This requirement does not apply to State clearinghouses. This is because the State clearinghouse is considered to be the spokesman for the Governor. Thus, the views of individual State agencies may be included or excluded, depending upon whether or not they are in accord with the policies and programs of the Governor. To the extent that the State clearinghouse does not articulate any views of its own but simply forwards the views of individual State agencies -- which may be variable -- they are considered to be simply that: the views of those individual agencies, which may or may not represent gubernatorial policy.

This is not to say that they will not receive full consideration by the Federal agency. However, the agency is not required to explain its action, if it funds a project over the objections of an individual State agency as it would if the clearinghouse, speaking for the Governor, voiced opposition to the project. Similarly, at the areawide level, the funding agency is not required to explain its action in approving a project to which an individual jurisdiction objected, although the clearinghouse had endorsed the project. Of course, a prudent program administrator might find it most proper, consonant with good management and intergovernmental relations principles, to explain his action to a local chief executive or to any commentator who provided him with a well-documented objection.

c. Privileged Information. Under certain programs, particularly those providing assistance to quasi-public or private organizations or individuals, the applicant is required to provide the funding agency with information about the financial status of the organization or about specific individuals who will be involved in the management of the project. Or he might have to provide proprietary information that might be of considerable use to competitor organizations or individuals. Such information need not be provided to the clearinghouse as part of the review package.

The reasons for this are severalfold:

- Privileged information is generally of the type that could be used by others to the disadvantage of the applicant.

- The primary function of the clearinghouse is -- or should be -- analysis of the substantive aspects of the proposed project for its potential impact on the community. Presumably, the funding agency requires privileged information of this type to assure itself that the applicant is equipped to carry out the project in which Federal monies are being invested.

However, such privileged information usually does not apply to the project itself. It would not include, for instance, information about the proposed project budget, staffing patterns, salary schedules, or the like. In case of any doubt, appropriate counsel should be sought.

d. Renewals and Continuation Grants. The wording of paragraph 4.g. has caused some confusion. It were better restated as follows:

> "Applications for annual renewal or continuation grants are subject to review upon request of the clearinghouse; and applications not submitted to or acted upon by the funding agency within one year after completion of the clearinghouse review are subject to re-review upon the request of the clearinghouse."

There is also some confusion as to what constitutes a renewal or continuation grant. The answer hinges on whether the application includes new substantive activities or substantive changes in activities originally proposed. Examples of applications not subject to the whole process would include:

- Applications for funds for the second year of a two-year project, the original application for which identified all of the activities to be undertaken over the two-year period, and which involve no substantive change; or

- Applications for extension of time or additional funds necessary to complete a project that involve no substantive change.

By "substantive" we mean new or changed activities that may alter the direction, nature, scope, location or scale of the project or activity being supported or which might involve changes in the beneficiary population or target group being served. It does not involve purely administrative changes: accounting, auditing, personnel, contracting, etc., that deal with project management.

Under some programs, the same organization is funded from year-to-year to carry out the same type of activity. However, the specific activities undertaken will vary from year to year. For example, HUD funds comprehensive planning agencies on an annual basis. The application contains a generalized multi-year work program and a detailed work program for the current year. The contents of the annual detailed work programs change in content and specificity. Therefore, this type of application cannot be considered as application for a continuation or extension grant and must go through the normal A-95 review.

Clearinghouses may want to review renewal or continuation grants even though the substance of the activity carried on remains unchanged, when they have reason to think that the circumstances have changed, so that the program carried out under the project should be altered to fit the new circumstances.

5. Subject Matter of Comments and Recommendations

Paragraph 5 indicates some of the aspects of project proposals to which clearinghouses may want to address their comments. Most of these are taken verbatim from Title IV of the Intergovernmental Cooperation Act and Section 102(2)(C) of the National Environmental Quality Act.

However, the list of items or considerations under Paragraph 5 are suggestions only. The clearinghouse need not address each question, nor is it constrained by Paragraph 5 from discussing any aspect of a proposal, whether or not listed. And, of course, as noted above, the clearinghouse need not comment at all on any given proposal. In fact, clearinghouses should try to develop a screening process to weed out projects with no areawide or interjurisdictional spillover, so that they may devote their review resources to projects with potential intergovernmental impact. However, individual mayors or county boards of supervisors may wish to look at all projects proposed in their jurisdictions. When such requests are made of clearinghouses by individual jurisdictions, the clearinghouses will assure them such opportunity and make sure their comments are transmitted to the applicant.

As noted, the listing of appropriate matters to consider in evaluating a proposed project is by no means exhaustive. There are other considerations that may be taken into account. For instance:

- The National Historic Preservation Act of 1966 (16 U.S.C. 470) and Executive Order 11593, "Protection and Enhancement of the Cultural Environment" (16 U.S.C. 470), as implemented by the Advisory Council on Historic Preservation in 36 C.F.R. Part 800, establish a mandatory review process for Federal, federally assisted, and federally licensed undertakings affecting certain historic properties. The historic preservation review requires the identification of properties within the potential impact area of a project that are included in or eligible for inclusion in the National Register of Historic Places, maintained by the National Park Service, Department of the Interior. When there is an effect on such a property, the Advisory Council on Historic Preservation must be afforded an opportunity to comment. Projects or activities that have

potential for affecting historic, architectural, archeological, or cultural properties should be submitted by clearinghouses to the State Historic Preservation Officer. This will alert the applicant to potential problems involving historic resources and provide an opportunity to initiate early compliance with the independent review requirements of the National Historic Preservation Act and Executive Order 11593.

- The clearinghouse may want to comment on the question of whether the private sector is better equipped to carry out the project in question. There has been a growing interest in the potential for savings by contracting for services rather than their direct provision by the locality. There has been experimentation in such diverse areas as education and trash collection with this consideration in mind.

- The Flood Disaster Protection Act of 1973 (P.L. 92-234) is a program of flood insurance administered by HUD, which is designed to discourage inappropriate development in flood prone areas and to mitigate the impact of flood disasters. Therefore, clearinghouses may want to assess the extent to which a proposed project may affect or be affected by flood hazards.

6. Federal Agency Procedures

Paragraph 6 has been strengthened in several ways. The first is by giving more explicit direction to funding agencies with respect to applications that are submitted without evidence that they have fulfilled A-95 requirements. Agencies are directed to return applications that do not carry such evidence to the applicant with directions to fulfill the requirements. The evidence can consist of two things: either attached comments from the clearinghouses or a certification by the applicant that he has provided either or both clearinghouses with the appropriate opportunity to review his application and has received no comments.

It should be noted that comments from one clearinghouse only is insufficient evidence. State clearinghouse comments are not a substitute for areawide clearinghouse comments -- nor vice versa. Comments from both must be included with the application -- or, if one or the other has not responded, a certification to that effect. If, as in some States, there is an arrangement between the State and areawide clearinghouses that one or the other serves as the single point for submitting applications for review and for tendering comments of both back to the applicant, that

feature should be noted. However, in such cases, whichever is the clearinghouse to which applications are submitted should state that one or the other has no comments, if such is the case.

Clearinghouses must be notified of any action taken on an application within seven working days after such action has been taken. SF 424 is normally used (unless waived by OMB) for providing such information. That form carries information, certified by the applicant, about which clearinghouses the application has been submitted to and a certification that all comments have been attached to the application (or that none have been received). This further reinforces the requirement noted above that applications not carrying evidence of A-95 review be returned to the applicant.

Where funding agencies approve an application contrary to the recommendation of a clearinghouse, they are required to explain in writing to the clearinghouse why its recommendation was not accepted. Such an explanation should accompany the action notification on SF 424.

A new element in paragraph 6 is a requirement to the effect that, where a clearinghouse has pointed out that a proposed project may conflict with or duplicate an activity funded by another Federal agency, the funding agency must consult with that agency prior to approving the proposed project. There is, unfortunately, ample opportunity for conflict or duplication to occur -- for instance, HEW, DOL, CSA, and ACTION all administer programs designed specifically to assist the elderly.

7. Housing Programs

Paragraph 7 describes the specialized review process devised to cover Federal housing assistance programs of HUD, USDA, and VA. The review process is shortened for these programs, and the formal relationship is between the Federal agency and the clearinghouses rather than between applicant and clearinghouses. A minimum size is set for housing projects subject to review, and the requirement applies only to new construction or substantial rehabilitation, but it does cover loans, loan guarantees, mortgage insurance or other housing assistance.

a. Review Process. Basically, the process works like this: a developer will submit an application to the Federal agency, that is preliminary in nature, the purpose of which is to establish the feasibility and/or eligibility of the proposed project for the

type of assistance sought. The application contains a description of the project, detailed enough for evaluation purposes but lacking detailed construction plans. The Federal agency will send copies to the clearinghouses which have 30 days (plus four days miling time) to review it and to submit any comments back to the agency. The 30-day period is a floor, and agencies will generally accept comments until the time (beyond 30 days) when their own evaluation is complete.

Some HUD offices have urged or even required developers to contact the clearinghouses before submitting applications to HUD. This enables the developer to acquaint himself with the review process, and in the case of any particular project, to identify any potential difficulties that could cause delay or even rejection of the project. A new amendment to this paragraph provides an alternative to the prescribed process that follows this approach. That is, the developer may request a review of his project before applying to HUD, USDA or VA. The extent to which this approach is used and associated procedures should be worked out between the regional offices of the Federal agencies and the clearinghouses in each region.

b. Size of Projects Subject to Review. The minimum size of proposed housing projects subject to review is lower in rural areas than in urban. The break point between the two types of areas is defined by the "urbanized area" concept of the Bureau of the Census. This distinction which increases the territory where the lower minimums would prevail is new in the 1976 revision. An urbanized area, according to the U.S. Census Bureau, is, basically, a city with a population of 50,000 or more, plus all contiguous incorporated places and areas with a population density of over 1,000 persons per square mile. Urbanized areas are delineated on maps in the U.S. Censuses of Population and of Housing (State volumes).

Minimum subdivisions in the urbanized areas are 25 lots or more, in other areas, ten. For units in multifamily projects, comparable figures are 50 and 25; for mobile home courts, 50 and 25 spaces; and for college housing, 200 and 100 students.

c. Exemption. A new provision of the 1976 revision of A-95 provides that additional units in a substantially completed subdivision are not subject to review. This is a somewhat misunderstood idea. A substantially completed subdivision is one that is partially built up and is completed with respect to water and sewer facilities, culverts, and other such facilities. It is also one which the Federal agency has not yet evaluated, because it has been built up with conventional or other financing.

What is not well understood is that these Federal agencies do not finance subdivisions, they finance houses. That is, a developer approaches HUD, for instance, to seek HUD certification that houses to be built in a subdivision will be eligible (for individual purchasers) for Federal subsidy, loans, loan guaranties, or nortgage insurance, as the case may be. Such certification will make it easier for the developer to secure financing and to sell the houses when built. HUD only evaluates the subdivision plan to assure that it meets HUD standards for subdivision development before making assistance available to home buyers.

Thus, in the case of additional units in a substantially completed subdivision, the developer has already secured all the necessary local approvals (i.e., zoning, subdivision regulations, etc.). However, now he is seeking, perhaps, HUD approval for assistance to low or moderate income homebuyers for the remainder of houses to be built in that subdivision. It must still meet HUD subdivision standards, but the evaluative contribution that clearinghouses may make is substantially diminished. It should also be remembered that HUD, USDA, and VA programs account for only a small proportion of housing construction, although banks and thrift institutions which account for most housing finance also receive Federal assistance in the form of insurance on deposits by their clientele. Thus, even if the developer is turned down by HUD, he may receive conventional financing but the additional houses he builds in the subdivision will have to be sold in a market of unassisted purchasers.

d. Content of Housing Reviews. When housing programs were first put under A-95, it was expected that the main interest of the clearinghouses would be in the information provided about the scale and direction of growth, rather than in performing substantive reviews. As it has developed, their interests are much more substantial. Reviews, for many clearinghouses, have focused on the impact of proposed housing projects on the supply of facilities and services, available and projected, for serving the new inhabitants of these developments. Many of the clearinghouses have developed checklists and canvassed area and local agencies on the adequacy, for the new development, of:

- Water and waste disposal facilities;
- Transportation;
- Schools;
- Police and fire services;
- Hospitals and health services;
- Recreational facilities and services.

Moreover, fundamental environmental questions are considered: adequacy of soils to support proposed development, flood hazards, and tree-cutting, grading and runoff problems. Similarly, economic impact analyses are made, especially of impacts on the local tax base.

8. Coverage, Exceptions, and Variations

a. Exceptions and Variations. Paragraph 8, perhaps the most significant change in the 1976 revision of A-95, has been discussed earlier in this handbook. It sets out the objectives and limitations for deciding whether a program should or should not be covered by the PNRS. It also provides criteria for exempting certain types of projects under a program that is otherwise covered. That is, if certain kinds of projects meet the criteria for exempting whole programs, it is reasonable enough to expect that project categories exhibiting the same characteristics should also be exempted from the requirement.

Paragraph 8 also provides for variations on usual review procedures. These will usually be of a temporary nature, due to the tight time requirements often associated with starting up new programs. However, with the increasing trend to block grants, it may be necessary to devise new procedural approaches that can satisfy the review requirements as well as the needs of the applicant.

In the past, OMB has granted procedural variations based on the often delayed availability of funds due to slow and erratic appropriations processes. However, it has seemed to OMB that applications do get prepared for ongoing programs during the time prior to funds becoming available. Therefore, OMB will no longer, except in unusual circumstances, grant variations (usually involving simultaneous submission of applications to funding agencies and to clearinghouses) on this basis, suggesting rather that agencies advise potential applicants to complete the A-95 review requirements pending fund availability.

b. Coverage. Not infrequently, there have been objections to including a program under PNRS on the basis that clearinghouses would not have the expertise to evaluate projects under such programs. This has been particularly true with respect to human resources programs. Certainly it is true that, at least in the past, clearinghouses have been primarily oriented to physical development. Nevertheless, even in dealing with land use, transportation, and community facilities, clearinghouses have inevitably had to deal with human resource questions. The interfaces between transportation and employment, for instance,

or health and the environment has led many to develop considerable sensitivity to these relationships. Moreover, a good many of the areawide clearinghouses, are also, variously, law enforcement planning agencies, comprehensive health or manpower planning agencies, as well as comprehensive land use and physical development planning agencies and consequently have developed some expertise in those areas.

However, the most important capability for a clearinghouse in undertaking review responsibility for a variety of new programs in areas in which they may have relatively little staff expertise is the ability, first, to identify the relationships between any proposed project and other functional areas; and, second, to identify the agencies in the area that can provide critical and/or expert inputs into the review. Few clearinghouses have the resources to employ all of the expertise they need to carry on the A-95 review for all programs covered, even before expansion. Inevitably, most clearinghouses have to turn to other agencies, public and private, to supply expert analysis to supplement their own.

The programs covered by the PNRS are listed in Attachment D of the Circular. They are also listed in Appendix I of the Catalog of Federal Domestic Assistance. However, the two lists do not always jibe. This is, in part, because the two lists are published at different times. Also, program references in the Catalog frequently change from one edition to the other as agencies may group formerly separate programs or, conversely, disaggregate one program listing into several. In the future, OMB will endeavor to conform any changes in forthcoming editions of the Catalog with the Attachment D listing through issuance of an Administrative Note on the subject.

A number of States have extended A-95 review requirements to a broader range of programs than listed in Attachment D. This is generally done under State law or a Governor's executive order. Therefore, applicants for assistance under those programs in such States are bound by the State law and must submit their applications for review. However, the States which have such laws are responsible for their enforcement. Applicants should ascertain the existence of such laws extending A-95 coverage to assure that their applications are not delayed.

There is some confusion as to why Circular No. A-95, Treasury Circular 1082 (formerly OMB Circular No. A-95), and Federal Management Circular 74-7 (formerly A-102) do not all cover the same programs. The basic reason is that the several circulars have quite different, although not entirely unrelated objectives.

- FMC 74-7 aims at standardization of administrative requirements for programs of grants to State and local government.

- TC 1082 has as its objective informing States of grant awards made to governmental units and agencies within the State.

- A-95 has as its objective providing State and local government with opportunity to influence the award of Federal assistance under those programs affecting State, areawide, or local development.

FMC 74-7 and TC 1082 generally cover only programs providing grants to State and local government, while A-95 includes not only grants but loans and loan guaranties and insurance programs. Many of those assisted under A-95 covered programs are not State and local governments but quasi-public and private organizations or even individuals. On the other hand, TC 1082 and FMC 74-7 cover a number of programs of grants to State and local government that paragraph 8 of A-95 would exclude from coverage because they are not germane to the objectives of A-95. Consequently, to make coverage identical might appear superficially neat, but it would result in considerable subversion of objectives and an unnecessary flow of paper.

9. Joint Funding

Under a variety of different authorities, but primarily under the Joint Funding Simplification Act of 1974 (P.L. 93-510), applications for a variety of related activities under different programs can be combined into a single application and administered, in effect, as a single project. Paragraph 9 of Part I provides that where one or more elements in a joint funding application is for activities under a program covered by Part I, the whole application is subject to the review requirements of Part I.

This new paragraph replaces reference to "Multisource Programs" under Part III of the Circular.

10. Additional Questions on Part I

a. Financial Support for A-95 Review. There is no specific financial support provided for the A-95 review process by the Federal Government. However, support is authorized in the Public Works and Economic Development Amendments of 1974, and the Economic Development Administration has provided some assistance to Economic Development Districts which are clearinghouses. Similarly, HUD has considered A-95 review an eligible work item for clearinghouses assisted by the 701 program. Further, under

some conditions the costs of A-95 reviews may be considered eligible overhead costs under various planning programs carried out by clearinghouses. While OMB does not have other than impressionistic evidence, it appears that the greater share of A-95 review costs is paid for by clearinghouses with State and local funds.

A closely related question is that of fees for clearinghouse review. OMB does not feel that it can prevent clearinghouses from trying to charge applicants fees for reviewing their applications pursuant to A-95. At the same time, OMB does point out to applicants that they are under no obligation to pay a fee for such a review. The only obligation of the applicant is to give the clearinghouse an opportunity to review his application. If the clearinghouse does not take advantage of that opportunity within the allotted time, the applicant is free to submit his application to the funding agency with a statement to the effect that he has followed the requirements of A-95 and has received no comment from the clearinghouse.

Aside from this, it is the OMB view that fees are undesirable, as they are conducive to log-rolling and other practices not in keeping with the objectives of A-95. Support for A-95 reviews from whatever source preferably should not be on a per project basis, but should be generalized, so that there can be no suspicion that any individual project is endorsed because of the review payment attached to it.

b. Relationship of A-95 and Environmental Impact Statements. There has been considerable confusion as to the role of the clearinghouses in implementing Section 102(2)(C) of the National Environmental Quality Act which deals with environmental impact statements (EIS's). Section 102(2)(C) calls, in effect, for inputs into the development and evaluation of EIS's by State and local agencies authorized to develop and enforce environmental standards. The A-95 clearinghouses provide a vehicle for securing these inputs, and the review process specifically represents the means by which such inputs into the development of the EIS can be achieved.

The relationship is spelled in detail in the Council on Environmental Quality's EIS guidelines, as follows:

"1. OMB Circular No. A-95 through its system of clearinghouses provides a means for securing the views of State and local environmental agencies, which can assist in the preparation of impact statements. Under A-95, review of the proposed project in the case of federally assisted projects (Part I of A-95) generally

takes place prior to the preparation of the impact statement. Therefore, comments on the environmental effects of the proposed project that are secured during this stage of the A-95 process represent inputs to the environmental impact statement.

"2. In the case of direct Federal development (Part II of A-95), Federal agencies are required to consult with clearinghouses at the earliest practicable time in the planning of the project or activity. Where such consultation occurs prior to completion of the draft impact statement, comments relating to the environmental effects of the proposed action would also represent inputs to the environmental impact statement.

"3. In either case, whatever comments are made on environmental effects of proposed Federal or federally assisted projects by clearinghouses, or by State and local environmental agencies through clearinghouses, in the course of the A-95 review should be attached to the draft impact statement when it is circulated for review. Copies of the statement should be sent to the agencies making such comments. Whether those agencies then elect to comment again on the basis of the draft impact statement is a matter to be left to the discretion of the commenting agency depending on its resources, the significance of the project, and the extent to which its earlier comments were considered in preparing the draft statement.

"4. The clearinghouses may also be used, by mutual agreement, for securing reviews of the draft environmental impact statement. However, the Federal agency may wish to deal directly with appropriate State or local agencies in the review of impact statements because the clearinghouses may be unwilling or unable to handle this phase of the process. In some cases, the Governor may have designated a specific agency, other than the clearinghouse, for securing reviews of impact statements. In any case, the clearinghouses should be sent copies of the impact statement.

"5. To aid clearinghouses in coordinating State and local comments, draft statements should include copies of State and local agency comments made earlier under the A-95 process and should indicate on the summary sheet those other agencies from which comments have been requested, as specified in Appendix I of the CEQ Guidelines."

c. The Federal Interest in PNRS. While it should be obvious enough, Federal agencies administering the Federal taxpayers' dollars have an obligation to see that program funds are used as effectively as possible. Therefore, the potentialities under PNRS for revealing possible conflicts that could cancel out the beneficial effects of Federal assistance among programs or between

jurisdictions can help the Federal administrator fulfill this obligation. Or, put more positively, PNRS can reveal opportunities for improving the cost effectiveness of projects by making them more complementary or combining them, thus reducing, not only conflict, but expensive duplication. As noted earlier, Federal internal review procedures may be effective in evaluating a proposed project in its own terms, but they will not generally reveal the external impacts of a project that can make or break it. However, positive clearinghouse comments -- or even "no comment" -- can give reassurance to the Federal administrator that external effects of a project are either beneficial or minimal.

PART II: DIRECT FEDERAL DEVELOPMENT

1. Scope of Requirement

Part II requires that Federal agencies which engage in direct development of Federal projects such as Federal civil works, military or scientific installations, public buildings, etc., must consult with State and local governments that might be affected by those projects. Where projects are not in conformity with State, regional, or local plans the Federal agency will be required to justify any departures. The requirement applies not only to construction but to the acquisition, use, and disposal of Federal real property.

Of particular note is the definition of "direct Federal development" in the definitions section of A-95 (Part V). The definition includes not only development undertaken by Federal agencies but development undertaken for the use of the Federal Government or any of its agencies. Thus, Federal lease-purchase developments or developments undertaken specifically for lease or sale to the Federal Government would be included. It also includes leasing existing property where the Federal use will involve a change from the existing use by type, intensity, or scale.

In addition, in the preparation of environmental impact statements pursuant to Section 102(2)(C) of the National Environmental Policy Act, Federal development agencies are required to seek the views and comments of State and local environmental agencies. Regulations of the Council on Environmental Quality indicate the clearinghouses as the appropriate channel through which to secure the required State and local views and comments.

2. Implementation

Various executive office and congressional constraints on direct Federal development inhibit the use of the normal Part I Project Notification and Review System for these kinds of projects. For instance, under many direct Federal development programs, a project does not begin to have a real potential until it is included in the President's Budget. After that, it must still be approved by both the substantive and appropriations committees in both houses of Congress. In some cases, agencies are constrained in the timing and amount of information they can disclose at various stages in the planning process. In other cases, the possibility of land speculation may prevent consultation with State and local government until the site is secured by option or purchase.

The nature and intensity of these constraints may vary widely among programs involving Federal development. Consequently, the 1976 revision requires the agencies which do have such constraints to set forth in their regulations the time at which consultation will commence, what minimal information will be provided, how long a period will be provided for review, and how information on project action will be fed back to clearinghouses.

In the case of larger permanent Federal installations or property holdings, an alternative was suggested in the 1976 revision. This was for the Federal agency to execute a memorandum of agreement on planning and development coordination with the appropriate State and areawide clearinghouses in the jurisdiction of which the Federal installation or holdings are located. The idea, of course, is to work out arrangements for coordinating planning and development on the installation or holdings with that carried out by State and local government.

It is not always understood that development activities of State and local government can severely impact upon the effectiveness with which the Federal property can be used. For instance, in one southwest city, a zoning variance would have permitted the construction of a high rise building right in the flight path of a military airfield. Luckily, the potential conflict was discovered in time to prevent the development. However, the concern of the military over what they term, "civilian encroachment," makes the memorandum of agreement approach most attractive.

3. Federal Licenses and Permits

A substantial number of activities which may affect areawide and local development are carried out by nongovernmental or private sector organizations under permit from various Federal departments

and agencies. Such activities might involve such matters as power plant siting, estuarine development, mineral exploitation on public lands, and similar activities, largely in the natural resources area. Another innovation in the 1976 revision of A-95 urges Federal agencies which are authorized to grant licenses and permits for activities affecting State, areawide, or local plans and programs or the environment to consult with clearinghouses on applications for such licenses and permits. Most Federal agencies having such licensing or permitting functions have indicated their intention to take this A-95 exhortation seriously.

4. Medical Facilities Requirements

One element of this Part that has proved somewhat confusing to clearinghouses is actually a transplant from an earlier OMB Circular (No. A-57) that was rescinded. The requirement applies to Federal medical facilities such as VA or military hospitals. When considering whether or not to recommend the inclusion of proposed new medical facilities (or expansions to existing facilities) in the President's Budget, OMB requires that the Federal agencies proposing such facilities accompany their proposals with the comments and recommendations of State and areawide health planning agencies. Under the 1976 revision, the comments of clearinghouses are also required to be included. Since A-95 clearinghouses will also review many or most such proposals under Part II, provision is made for the clearinghouses as the appropriate point of entry into the review system through which the comments of health planning agencies and clearinghouses will be secured. What should be made clear is that this is not a variation on the review process itself. What it means is that comments of the clearinghouses and the health agencies do not stop with the Federal agency, as they do in all other situations. It means that in the case of Federal health facilities, the comments must accompany the agency budget submission to OMB.

PART III: STATE PLANS

Numerous Federal formula grant programs require, as a precondition of a State qualification for its allocation, that the State submit a State plan (sometimes called "operational plans," or "plans of work" or similar terms). These are highly variable in nature and content. While some are plans in the conventional sense -- "What we want to do and how we expect to do it" -- others only indicate the basic administrative apparatus or arrangements under which the program will be carried out. However, almost all do require associated documentation which provides information about

the specific activities for which program monies will be spent, even though this information does not appear in the "plan" itself. However, it is either required to be submitted with the plan or to be prepared and available for inspection by Federal program personnel. Part III defines "plan" as including, not only the formal plan document, but these associated materials.

The plan, as defined, must be submitted pursuant to Part III to the Governor (or his designee) for evaluation. The evaluation is based on the relationship of the plan to other State plans and programs and to gubernatorial development policies.

The Governor is urged, although not required, to involve the areawide clearinghouses in State plan review where activities to be undertaken under the plan will have an identifiable impact on areawide or local plans and programs. In a number of States the involvement of areawide clearinghouses in State plan review is established policy, as contributing an extra, most useful dimension to State plan evaluation.

A guide to programs covered under Part III can also be found in Appendix I of the Catalog of Federal Domestic Assistance.

In the previous (1973) edition of Circular No. A-95, there was another element in Part III, "Multisource Programs." This has been eliminated, although the same types of programs are now dealt with under "Joint Funding," paragraph 9 of Part I of the Circular.

PART IV: COORDINATION OF PLANNING IN MULTIJURISDICTIONAL AREAS

Part IV was developed originally to offset a growing tendency among Federal programs to promote areawide or multijurisdictional planning for various purposes. Such planning activities were uncoordinated geographically, functionally, and organizationally. In nonmetropolitan areas this frequently would lead to a serious drain on already limited planning resources. In metropolitan areas it has intensified confusion and general duplication of effort.

Part IV of the Circular is closely related to Part I. By encouraging the States to develop systems of substate planning areas, it sets the stage for a more complege geographic coverage of the Project Notification and Review System. Similarly, the PNRS, by requiring clearinghouse review of projected planning and development activities under various Federal programs, sets the stage for the more systematic and continuing planning coordination envisioned under Part IV.

Originally, the primary thrust of Part IV was to bring a measure of conformity, or at least consistency, in the geography of planning areas. This is an important precondition of effective coordination arrangements among various areawide planning activities. As States have developed substate district systems -- most have, and a majority are operational -- and as progress has been made in conforming federally designated planning areas with them, the thrust and emphasis has moved to improving arrangements for fully coordinating areawide functional planning with the comprehensive planning carried on by the substate district organizations.

In 1972, OMB asked the major public interest groups representing State and local government* to evaluate Federal agency implementation of Part IV. A major recommendation of that study was that Federal agencies utilize, to the greatest degree possible, the substate district organizations (called "umbrella multijurisdictional organizations" -- "UMJOs" -- in the study) to meet areawide planning requirements. The UMJOs were described as being predominantly composed of elected officials of general local government. Where responsibility for carrying out areawide functional planning is vested in an agency other than the UMJO, the study recommended that policy control be vested in the UMJO. A policy statement embodying these general ideas has been adopted by most of the public interest groups participating in the study.

The Advisory Commission on Intergovernmental Relations,** in a massive study of substate regionalism, adopted similar recommendations, although substantially stronger.

Part IV reflects the general thrust of the public interest group and ACIR recommendations. It does this in two ways:

- It encourages, but does not require, Federal agencies administering programs assisting or requiring areawide planning to utilize the substate district organizations (almost always A-95 clearinghouses) to carry out such planning.

- It requires that the regulations of programs supporting areawide planning provide for a memorandum of agreement, when the organization being funded for areawide planning is not the district organization, between that organization

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* Council of State Governments, National Governors'Conference, National Legislative Conference, National League of Cities, U.S. Conference of Mayors, National Association of Counties, and International City Management Association.

** The ACIR is a statutorily established intergovernmental research organization, the membership of which represents Federal and State executive and legislative branches, counties, municipalities, and the public.

and the district organization. In the case of interstate metropolitan areas, the required agreement would be between the interstate A-95 areawide clearinghouse and any applicant for multijurisdictional planning assistance. The memorandum of agreement would identify the means by which the two would coordinate their related planning activities.

The agreement would include provisions for joint studies and utilization of resources, organizational arrangements, and utilization of common and consistent statistics, projections, and assumptions about the area and its future. The latter is extremely important, both in terms of resource savings and in eliminating one of the basic sources of plan conflicts.

The achievement of these coordinative arrangements, then, is a necessary concomitant effort with conforming jurisdictional boundaries of areawide planning agencies; for a common territorial base by itself does not assure coordination. There must be contact, communication, and cooperation between organizations planning for various aspects of area development for that to occur.

While Part IV indicates the various subject matter to be covered in the agreement, it does not prescribe the form or substance of the agreement. Those are matters to be negotiated between the two organizations. Where an agreement cannot be consummated, Part IV provides that the organization applying for assistance must indicate in the application the issues which have prevented agreement. The funding agency, in cooperation with the Federal Regional Council and the State clearinghouse, would assist the two organizations to resolve the issues and conclude an agreement. If no resolution is possible after 30 days, the funding agency could award the grant, if the application is otherwise in good order. Of course, it could also refuse to award the grant unless an agreement were concluded.

If the applicant organization is applying for areawide planning assistance for an area greater than or not coterminous with that of the substate district (or the A-95 areawide clearinghouse jurisdiction in the case of interstate metropolitan areas), it would have to develop memoranda of agreement with each substate district (or interstate areawide clearinghouse) into which that area extends.

The major programs assisting areawide planning (not necessarily exclusively) are:

- HUD: Comprehensive planning (701) program
- DOT: Urban highway planning
  Mass transportation planning
  Airport systems planning

- EPA: Water quality management planning
  Air pollution control planning
  Solid waste planning
- HEW: Health systems planning
  Planning for the aged
- DOL: Multijurisdictional manpower planning
- USDA: Resource conservation and development planning
- CSA: Community action planning
- EDA: Economic development district planning
- NOAA: Coastal zone management planning
- ARC: Local development district planning
- LEAA: Law enforcement planning

SUMMARY

OMB Circular No. A-95 is fundamentally an effort to create a climate where intergovernmental cooperation can take root and flourish. It does this by creating opportunities for contacts and communication within and among the several levels of government. This contact and communication is a necessary precondition for coordination.

In order to take full advantage of those opportunities, it is important that the various actors think of the requirements as opportunities, rather than as administrative obstacles:

- The applicant should recognize the opportunity to develop a better project through avoidance of conflict and the discovery of means for getting the most value for its investment.
- The Federal agency should recognize the opportunity for increasing program effectiveness through the same means and through applicant awareness of the need for sound planning and coordination.
- The clearinghouses should recognize the opportunities for providing real service to applicants and Federal agencies, which will enhance clearinghouse credibility and status as a constructive force in the area or in the management of the State government.

In sum, the regulations promulgated under Office of Management and Budget Circular No. A-95 are aimed at promoting more effective coordination of planning and development activities carried on or assisted by the Federal Government. The major device of A-95 is encouragement of systematic communications between the Federal Government and State and local governments in carrying out related planning and development activities. Used judiciously by State and local governments and regional bodies, the processes set forth in A-95 can result in more expeditious, more effective, and more economical development of physical, economic, and human resources.

EXHIBIT 1

PROJECT NOTIFICATION AND REVIEW SYSTEM

The following outlines the process of the "Project Notification System" developed to implement, in part, Title IV of the Intergovermental Cooperation Act.

Step 1 Potential applicant desiring Federal assistance makes inquiries of Federal agency.

Step 2 Funding agency informs applicant that, among other things, it must notify both State and areawide clearinghouses about the project for which it intends to apply for assistance.

Step 3 Applicant notifies clearinghouses.

Step 4.a. State clearinghouse notifies State agencies which might have programs affected by proposed project, including where appropriate, environmental agencies and State agencies responsible for enforcing or furthering the objectives of civil rights laws.

4.b. Areawide clearinghouse notifies local governments and agencies whose interests might be affected by the proposed project including, where appropriate, local and regional environmental agencies and public agencies responsible for enforcing or furthering the objectives of civil rights laws.

Step 5 State agencies, local governments, or others to whom notifications have been sent inform appropriate clearinghouse of any problems they may have with the proposed project.

Step 6 Clearinghouse may sign-off on the project, if there are no problems; or, if there are problems or questions raised about the project, the clearinghouse may arrange conferences with the applicant to discuss such questions or issues.

Step 7 If questions or issues have been resolved, clearinghouse may sign-off on the application; or if issues remain, applicant and clearinghouse (and any State or local interest) cooperate in developing the application to resolve the issues and strengthen the project.

Step 8

Step 9

Step 10

Step 11

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Step 8 If issues remain by the end of the 30-day notification period, the clearinghouse should inform the applicant that it will want to review the completed application, unless the issues are resolved prior to its completion.

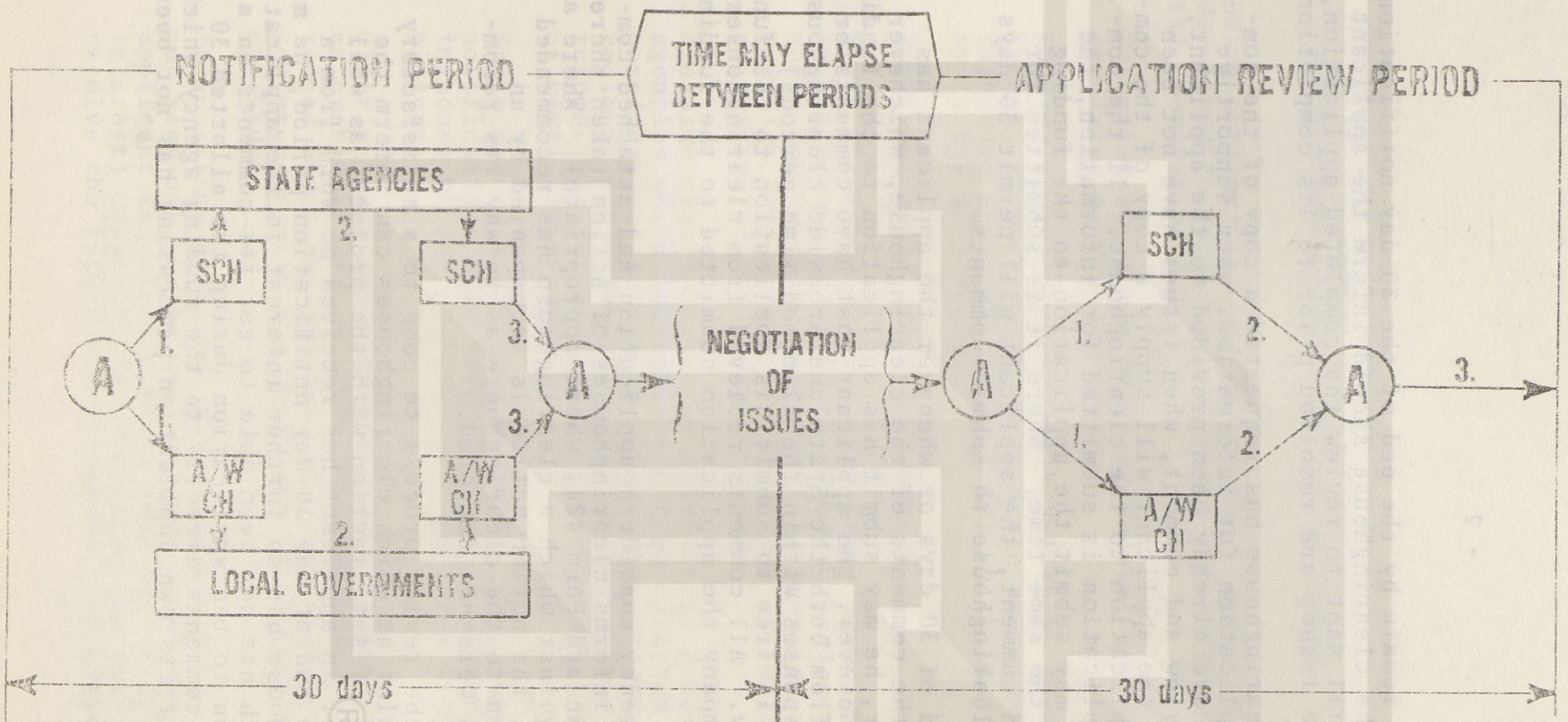
Step 9 If the clearinghouse has requested a copy of the completed application for information, when supportive comments have already been provided to the applicant, or for review and comment, when issues have not been resolved, the applicant will supply a copy of the completed application to the clearinghouse. If the completed application is submitted for information, the applicant may submit the application to the funding agency at the same time. Where it is submitted for review and comment, the applicant will permit 30 days for the clearinghouse to submit comments.

Step 10 At the end of 30 days or whenever the applicant has received the comments of the clearinghouse, whichever is earlier, he may submit his application to the funding agency. However, the applicant must have comments or sign-off from both the State and areawide clearinghouses (or no responses within the allotted time periods) before he is free to submit his application to the funding agency. All comments recieved from clearinghouses must accompany the application submitted to the funding agency.

Step 11 Funding agency considers application and attached comments and informs clearinghouses of action taken thereon (using Standard Form 424, where appropriate). Where a project against which a clearinghouse has recommended is funded, the action notice is accompanied by an explanation to the clearinghouse as to why its recommendations were not accepted.

It is possible for the review process to come to a satisfactory conclusion at any point at which clearinghouses can inform the applicant in writing of satisfaction with the project, as well as after Step 10. If an applicant has received no word from a clearinghouse at the end of the 30-day notification period, he may assume the clearinghouse has no further interest in the application. A clearinghouse which has not been able to get its comments on a completed application to the application during the allotted 30 days may submit his comments directly to the funding agency which will consider them if its own application processing has not been completed.

PROJECT NOTIFICATION AND REVIEW SYSTEM



1. Applicant sends notification to State and areawide clearinghouse.

2. Clearinghouses review and secure views of State agencies and local governments.

3. Clearinghouses notify applicant
   a. If there are any issues; or
   b. Send supportive comments; or
   c. Defer comments and request completed application for review.

1. If issues have not been resolved and/or clearinghouse has requested application for review, applicant submits application to clearinghouse.

2. Clearinghouse prepares comments and submits them to applicant.

3. Applicant submits application along with all clearinghouse comments to funding agency.

Exhibit 2

U.S. GOVERNMENT PRINTING OFFICE: 1976-209-479/6351