

12/22/80
 DRAFT ~~12/12/80~~
 Interior, TIA
 R. VAN CLEVE

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

Dear _____:

The Secretary of the Interior is required by section 102 of Public Law 96-205 to submit to the Congress by January 1, 1981, a plan for health care and related programs for people of the Marshall Islands. ~~Owing to the current transition to a new Administration, and to our desire to afford~~ ^{THE NEW} ~~to that Administration as much freedom of action as possible,~~ ^{FLEXIBILITY} we are submitting at this time only a preliminary report, with the expectation that a final plan will be submitted to you some ⁽time after the Inauguration.

I should like to set forth below certain of the key provisions of the statute, a statement of some of the areas in which the statute presents problems of construction, information concerning the Interior Department's efforts to implement the statute, and brief summaries of the proposals we have elicited to form the basis for the plan to be submitted later to the Congress

The statute

Section 102 of Public Law 96-205 contains the following provisions, relevant to our current undertaking:

-- The plan required of the Secretary of the Interior results from the United States' nuclear weapons testing program conducted in the Marshall Islands during the period 1946 to 1958.

-- The beneficiaries of the plan are to be "the people of the atolls of Bikini, Enewetak, Rongelap, and Utirik and...the people of such other atolls as may be found to be or to have been exposed to radiation from the

nuclear weapons testing program".

-- The plan is ~~on the one hand~~ to consist of "a program of medical care and treatment and environmental research and monitoring for any injury, illness, or condition which may be the result directly or indirectly of such nuclear weapons testing program". ~~On the other hand,~~ the plan is to ~~not~~ INCLUDE ~~such~~ (1) "an integrated, comprehensive health care program including primary, secondary and tertiary care with special emphasis upon the biological effects of ionizing radiation", (2) an environmental monitoring, research, and dose assessment program, and (3) an education and information program.

-- The plan is to be developed by the Secretary of the Interior in consultation with the Secretaries of Defense, Energy, and Health and Human Services, and "with the direct involvement of representatives from the people of each of the affected atolls and from the government of the Marshall Islands."

-- The Secretary of the Interior is to submit the plan by January 1, 1981, together with recommendations, if any, for further legislation, and including his recommendation as to the feasibility of using the Public Health Service.

-- Costs associated with the development and implementation of the plan are to be borne by the Secretary of Energy.

Statutory problems

In our discussions with interested Federal agencies and with representatives of the affected people of the Marshall Islands, several areas of likely agreement and disagreement as to what the statute requires have emerged. While unanimity may be lacking, we believe that there is a consensus on the following points:

-- The medical care to be provided is "comprehensive" care, including primary, secondary, and tertiary care, and ~~the medical care to be provided is~~ accordingly not ~~to be~~ limited to injuries, illnesses, or conditions resulting from the nuclear weapons testing program.

-- With respect to the four atolls named in the statute, the medical care and other program benefits to be provided are not to be limited to the current residents of those atolls, but are instead to be provided to the "people" of those atolls, wherever they may now reside in the Marshall Islands.

There is dispute among the interested parties, however, as to the islands and atolls covered by the statute. No doubt exists as to the application of the statute to the people of the four atolls explicitly named -- Bikini, Enewetak, Rongelap, and Utirik. At least one party contends, however, that the statute and the foreseen program of comprehensive medical care must extend to all of the people of the Marshall Islands, ~~this~~ on the ground that (at least some) all islands and atolls in the Marshall Islands have received radioactive fallout, and that therefore been "exposed" ~~and all~~ the people of those islands and atolls have (that) ~~thus been~~ affected to some extent by ~~the nuclear weapons testing~~ program. The Department of the Interior believes that the Congress intended to provide a program to benefit more than the people of the four named atolls, but that (the entire Marshallese people.) it did not intend that the program comprehend all of the Marshall. That is, 15 we believe that the soundest reading of the statute ~~indicates~~ that the program is to apply to the people of the four named atolls, (wherever they may now reside,) plus the people of such other atolls as were ~~directly~~ affected by the weapons testing programs, in some manner significantly greater than were people in other parts of the world.

So extensive a program would, in our view, require further legislation.

The question then arises as to how "such other atolls" are to be identified. A procedure that could be utilized would be a rule-making under

the Administrative Procedure Act, by which the Secretary of the Interior would establish the criteria to be used in determining which "other atolls" have been affected by the testing program. We would expect that those criteria would be developed in the first instance by an inter-agency group, because many Federal agencies are concerned with the matter of radiation standards. The procedure, therefore, for the designation of "other atolls" that would benefit from the program required by Public Law 96-205 would necessarily be a protracted one. There would unquestionably be disputes among those interested as to what the criteria should be, and whether ^{SPECIFIC} atolls are or are not comprehended by those criteria.

Implementation

Immediately following the President's approval of Public Law 96-205 on March 12, 1980, the Departments of the Interior and Energy undertook to arrange the necessary funding to support the preparation of the plan. As soon as financial arrangements permitted us to do so, we invited ^{AND OF} the interested agencies and representatives of the Marshallese to meet with us to discuss Interior's proposed implementation of the statute. With Department of Energy funding, the Department of the Interior invited and paid the travel costs of two representatives from each of the named atolls and from the Government of the Marshall Islands, the lawyer for each ~~such~~ group, if he was not Washington-based, and ~~executors~~ ^{INTERPRETERS.} ^{ABOVE-MENTIONED PERSONS} Meetings with the ~~foreigners~~ ^A were held in Washington on August 4 and August 6, 1980. The basis for the meetings was a Discussion Paper prepared by the Interior Department and distributed to the interested parties in advance. All were afforded an opportunity thereafter to submit written comments on Interior's proposed procedure.

Following the meeting, Interior issued a request for proposals to organizations and individuals who were believed to be interested in preparing for us on a contract basis the medical plan required by the law. The request for proposals was sent to, among others, all ^{POTENTIALLY INTERESTED PAR} ~~addresses~~ suggested to us by Marshallese representatives. A contract was awarded in early October to the School of Health of Loma Linda University, located in Loma Linda, California. Given the statutory deadline for the submission of the Interior plan to the Congress, the time available to our contractor was limited, ^{BUT} ~~The contract~~ ^{OR MET THE} deadline of early December, ~~however, was met by~~ ~~Loma Linda.~~

At the request of the Department of the Interior, the Department of Energy prepared proposals for the two other components of the plan that the statute requires: an environmental monitoring, research, and dose assessment program, and an education and information program.

Did DOE meet the deadline?

The three documents in question became available and were distributed ^{INCLUDING AUGUST ATTENDEES,} to those interested in early December, and a further meeting of the interested agencies and the Marshallese representatives was held on December 10 in Washington to discuss them. An opportunity to supply written comments through December 17 was afforded.

The three proposals

Attached are copies of the proposals that formed the basis of our December 10 discussions. In brief,

1. The Health Care Proposal, prepared by the Loma Linda University School of Health, under contract with the Department of the Interior, presents the two alternative plans required by the Interior contract:

a program of comprehensive health care for all of the Marshalls, and a program of comprehensive health care for the people of the four named atolls.

Because the peoples of the four named atolls now reside throughout many of the islands and atolls of the Marshalls (it being estimated that they now live on 50% or more of the 26 atolls and islands that constitute the Marshalls), and because of the ethical and practical difficulties of providing one kind of medical service to one individual while not providing it to others in the same community, ~~the alternative preferred by the Loma Linda proposal~~ ^{OUTLINES} is an upgrading of the overall health program, ^(THE PROVISION OF) and comprehensive health care, throughout the Marshall Islands. This ~~proposed plan~~ ^{ALTERNATIVE} would provide for medical assistants on each of the inhabited islands and atolls, supported by a professional medical staff that would provide secondary and some tertiary care at the two Marshall Islands hospitals on Majuro and Ebeye, ^{(and thereby reduce the substantial volume of,} ~~such~~ secondary and tertiary care ~~is~~ currently provided in hospitals in Honolulu. The plan calls for a training program for medical assistants, ^{(and higher-level Marshallese medical personnel,} and for improved supply and facilities maintenance. The plan relies primarily on local transportation facilities, notably ^(service by the Airline of the Marshall Islands) ~~the Air Marshalls service~~ where available, ^(and on) field trip ships, and chartered vessel service elsewhere, rather than the provision of dedicated surface vessels or aircraft. ~~The establishment of~~ Improved radio communications between the medical staff at the

hospitals and the medical assistants on inhabited islands and atolls would be essential, not only for the exchange of necessary medical information and instructions, but also for decisions as to emergency medical evacuations. This alternative provides a suggested organization of the health-delivery system of the Marshall Islands, with the United States playing a major role in the direction and management of the program, ^{BUT} while preserving local authority and participation.

The estimated cost for the first year of this plan would be \$10,908,300, of which \$3 million would be ^{FUNDED BY THE} ~~provided from~~ Marshall Islands Government, ~~funding sources~~.

The second alternative contained in the Loma Linda proposal ^{IS} ~~contemplates~~ comprehensive medical care for only the peoples of the four named atolls of Enewetak, Rongelap, Utirik, and Bikini. This alternative would provide improved primary care on the four named atolls and on other islands and atolls where peoples from these four atolls now reside. This alternative ^{LIKE THE FIRST} provides for the improvement of the secondary and tertiary services at the hospitals on Majuro and Ebeye. The hospital-service improvements would provide the necessary support for the primary care system and would reduce costs associated with medical referrals out of the Marshall Islands.

The estimated cost for the first year of the proposal for provision of special care for the peoples of the four named atolls is approximately \$10,603,700, of which \$3 million would come from Marshall Islands Government funding^{s.} This estimated first-year cost is close to the estimated first-year cost under the first alternative because much of it ~~relates to~~ ^{REFLECTS} the costs of improving ^{SERVICES AT} the hospitals at Ebeye and Majuro, which would be required under either alternative.

Because several representatives of the Marshallese at our December 10 meeting believed it would be useful to have a cost figure for a plan of lesser scope, we asked Loma Linda to provide cost figures for a plan that would provide primary care only to the current residents of Enewetak, Rongelap, Utirik, and Kili (there being no current residents of Bikini, with Kili ^{BEING} constituting the ~~place of residence~~ ^{FOR} of the largest ^{GROUP} block of former Bikinians), with secondary and tertiary care to be provided for them ^{OUTSIDE THE MARSHALLS,} ~~elsewhere~~, as is currently the case. Loma Linda has advised us that

(fill in when received)

2. The Environmental Monitoring, Research, and Dose Assessment Program, prepared for Interior by the Department of Energy, under

contract, contemplates for each of the four named atolls the carrying out of comprehensive surveys and analyses of the radiological status of the atolls at appropriate intervals, but not less frequently than once every five years; the development of an updated radiation dose-assessment; and an estimate of the risk associated with predicted human exposure. The Environmental Monitoring, Research, and Dose Assessment Program Plan would utilize results of past and current DOE research programs in the Marshalls, but would also require new and direct monitoring of samples of locally-produced foods, soil samples, ~~collection,~~ ground-water and cistern water ~~samples,~~ ~~collection,~~ dietary and consumption habits, and Gamma measurements. Additionally, research would ~~need~~ ^{ON} be conducted ~~over~~ a wide variety of ^{OTHER QUESTIONS,} ~~areas,~~ such as radionuclide cycling in atoll ecosystems, radionuclide distribution in copra products, and radiological dose assessment and risk analysis.

The estimated cost of this new program for the first full year would be \$1,140,000, if it were carried out in conjunction with on-going DOE Marshall Islands programs. The cost would increase to \$4,170,000 for the first year if the program were conducted by individuals or organizations that functioned independently of current DOE Marshall Island programs.

3. The Education and Information Program, prepared for Interior by the Department of Energy, under contract, contemplates a program to enable the people of Bikini, Enewetak, Rongelap, and Utirik, and

the people of other atolls or islands found to be or to have been exposed to radiation from the nuclear tests, to better understand nuclear radiation and its effects. The basic elements of the program plan ^{is} ~~are~~ direct, face-to-face communication with the people of Bikini, Enewetak, Rongelap, and Utirik and others affected. There would be communication with officials of the Government of the Marshalls as well. ~~Local~~ Marshallese ~~individuals~~ would be trained to carry out the education program. ~~These participants would be trained~~ first in the Marshalls and later in the United States. Pretaped radio programs, ~~presented~~ in both Marshallese and English, would provide ~~broadcast~~ information about nuclear radiation and its possible effects. There would be systematic evaluation of the effectiveness of the communication process and modifications of the program as necessary. The program would be a continuing one, to reinforce, review, and update the information.

The estimated cost of the Education and Information Program for the first full year would be \$950,000.

INSERT
X - p. 13

→ As an examination of the three enclosed documents will quickly disclose, ^{PROPOSALS FOR HEALTH CARE, MONITORING, AND EDUCATION} they have not yet been integrated. They differ as to their geographical ^{CONTAIN} coverage, and some duplication of costs, as in the case of transportation and communication, ~~is contained in them as they stand.~~ The development of a single ^(INTEGRATED) plan based on the three attached proposals, cannot effectively be accomplished until various issues are resolved, and accordingly, none of the three proposals here transmitted has the endorsement of this

Department. We believe them to be useful and professional products, and they will unquestionably be important in the development of the plan we will withhold endorsement until an integrated plan required by the law, but ~~it is not yet possible for us to recommend any of the three~~ is developed.

From the foregoing, it will have become clear that a number of questions require further consideration. The most fundamental is the matter of the geographic coverage of the program -- whether it should extend to the people ^{ALL OF} ~~of~~ of the Marshalls, to the people of the four named atolls wherever they reside ^{AND} to the people of the "other atolls" that are found to have been affected, ^{OR} to the current residents of selected atolls only. Should an effort be made to provide for health care for peoples of named and affected atolls that is separate and apart from the health care program available to the general population of the Marshall Islands? Does ~~the use of~~ the term "integrated", which the statute uses in describing the comprehensive health care program, mean that such program is to be integrated with medical programs of the Marshall Islands Government, or does it instead describe ~~only~~ the relationship between the primary, secondary, and tertiary levels of care? To what extent should the beneficiaries of the health program, in whatever way they are defined, receive secondary and some tertiary care within the Marshall Islands? If the peoples of atolls, other than the four named ^{IN THE STATUTE} ~~atolls~~, should be provided the comprehensive care envisioned by Public Law 96-205, through

BY
what means and ~~on the basis of~~ what criteria should those other atolls be identified? ~~and~~ Finally, given the population dispersion that has occurred and is occurring, and the cost of improving the secondary and tertiary facilities in the Marshalls for the most narrowly defined group of eligible beneficiaries, should the United States choose to provide assistance to the Marshall Islands to upgrade the health care program ~~case~~ for all Marshalls residents?

These are among the issues that will require attention in the weeks to come.

Sincerely,

SECRETARY

Insert X

Attached is a chart showing the total estimated costs of all three programs for each of the first five years.

Also attached are copies of three letters received subsequent to our meeting of December 10 with representatives of the Marshallese, among others, and pursuant to our invitation for written comments concerning the three programs then presented:

-- A letter of December 15 from Jeffrey Jefferson, representing the people of Rongelap, Utirik, and several other atolls, stating, among other things, that the monitoring and education programs are inadequate in their coverage, and that the health program does not sufficiently address the radiation-related health care needs of the Marshallese;

-- A letter of December 15 from Jonathon Weisgall, representing the people of Bikini, recommending, among other things, that primary care be provided for Bikinians resident only on Kili and Ejit, and Eneu should some Bikinians later move there, but that secondary and tertiary care be provided for all Bikinians, possibly outside of the Marshalls, as at present; and

-- A letter of December 17 from Elaine Falender, representing the Marshall Islands Government, stating, among other things, that the health care proposal is in error in stating that there are minimal radiation-related health effects evident in the Marshall Islands, and stating that the Government of the Marshall Islands continues to believe that Public Law 96-205 requires that health care be provided to all of the people of the Marshalls.

* * * * *

5-Year Estimate of Health/Education/Monitoring Costs - Marshall Islands
(thousands of dollars)

Yr	Monitoring (1)	Education (2)	Health (4 Atolls) (3)	Health (All Atolls) (4)
1	1.1 (4.2) (5)	1.0	10.6	10.9
2	1.2 (4.0)	.8	11.9	12.1
3	1.2 (4.1)	.4	14.6	14.8
4	1.3 (4.5)	.3	17.8	18.1
5	1.6 (5.1)	.3	20.7	21.1
5-year total	6.4 (21.9)	2.8	75.6	77.0

- (1) P. 51 - DOE Environmental Monitoring Program Plan. (Covers 4 atolls only. Figures not adjusted for inflation.)
- (2) P. 45 - DOE Education and Information Program Plan. (Covers 4 atolls only. Figures not adjusted for inflation.)
- (3) P. 110 - Loma Linda Health Care Proposal. (Covers peoples of Enewetak, Bikini, Rongelap, and Utririk. Includes inflation and population adjustment factor.)
- (4) P. 104 - Loma Linda Health Care Proposal. (Includes inflation and population adjustment factor.)
- (5) Figures in parentheses are estimates assuming monitoring program is conducted by new groups independent of current DOE Marshall Islands programs.