- 3) Add the Program Manual section V C relating to Notice of Termination, as per your memorandum.
- 4) Subcontractor criteria - Implement the changes that you recommend, with the exception of number 7, under the Requirements, requiring seventy-five percent of the Administrator's work time to the program. This needs to be reworded to allow for flexibility, dependent upon the size and nature of the community involved. Seventy-five percent is certainly reasonable for Fairbanks, however, an area such as Nome, or Kotzebue, etc. it might not be appropriate.
- 5) Contract advertising - I would recommend that we insert language into our guidelines that require broad public advertising of all subcontracts, and that the Contractor provide us with their advertising plan, with their permission to subcontract.

6) Direct public involvement - Implement your recommendation.

Please advise me when these directives have been carried out.

EL/dt

cc: Lee McAnerney
Commissioner

file HB 913



FRANK J. GOLD, Ed. D.
Registered Psychologist
FAIRBANKS, ALASKA 99701
(907) 456-4409

May 19, 1978

Eric Lee, Director
Division of Community & Rural Development
619 Warehouse Avenue, Suite #230
Anchorage, Alaska 99501

Dear Mr. Lee,

This is being written in response to the PROPOSED REGULATIONS for the administration of the Day Care Assistance Program.

The Department of Community & Regional Affairs, Division of Community & Rural Development, is charged with contracting with local communities for the administration of the Day Care Assistance Program; the Department has consistently voiced support for local versus state control of the Program; the Department has held the local community financially responsible for unallowable expenses (as defined by the Division) incurred in the administration of the Program.

Thus, one section in particular is of import and concern in the PROPOSED REGULATIONS: ACC .20(b). In that section, the Department proposes to eliminate the option of subcontracting for communities whose grant is in excess of \$100,000. This I find inconsistent and incomprehensible--in fact, discriminatory!

The Fairbanks North Star Borough Assembly has consistently gone on record as being opposed to administering the Day Care Assistance Program "in house". The Assembly has publically stated, on numerous occasions, that it is their wish to subcontract the Program administration. During the current fiscal year, on just as many occasions, the Division has thwarted that publically-elected body's desire.

Four communities are presently receiving funds in excess of \$100,000: Anchorage, Fairbanks, Juneau, and Kodiak. Two of these communities are consolidated municipalities with departments designed to handle a variety of health/social services; the third is a second class borough presently subcontracting the Program administration successfully. In spite of findings issued by the Office of the Ombudsman, and in spite of the expressed will of elected officials, the fourth community--Fairbanks--does not fall in either category. Because of the obstinance and arrogance found within the Department, the Fairbanks community has been forced to choose between eliminating the Program and operating it "in house".

FNSB Assembly
Work Session
March 16, 1978

Present:

Karen Parr, Presiding
Kevin Harun
Phil Deisher
Joe Marshall
Dave Brennen
Harry Reimer
Andy Karella
Phil Younker
Bill Stringer
Butch Stein

John A. Carlson
Bill Creighton
Ron Hauenstein
Gaye Patrick
Milt Staples
Beth Lausen

- 1) Day Care Assistance Program - Frank Flavin, Ombudsman, Eric Lee, Harvey Pitts

Mayor Carlson gave history of day care assistance program thus far and the problems with the subcontracting of it. Mr. Lee gave some in depth background on the program from the state's standpoint. Federal guidelines were not applicable to Alaska, so state set up its own program. Program is geared for the parent, not the child, so parent can go to work or attend school which will lead to gainfull employment. The state agencies should not directly administer the program through social services and has established the grant program with the local government paying the administration costs. The program is not forced on municipalities, but is available if wanted. It was originally designed to be administered in-house. The borough could appropriate the funds for the administration and have the program administered within the borough. They can give the responsibility to the state for the selection of the subcontractor. Mr. Lee felt the borough should operate the program in-house and all the bigger municipalities do. Smaller ones have contracted out to other social service agencies. Brennen asked if the borough was to separate itself from this service, would it still be available. Lee answered there would be no program in the borough, but the city could take over the program. It would be up to the city whether it would be limited to people within the city or not. Brennen asked why the selection of the subcontractor was not totally left to the borough and Lee answer the borough was merely responsible for the cost of it, the state has the final say and sets the guidelines. Lee stated criteria were laid out at the Aug. meeting with the mayor. Criteria are being drafted, will go to public hearing throughout the state and will become part of the Alaska Administrative Code. This is being pushed, but may take time. It will probably not be done in time for the upcoming year and bids. The current manual is the starting point and public hearings will be based on that. The state has to assume that the proper administrator will be provided for the program. When it is in-house, the qualifications, etc., of the administrator has to be approved by the state. The parents attending question why the assembly did not want the program in-house as they felt it was far better administered. They were told the assembly felt they were overstepping the powers of the borough and it has been proven the voters do not want the assembly to have additional powers.

The parents pointed out this was a job development program, not a social service. The borough will or will not accept the program depending on the conditions and those conditions should be laid out. It should also be decided who the negotiators are to be, the assembly or the administration. The consensus was to set up agreed specifications with the state prior to putting out bid. Providers and recipients will be included in negotiations.

2) Utilization of clerk's office and borough letterhead

Ms. Parr stated clerk's office and equipment was not to be used by assemblymen. A typewriter is available to move into assembly offices. Policy was set for using letterhead only for borough business and assemblymen should have their own stationery for personal use.

3) Code of Ethics

Yunker suggested Nordale review ordinance with amendments. Karella felt the enforcement of this could only be done in court. The ordinance states borough employees and elected officials have to check with borough attorney on future job positions if there might be a conflict. Parr suggested an alternative to putting this on the attorney would be to form an ad hoc committee of the attorney and 2 or 3 others. This would not be a standing committee, but formed for each case. Consensus was to form committee to do in depth study of ordinance. Committee to be: Karella, Parr and Biennen - also notify Marshall & Yunker.

4) Budget and Community Services Requests

Mayor Carlson stated they are looking at about 8.4 mill rate as the budget presently stands. The assembly needs a definition of TVA's goals. Stringer said TVA will be moving from the borough offices and a meeting of TVA board and the assembly would be useful. One portion of a work session will be set aside for TVA.

Shouldn't some of the community service requests be under P&R budget? Brennen suggested a non-revenue fund for community services. If the fund became large enough, the grants could be funded from the interest. Deisher would like to see a percentage of P&R's budget go toward the performing arts. Yunker believes the P&R commission should be directing how the budget is spent. Stein said symphony and theater are not government function and should not be funded.

Terese Kaptur, Fairbanks Symphony, stated all orchestras are supported in part by some of tax support dollars. They are asking for educational and promotional grant. Mailing list is 150 very small fraction of population. All money would be spent in the borough for the borough. This would not be a continuing request. This is their first request because they have found ticket sales do not cover costs. Average attendance is 600 with tickets at \$4.00 general and \$1.00 students.

Phil Gilbert, Hospitality House, stated they would continue mental health program as is now and add about 9 needed services. They need 25% match funding and endorsement with state matching fund with 75%.

Brennen stated endorsement can be given to all applicants for grant and state will pick best bidder. They have most of their 25% money and are only asking for endorsement as suitable group for grant. Consensus was that assembly is not qualified to consider this and cannot endorse one group without listening to all.

Linda Hulbert, Adult Learning Center, stated this is non-profit, private organization. The borough does not offer basic adult education program. Provide no charge service and serve Fairbanks and all interior villages. Rural funding comes from native corporations. They are asking for funding for teachers for special classes, i.e., English as second language, GED. State provided \$124,000 last year and native corp. \$50,000. Younker felt this should be under the school board budget. School board will not get into operating adult education.

5) Chena Wayside

Consensus was not to take it from the state unless it is completed or they will add administrative costs to the offered \$269,000.