BY THE COMPTROLLER GENERAL

Report To The Honorable Robert C. Byrd United States Senate

OF THE UNITED STATES

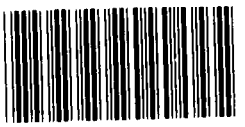
Recruiting And Placing Puerto Rican Workers With Growers During The 1978 Apple Harvest Were Unsuccessful

The Department of Labor used about $275,000 of Comprehensive Employment and Training Act funds to recruit and place Puerto Rican workers with east coast apple growers. However, the workers' contributions to the harvest did not justify the expenditures. Of the 992 workers recruited, only 97 were still working after 15 consecutive calendar days.

This report explains the causes for this situation and details the problems encountered in Virginia and West Virginia.

GAO makes recommendations to the Secretary of Labor aimed at preventing a recurrence of the 1978 apple harvest problems.

Labor informed GAO it has initiated actions which closely parallel the recommendations. Labor also pointed out additional difficulties and problems that complicated the effort and show the need for actions consistent with GAO's recommendations if this type of program is to succeed.



HRD-80-45
FEBRUARY 14, 1980

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

B-163922

The Honorable Robert C. Byrd
United States Senate

Dear Senator Byrd:

Your November 16 and December 18, 1978, letters requested that we review Labor Department expenditures of Comprehensive Employment and Training Act of 1973 (CETA), as amended (29 U.S.C. 801), funds for transporting and housing Puerto Rican workers during the 1978 apple harvest in several east coast States. You also asked us to answer specific questions about Labor's efforts to recruit and provide Puerto Rican workers for that harvest. HRD-80-009

In later meetings with your office, we agreed not to audit specific CETA expenditures, but rather to derive a reasonable estimate of Labor's costs relative to the Puerto Rican recruiting activity. We also agreed to (1) focus on determining the sequence of events and major problems in Virginia and West Virginia during the 1978 apple harvest and (2) develop an overall perspective that would not only include information on your specific concerns but also assess Labor's handling of this effort.

Our findings and recommendations aimed at preventing a recurrence of these problems are summarized below. More detailed information on Labor's efforts and problems related to the recruitment and placement of Puerto Rican workers during the harvest are contained in appendix I.

BACKGROUND ON LABOR'S 1978 EFFORTS TO RECRUIT AND PLACE WORKERS WITH EAST COAST GROWERS

For many years U.S. employers engaged in apple harvesting have hired alien workers primarily from the British West Indies. Before foreign workers may be admitted to the United States to work as temporary laborers, the Secretary of Labor must provide a certification to the Justice Department's Immigration and Naturalization Service that U.S. workers capable of performing such labor are not available. The Secretary's authority emanates from Justice Department regulations promulgated under the immigration statutes.

According to Labor's data, more than 17,200 workers were employed by or referred to employers in 10 east coast States during the 1978 harvest. Of these workers, 5,345 (31 percent) were aliens and about 11,882 (69 percent) were domestic workers, of which 992 were Puerto Ricans who were referred to growers in four States. Only 97 Puerto Ricans were still working after 15 consecutive calendar days.

Regarding Virginia and West Virginia, we determined that, of the 992 Puerto Rican workers, 554 were referred to growers in those States. Three hundred and fifty-six were hired, but only 47 remained 15 consecutive calendar days or more and only 19 stayed to complete the harvest.

The recruiting and referring of Puerto Rican workers to growers in the four east coast States during the 1978 harvest resulted in spending about $275,000 of CETA funds. Of this expenditure, an estimated $153,066 pertains to Virginia and West Virginia, while the workers referred to those States earned only an estimated $48,484.

AN ASSESSMENT OF LABOR'S EFFORTS TO RECRUIT AND PLACE WORKERS WITH VIRGINIA AND WEST VIRGINIA GROWERS

Clearly, Labor followed legislative intent by attempting to obtain jobs for domestic workers during the 1978 harvest. Labor worked with the Virginia and West Virginia employment security agencies to obtain mainland U.S. workers and generally followed the procedures outlined in its alien labor certification program's implementing regulations, which were revised just before the 1978 harvest. Although not a primary cause for the Puerto Rican recruiting problems, the revised regulations did cause some confusion during the recruiting effort because several sections of the regulations were apparently unclear and subject to misinterpretation.

Regarding the recruitment and referral of U.S. workers from Puerto Rico, we found that the effort was poorly managed and resulted in few acceptable workers being referred to growers. The results, in terms of workers' contribution to the harvest, were not worth the costs, since most workers remained on the job for a short period and only 19 stayed to complete the harvest.

The primary causes for this situation were:

--Planning and initiating the Puerto Rican recruiting effort were begun only several weeks before workers were to be placed with growers because of uncertainty over whether a Puerto Rican labor law, which requires employers to guarantee certain conditions of employment, would be waived for U.S. growers requesting workers.

--Recruiting in Puerto Rico generally did not focus on providing workers with a complete job orientation or obtaining workers with agricultural or apple picking experience.

--Recruited workers were not trained for picking apples.

--Labor attempted to place some workers in jobs before growers were ready to harvest the apples.

--Labor and State employment security agency staff were not fully oriented or prepared to handle the situations that arose during the placement of workers.

In addition, problems with eligibility determinations and the related uncertainty about which sources of Federal funds to use for the Puerto Rican workers' expenses caused further confusion and delays in the final accounting for expenditures. Labor planned to fund this activity primarily with CETA title III (section 303) funds. Labor's regulations implementing that section state that the purpose is to provide job training, employment opportunities, and other services for individuals who suffer chronic seasonal unemployment and underemployment in the agricultural industry. Eligibility for participation under section 303 programs is limited to farmworkers and their dependents.

Consequently, Labor used CETA title III grantees in Puerto Rico, New York, Virginia, West Virginia, and Maryland to make transportation, lodging, and meal arrangements to bring Puerto Rican workers to the mainland. Labor extended a $250,000 letter of credit to the CETA grantee in Puerto Rico and notified the CETA grantees in the affected east coast States to use their title III grant funds as necessary during the placement of workers.

As the recruiting effort turned out, only about one-third of the Puerto Rican workers met the eligibility requirements for benefits under Labor's regulations. Labor then required the grantees to determine the amount of funds spent for workers eligible under title III section 303 and on workers not eligible for benefits under that section. The grantees submitted notarized statements of their costs. However, problems arose because the number of workers the State title III grantees reported as being eligible did not agree with the Puerto Rican grantee's eligibility data. Labor determined that the Puerto Rican grantee's data were more accurate and required State grantees to submit adjusted statements based on the Puerto Rican grantee's list of eligible and ineligible workers. CETA title I (title II under October 1978 amendments to CETA) discretionary funds were then used to reimburse State grantees for expenses incurred for workers not eligible under title III section 303.

DEPARTMENT OF LABOR CORRECTIVE ACTION

Because serious operational problems during the 1978 harvest severely limited its efforts to recruit Puerto Rican workers, Labor organized a task force which gathered information on the harvest activities and prepared a report. The report, which was in draft form at the conclusion of our fieldwork, contained information on individual growers and workers. Labor stated that some information is considered unreliable and is being reviewed for further action.

Further Labor efforts to address the 1978 harvest problems included issuing March 1979 guidelines to State employment security agencies for implementing the regulations governing the temporary labor certification program. The guidelines established plans for Labor to more closely monitor and provide technical assistance in the future. Labor planned to issue further guidance on these matters in an operating instructions handbook later in 1979 for State employment security agencies.

CONCLUSIONS AND RECOMMENDATIONS TO THE SECRETARY OF LABOR

We recognize that Labor is in the sensitive position of protecting U.S. workers' jobs while providing timely certification of alien workers to prevent growers' crop loss. We believe, however, it is reasonable to expect Labor to ensure

that workers who are recruited and referred to growers can do and will do the work. The statistics show that Labor's Puerto Rican recruiting activity was not only unsuccessful but also resulted in spending thousands of dollars with little benefit to the workers or the growers.

To lessen the probability of a recurrence of the 1978 harvest situation if Labor undertakes a similar effort in the future, we recommend that the Secretary of Labor:

--Ensure that a Puerto Rican recruiting effort is not undertaken unless growers' exemptions from the Puerto Rican labor law permit an adequate recruiting period.

--Plan and implement a recruiting program that includes growers, State employment security agency officials, and CETA title III grantees in pertinent areas. Recruiting efforts should emphasize (1) obtaining qualified workers with experience and attributes acceptable to employers, (2) providing comprehensive orientation on working and living conditions, as well as other aspects of the job, and (3) training workers when appropriate before they arrive at the place of employment.

--Select and brief State and local employment security agency and Labor staff participating in the placement effort before the workers arrive. In this regard, emphasize the need for frequent communication with growers to ensure that workers arrive when needed and to facilitate an orderly acceptance of them.

--If Labor plans to use more than one source of funds, ensure that CETA title III grantees are prepared to account for the expenditure of funds to eliminate the confusion encountered after the 1978 apple harvest.

AGENCIES' COMMENTS

In a November 1, 1979, letter (see app. II), Labor took no exception to our recommendations and in fact stated that the Secretary of Labor had initiated actions in planning a Puerto Rican recruitment effort for the 1979 harvest that closely paralleled the recommendations. Labor described

the actions taken for the 1979 recruitment effort with respect to each recommendation. However, no Puerto Rican workers were transported to the mainland by Labor to harvest apples during the 1979 season. We did not look into why this occurred.

Labor also made comments reiterating its reasons for implementing the 1978 Puerto Rican recruitment effort and added its interpretation of certain events. These comments are considered in appendix I.

The West Virginia Department of Employment Security, in a September 19, 1979, letter (see app. III), characterized the report as "factual and responsible."

Similarly, the Virginia Employment Commission, in a September 26, 1979, letter (see app. IV), generally described the report as a fair and objective summation of the events as they transpired.

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We are sending copies of this report to the Secretary of Labor; the Director, Office of Management and Budget; and other interested parties.

Sincerely yours,

Comptroller General
of the United States

Contents

ABBREVIATIONS

CETA	Comprehensive Employment and Training Act of 1973, as amended
GAO	General Accounting Office

RECRUITING AND PLACING PUERTO RICAN WORKERS WITH GROWERS DURING THE 1978 APPLE HARVEST WERE UNSUCCESSFUL

BACKGROUND AND OVERALL PERSPECTIVE

For many years, U.S. employers engaged in apple harvesting have employed alien workers primarily from the British West Indies. Before foreign workers may be admitted to the United States to work as temporary laborers, the Secretary of Labor must certify that U.S. workers capable of performing such labor are not available. The Secretary's authority emanates from Justice Department regulations promulgated under the immigration statutes.

Under regulations implementing the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), nonimmigrant aliens may be admitted to the United States to work as temporary laborers, if persons capable of performing such labor cannot be found in the United States. Foreign workers may be admitted if the Attorney General determines that the requirements of the act are satisfied.

This determination has been delegated to the Immigration and Naturalization Service. Its regulations require that an employer's petition for foreign workers be accompanied by the Secretary of Labor's certification that (1) qualified persons in the United States are not available and (2) employing foreign workers will not adversely affect domestic workers' wages and working conditions. The labor certification process for temporary employment of aliens is administered by the Labor Department's Employment and Training Administration's Division of Labor Certification, U.S. Employment Service.

According to Labor data, more than 17,200 workers were referred to or employed by growers in 10 east coast States during the 1978 apple harvest. Of these workers, 5,345 (31 percent) were aliens and about 11,882 (69 percent) were domestic workers, of which 992 were Puerto Ricans who were referred to growers in four east coast States. Of the Puerto Ricans recruited, 136 were not employed at any time and were returned at Federal expense to Puerto Rico several days after arrival on the mainland. Only 97 (11 percent) of the remaining 856 Puerto Ricans worked for 15 or more days of the harvest.

Labor reported that, of the original 992 Puerto Rican workers, 633 were returned to Puerto Rico at Government expense a few days after coming to the mainland. Of the other 359 workers, 66 were known to be still employed on the mainland in jobs other than the apple harvest, and 293 apparently made other arrangements and remained on the mainland. Labor Department efforts to recruit and refer Puerto Rican workers during the east coast 1978 apple harvest resulted in spending about $275,000 of Comprehensive Employment and Training Act (CETA) funds.

Regarding Virginia and West Virginia, we determined that 554 Puerto Rican workers were referred to growers in those States, but only 47 workers remained 15 consecutive calendar days or more and only 19 of those stayed to complete the harvest.

Scope of review

We made our review and interviewed officials at Department of Labor headquarters in Washington, D.C.; Labor's Region III offices in Philadelphia, Pennsylvania; and State and selected local employment security agencies in Virginia and West Virginia. We also spoke with CETA title III grantees and two growers in these States. In addition, we reviewed Federal legislation on the admission of aliens for temporary agricultural work and examined Labor's regulations, policies, and practices for administering the labor certification process for temporary employment in agricultural occupations.

AN ASSESSMENT OF LABOR'S EFFORTS TO RECRUIT AND PLACE WORKERS WITH VIRGINIA AND WEST VIRGINIA GROWERS

Labor is in the sensitive position of protecting U.S. workers' jobs while providing timely certification of alien workers to prevent growers' crop losses. Clearly, Labor followed legislative intent by attempting to obtain jobs for domestic workers during the 1978 harvest.

Labor's Philadelphia regional office worked with the Virginia and West Virginia employment security agencies to obtain mainland U.S. workers through the Interstate Clearance System. When a State employment security agency anticipates specific occupational shortages, it requests other State employment security agencies to help recruit workers through that system.

In addition, Labor generally followed the procedures outlined in its alien labor certification program's implementing regulations that were revised just before the 1978 apple harvest. Although not a primary cause for the Puerto Rican recruiting problems, the revised regulations did cause some confusion during recruiting because several sections of the regulations were apparently unclear and subject to misinterpretation. Labor did not issue formal guidelines aimed at clarifying the new regulations until after the harvest.

Regarding recruiting and referring Puerto Rican workers to Virginia and West Virginia growers, our review showed that the effort was poorly managed and resulted in few workers completing the harvest primarily because many of them were apparently not qualified. The results, in terms of workers' contribution to the harvest, were not worth the expenses Labor incurred. The primary causes for this situation were:

--Planning and initiating the Puerto Rican recruiting effort were begun only several weeks before workers were to be placed with growers because of uncertainty over whether a Puerto Rican labor law, which requires employers to guarantee certain conditions of employment, would be waived for U.S. growers requesting workers.

--Recruiting in Puerto Rico generally did not focus on providing workers with a complete job orientation or obtaining workers who had agricultural experience.

--Recruited workers were not trained for picking apples.

--Labor attempted to place some workers in jobs before growers were ready to harvest the apples.

--Labor and State employment security agency staff were not fully oriented or prepared to handle the situation which arose during the placement of workers.

In addition, problems with eligibility determinations and the related uncertainty about which sources of Federal funds to use for the Puerto Rican workers' expenses caused further confusion and delays in the final accounting for expenditures.

REVISED REGULATIONS CAUSED SOME CONFUSION

Although not a primary reason for the problems encountered during the 1978 harvest, some confusion was caused by differences in interpretation of Labor's regulations for the labor certification process governing the temporary employment of alien agricultural workers in the United States. The 1978 apple harvest was Labor's first experience with these regulations, which became effective on April 10, 1978. Neither Labor's limited experience in implementing these regulations nor the narrow scope of our work permitted an indepth assessment of the issues and potential problems with these regulations. However, while Labor has since issued guidelines to clarify several significant areas of concern, these concerns should be given careful attention in the future to ensure that the problems do not continue.

Labor must certify that no domestic farmworkers are available in the United States before the Immigration and Naturalization Service permits alien workers to enter the country temporarily. Labor's regulations, which prescribe procedures for administering the alien labor certification program, changed very little from the program's inception in the mid-1960s until Labor issued revised regulations effective April 1978. The revisions--intended to more clearly define the respective roles of Labor, State employment security agencies, and employers in the certification process--included (1) more specific regulatory requirements for recruiting U.S. workers by employers and the employment service system and (2) more specific procedures for processing temporary labor certification applications. More than 1 year of public hearings, comment, and extensive discussion within Labor preceded the issuance of the revised regulations.

Notwithstanding Labor's efforts to improve the regulations governing the alien labor certification program, at the time of the harvest, growers, State and local employment security agency officials, and some Labor officials involved in this effort were not sure how certain provisions of the regulations should be interpreted. Some of the major areas on which the provisions were apparently unclear and subject to varying interpretations include:

--Time frame for commencing the 60-day period within which Labor must certify employers' petitions for alien workers.

--Terms and conditions of employment to be offered domestic workers by employers.

--Requirement that an employer perform recruiting activities specified by Labor's regional administrator.

--Requirement that employers offer and pay advance transportation and subsistence costs to U.S. workers if foreign workers receive such advances directly from the employer or indirectly from any person, agency, or other entity collaborating with the employer.

--Requirement that employers provide employment to any qualified U.S. worker who applies until 50 percent of the work contract period under which the foreign worker was hired has elapsed.

Concerns over revisions that were being made in the regulations caused growers problems as early as January 1978. At that time Labor's Philadelphia regional office advised Virginia and West Virginia growers to prepare and submit their job orders 1/ as soon as possible, in accordance with existing regulations. At the same time, the Deputy Administrator of the U.S. Employment Service told the growers at a meeting that job orders should be submitted at their convenience but they need not be submitted until the new regulations were published. Correspondence between the Virginia growers and the State employment security agency office shows that, at the time, the growers assumed the regulations would be published in early February, but they were not published until March 10 and did not become effective until April 10. Consequently, following the Deputy Administrator's advice, growers did not begin to submit job orders until late April, after the effective date of the new regulations, and Labor's Region III Administrator did not begin approvals for clearing the orders for distribution through the Interstate Clearance System to obtain U.S. workers until June.

1/Growers who plan to offer work to temporary alien workers must also offer at least the same opportunity and benefits to U.S. workers. The growers must utilize the U.S. Employment Service to locate workers by submitting their job offers to a local employment security office. The job offers are commonly referred to as job orders. The job orders include such information as the number of workers needed, description of work requirements, rate of pay, and housing and meal arrangements.

In addition, growers expressed concerns over the ambiguity of some of the new regulations' provisions through an April 8, 1978, letter from their attorney to the Secretary of Labor. It was sent on behalf of the Farm Labor Executive Committee, an organization composed of individual apple growers and associations of apple growers in Virginia, New York, Maryland, West Virginia, and the six New England States. The letter identified 12 sections of the regulations which the Farm Labor Executive Committee believed needed clarification and requested that the Secretary direct the U.S. Employment Service to resolve the inconsistencies and ambiguities. Labor responded by letter on June 26, 1978. The growers' attorney told us, however, that he felt the response was unsatisfactory although some of his questions were answered.

In an October 5, 1978, memorandum summarizing the 1978 harvest activities, the Deputy Administrator of the U.S. Employment Service recommended to the Assistant Secretary of the Employment and Training Administration that the new regulations be clarified. On March 16, 1979, Labor issued guidelines to all State employment security agencies establishing clearer procedures for implementing the new regulations to prevent a recurrence of problems encountered during the 1978 harvest season. The guidelines also discussed Labor's plans (1) to monitor and provide technical assistance in conjuction with the 1979 harvest activities and (2) to issue further guidance on these matters in an operating instructions handbook later in 1979 for State employment security agencies.

RECRUITING EFFORTS ON MAINLAND FAILED TO LOCATE ENOUGH WORKERS

After Labor's revised regulations became effective on April 10, 1978, growers in Virginia and West Virginia submitted job orders for apple pickers. Most job orders were filed in time to permit Labor 60 days to recruit domestic workers as required by Labor's regulations. The orders were cleared through the Interstate Clearance System, and the States made recruiting efforts required by the regulations. As in other years adequate numbers of mainland workers could not be recruited.

Labor's regulations require employers to file job orders with a local office of a State employment security agency a minimum of 80 days before the estimated date of need for the workers. The 80-day period allows sufficient time for (1) a

60-day recruiting period to determine if U.S. workers are available and (2) an additional 20 days to allow employers sufficient time to bring alien workers to the United States, if domestic workers are not available or to appeal if Labor denies the application for certification.

In late April 1978, 45 Virginia apple growers began submitting job orders requesting 1,525 apple pickers. Forty-two Virginia growers submitted job orders on April 28, 1978; the other three growers submitted job orders on June 30, July 24, and July 25. The stated dates of need for workers on the Virginia job orders were generally September 5.

West Virginia growers submitted job orders requesting 685 workers. Four job orders were submitted on June 16, and one on July 14, 1978. Three job orders had a September 10 date of need. The dates of need on the other two orders were September 5 and 12. Therefore, 46 of the 50 job orders were filed within the 80-day period prescribed by Labor's regulations.

Thereafter, Labor and the State employment security agencies attempted to locate domestic workers willing and able to work in the apple harvest. Labor's Philadelphia regional office distributed the orders to Labor regions and States, including Florida, North Carolina, and Texas, that were potential sources of domestic workers.

To locate potential workers the local Virginia employment security office, which processed the growers' job orders, conducted a mail survey during February and March 1978 of 530 active clients registered as agricultural, unskilled, or long-term unemployed workers. Twenty-nine people expressed an interest in picking apples, and their names were given to the apple growers' association. According to a local employment security agency official, his office mailed an additional 400 letters in July, but only two people accepted the job offer. He said that past years' experiences have shown that very few people accept job offers as a result of mail surveys.

Virginia growers complied with Labor regulations to actively recruit by using brochures, posters, newspaper advertisements, and radio announcements. Recruiting efforts were intense because of the nonavailability of seasonal farmworkers.

Virginia State employment security agency representatives performed recruiting activities for the anticipated

job orders at group interviews in Florida from April 24 until May 10, 1978. The job orders were also taken to the North Carolina group interviews, held from July 10 until July 14. In addition, potential workers were interviewed by Virginia rural services personnel from two local employment security offices on Virginia's eastern shore during the week of August 14. The Virginia State employment security agency discussed the jobs with about 1,150 persons, of whom 230 were recruited.

In West Virginia, the local employment security office official who processed growers' job orders said his office recruited apple pickers in the area by contacting civic groups, schools, and veterans organizations; displaying posters; and checking its job files for potential workers. The West Virginia State employment security agency also placed job orders in the Job Bank 1/ in an attempt to locate workers. The local official added that West Virginia growers posted notices at the orchards, used radio announcements, and advertised in newspapers for apple pickers. As of August 8, 1978, no workers had accepted employment.

According to a West Virginia State employment security agency official, there were no job orders on file when the group interviews were taking place in Florida; however, a representative from the West Virginia State employment security office attended the North Carolina group interviews.

Notwithstanding the efforts of Labor and the Virginia and West Virginia State employment security agencies, as in other years, adequate numbers of mainland workers could not be recruited. While Puerto Rico is also a potential source of domestic workers, its prior years' recruiting problems caused uncertainty as to whether job orders would be distributed to Puerto Rico in 1978.

PUERTO RICAN LABOR LAW DELAYED PLANNING AND START OF RECRUITING

Puerto Rican labor law (Public Law 87), enacted in June 1962, was conceived as a protective instrument against discriminatory and abusive treatment by employers. The Puerto Rican government recognized that U.S. job opportunities were increasing and, therefore, it was striving to provide maximum protection for its workers, especially agricultural workers.

1/A consolidated list of job openings from all local employment security offices in a specific area.

The law requires that employers who are interested in recruiting workers for employment outside Puerto Rico formalize a written contract with the persons they seek to hire. The contract must be approved by the Secretary of Labor and Human Resources of Puerto Rico, who is obligated to protect the rights of the workers in accordance with the terms of the contract and the minimum employment standards set by the Secretary's regulations.

Since the 1976 apple harvest, Labor has attempted to place domestic workers from Puerto Rico in jobs with mainland apple growers. In a 1976 agreement between growers and Puerto Rico, grower representatives from Virginia, West Virginia, and New York recruited about 600 workers in Puerto Rico. However, most of these workers remained on the job for only a short time. A Labor official stated that the low retention rate was as much attributable to grower representatives' poor selection of workers and growers' negative attitudes toward the workers as to any other factors. However, a grower representative who participated in the 1976 recruiting effort said that, although he wanted to interview workers who had agricultural experience, the Puerto Rico employment service required him to interview workers in the order they arrived and to hire them unless they were handicapped.

In 1977, the U.S. District Court for the District of Puerto Rico ruled that alien workers could not be offered employment unless (1) job offers satisfying Public Law 87 were made to Puerto Rican workers and (2) the number of workers agreeing to work on those terms proved insufficient to meet the growers' needs. However, the Court of Appeals for the First Circuit in December 1977 reversed the ruling and held that Puerto Rican law may not impose restrictions on the Secretary of Labor in carrying out his responsibility under Federal statutes.

Consequently, problems and litigation during prior years made it uncertain as to whether Puerto Rican workers would be recruited for the 1978 harvest. In March 1978, Labor's Philadelphia regional office advised the Virginia and West Virginia State employment security agencies that job orders for agricultural workers would not be extended to Puerto Rico until further notice "due to confusion" over Public Law 87. This was to preclude the possibility of litigation against employers who chose to use the employment service.

Later in March Labor notified the States that it was the Solicitor of Labor's opinion that voluntary acceptance by growers of a contract negotiated pursuant to Public Law 87 would not necessarily interfere with the Interstate Clearance System. Therefore, job orders could be sent to Puerto Rico if the State employment security agencies were satisfied that the growers had agreed to a separate contract with Puerto Rico. However, job orders were not distributed to Puerto Rico until after Public Law 87 was amended. In commenting on our report Labor stated "Job orders were not sent to Puerto Rico before the amendment because it was quite clear that growers were not willing to negotiate a contract under Public Law 87."

Public Law 87 amended

Puerto Rico recognized in 1978 that prior years' experiences necessitated a change in Public Law 87. In considering an amendment, the Puerto Rico legislature cited the following reasons:

--The Wagner-Peyser Act (29 U.S.C. 49), approved in 1933, created a national employment system which provided for recruiting and contracting available workers in other States, including Puerto Rico. Workers recruited through the employment service system are already protected by minimum conditions of employment security and living quarters.

--Employers who traditionally recruited in Puerto Rico have in recent years preferred to contract foreign workers.

--Courts have questioned the availability of Puerto Rican workers for jobs with growers.

Therefore, Public Law 87 was amended to allow recruiting migrant workers through the Federal Interstate Employment Service System by authorizing the Puerto Rican Secretary of Labor and Human Resources to exempt employers from complying with Public Law 87 if the minimum guarantees provided by U.S. law are met. The amendment was approved by the Governor of Puerto Rico on July 13, 1978.

CRASH RECRUITING IN PUERTO RICO RESULTED IN FEW QUALIFIED WORKERS

On July 26, 1978, the Puerto Rican Secretary of Labor and Human Resources provided the U.S. Department of Labor with

assurance that the amendment to Public Law 87 exempted growers' job orders received through the Interstate Clearance System from compliance with Public Law 87. Labor then decided to recruit through the Puerto Rican employment security agency many Puerto Rican workers even though only a few weeks remained in which to locate, recruit, orient, and transport workers to mainland growers. Accordingly, the results indicated that many recruited workers lacked agricultural experience and that they received little job orientation and no on-the-job training.

Recruiting activities in Puerto Rico

While Labor sent staff to monitor the Puerto Rican employment security agency's recruiting effort, neither Virginia nor West Virginia State and local employment security staff and growers participated in the activity. Labor noted in its comments on our report that the apple growers declined an invitation to participate in recruiting efforts in Puerto Rico because they did not have time to participate or expressed concern about exemption from Public Law 87. It also noted that State agencies did not participate because the growers did not provide them with delegated hiring authority.

On August 3, 1978, two Labor headquarters and one Philadelphia regional office staff member arrived in Puerto Rico to monitor recruiting of workers. They hand carried the job orders for Maryland, Virginia, and West Virginia. According to a Labor headquarters official, a New York regional office Labor official also hand carried the New York job orders to Puerto Rico and participated in the monitoring activities. The stated dates of need for workers in Virginia and West Virginia were between September 5 and September 15, 1978. Some New York job orders had a stated date of need as early as August 15.

A Labor official who had monitored the recruiting in Puerto Rico said that on August 9, 1978, all local employment security office managers in Puerto Rico were briefed on the planned recruiting effort and informed that all workers had to be physically qualified. The official also believed that security office managers required potential workers to carry a ladder to test their physical abilities for the job, and that the workers were told what was expected of them.

Labor officials stated that the only formal orientation of workers was showing a film on apple picking. However, they said that the film was not available during recruiting,

and it was shown at the airport just before the workers' departure for the mainland.

We viewed the 7-minute film and noted that it did not inform workers of weather or living conditions, how many bushels of apples they were expected to pick, how much money they could expect to earn, type of food and mess facilities, or local town life. In addition, the film did not stress that apple picking is strenuous work.

Labor, State and local employment security office staff, CETA grantees, and growers we interviewed said that the workers should be made aware of these types of conditions before they are recruited. In addition, we believe that the film should be available at the time workers are recruited at the local employment security offices.

Growers' need for workers changed

Recruiting was further complicated because some growers' need for workers on the initial job orders changed as more accurate estimates of the crop size became available and as mainland workers accepted employment. In addition, changing weather conditions affected the growers' dates of need for workers.

Labor's New York regional office, which has jurisdiction over Labor operations in Puerto Rico, sent an August 18, 1978, letter to the Puerto Rico Secretary of Labor and Human Resources indicating revised numbers of workers for New York, Virginia, and Maryland and the original numbers for West Virginia. However, that letter did not include the largest West Virginia grower's job order or the three largest Virginia growers' orders. The table below shows the number of workers originally requested by Virginia and West Virginia growers who planned to use temporary alien labor, the revised estimates of numbers of workers forwarded to Puerto Rico by Labor's New York regional office, and the number of workers actually transported to mainland growers.

	Workers requested on growers' orders	Workers requested in Labor's letter	Workers sent to mainland
Virginia	1,525	857	421
West Virginia	685	177	133
Total	2,210	1,034	554

On August 23, 1978, the Puerto Rico Secretary of Labor and Human Resources sent Labor's New York regional office a letter listing the growers' job orders for which workers were recruited and also exempted those growers from Public Law 87. That letter, like Labor's August 18 letter, did not include the largest West Virginia job order or the three largest Virginia orders. In addition, the letter accepted job orders that had been canceled by Labor's August 18 letter. According to a Labor official who was in Puerto Rico during the recruiting, the Secretary of Labor and Human Resources was concerned about filling all the job orders in the short time frame in which the recruiting had to be done. In fact, the Puerto Rican Secretary stated in an August 14, 1978, letter to the U.S. Secretary of Labor the following:

> "The clearance orders (job orders) for apple pickers, from the states of New York, Maryland, Virginia and West Virginia were brought to Puerto Rico on August 3, 1978, by officers of the United States Department of Labor. Nevertheless to say, only 7 working days for the screening and recruitment of qualified workers before the first certifications for foreign labor would be issued by the corresponding Regional offices.
>
> "While we wholeheartedly tried to avoid that the negative results of past years be repeated in the referral of Puerto Rican workers to the apple harvest, the United States Department of Labor promoted, by its action, the disposal of scarce time for the Puerto Rican Employment Service to prove the availability of qualified workers before certification."

Overall, Labor staff involved in the actual recruiting, Labor staff assigned to monitor activities at growers' orchards, State and local employment security staff, CETA title III grantees, and growers we interviewed believed that an inadequate recruiting job was done in Puerto Rico. Most believed that some type of training would have been beneficial. Furthermore, workers, in statements to State employment security officials and in formal complaints, indicated that they had little knowledge of what was expected of apple pickers and were not accustomed to strenuous labor.

WORKERS ARRIVED BEFORE NEEDED AND FEW STAYED TO COMPLETE THE HARVEST

Of the 992 workers recruited in Puerto Rico, 554 were transported to Virginia and West Virginia. However, many

workers were not accepted by growers, and only 47 of those who were hired stayed 15 consecutive calendar days or longer. These results were caused not only by the previously discussed poor recruiting but also by inadequate communication between Labor and the growers about the dates of need for workers, the status of the growers' exemptions under Puerto Rican Public Law 87, and the shortage of space in growers' labor camps where alien workers were being housed. The situation was further aggravated because Labor did not properly orient its staff or State and CETA title III grantees helping to place workers with growers.

Because of the large numbers of persons involved and the confusion during attempts to place Puerto Rican workers with growers, all the facts will probably never be determined. Accordingly, the following reconstructs the events, using what we believe to be the best sources available.

Last minute planning by Labor

Labor headquarters and Philadelphia regional staff, Virginia and West Virginia employment security agency staff, and CETA title III grantees were not satisfied with their involvement in planning for the arrival and placement of workers. Several Labor headquarters and Philadelphia regional staff who met workers at the airport and observed work and living conditions at the orchards told us that they were assigned to handle this effort only 1 or 2 days before the workers arrived. Two said they were not properly prepared for the assignment, and two stated that they did not have copies of the job orders which indicated the employer and basic terms of employment. Another added that "nobody knew what was going on."

According to the staff of the State employment security agency and CETA title III grantee in one State, they were notified on August 24, 1978, of a meeting the next day in Labor's Philadelphia regional office to discuss the harvest and were not able to attend on such short notice. The State official involved added that this was the beginning of a pattern of last minute notifications by the regional office to State officials. The CETA title III grantee representatives said that plans for financing and handling the arrival of workers were also relayed on short notice and the resulting problems demonstrated the poor planning. A State employment security agency official in the other State we visited told us that Labor's Philadelphia regional office practiced almost non-planning and that the program remained in a state of flux most of the time.

When workers arrived in West Virginia and Virginia, few were the ones expected by growers. Labor's Philadelphia regional office notified the States' employment security agencies of the names and social security numbers of workers recruited for each grower before their arrival. The growers were then given this information by the States' employment security agencies. Before the workers were sent to the mainland, an airline manifest was prepared indicating the workers' names, social security numbers, and grower assignments. However, when the workers arrived the growers found that many listed on the manifest were not the ones originally assigned to them. In West Virginia the problem was not serious because workers arrived too early for the harvest and were relocated. However, in Virginia this problem added to the growers' concern about their liability under Public Law 87.

Labor headquarters and Philadelphia regional office officials told us that this situation resulted from last minute changes regarding the number of workers needed and the dates needed. As previously discussed, documentation indicates that growers did make some adjustments, but the changes may have been justified on the basis of crop size, weather conditions, and mainland workers accepting employment.

Our review of this documentation showed that the growers' changes to the job orders should not have been great enough to cause this situation. For example, very few workers who arrived in West Virginia were those on the original list although the growers in West Virginia did not change their orders. Furthermore, some of the changes recorded in the Philadelphia regional office telephone log during September for Virginia growers had previously been sent to Puerto Rico by the New York regional office in its August 18 letter. The remaining changes do not appear to be substantial enough to cause the large variance between workers who were expected and those who actually arrived.

Workers arrived in West Virginia too early

Although five West Virginia growers submitted job orders, only four growers were on the list submitted to Puerto Rico on August 18 by Labor's New York regional office. The largest job order was not listed. (See p. 12.)

The five West Virginia growers originally requested 685 workers, but only 133 workers were recruited in Puerto Rico and transported to the mainland for three growers. The stated date of need for workers on those three job orders

was September 10. Forty workers arrived on September 9, and 93 workers arrived on September 10. However, the three growers did not accept any workers.

West Virginia State employment security agency documentation shows that the growers were still concerned about their exemption under Public Law 87. In addition, the growers were still harvesting peaches, the apple harvest was late, and the labor camps were filled with domestic crews and other Puerto Rican workers contracted for through a private agency to pick peaches.

Regarding exemption from Public Law 87, on August 23, 1978, Puerto Rico sent Labor's New York regional office a letter which exempted two of the West Virginia growers and stated that workers were being recruited. Not until September 1 (8 days before the first workers arrived) were the third and fourth growers exempted by telegram to the regional office. On September 12 (after the workers arrived) the fifth grower was exempted.

As for the growers who were scheduled to receive workers actually being informed of their exemption, local employment security office files indicated that West Virginia growers were notified by letter on September 13, 1978 (after the workers had arrived). Labor officials responsible for the alien labor certification program told us there was no requirement for Labor to notify growers of the exemption.

The 40 workers arriving in West Virginia on September 9 were scheduled for one grower. The stated date of need on the original job order for the workers was September 10. However, a July 25 memorandum in the local employment security office files changed the date of need to September 23, 1978.

A Labor Philadelphia regional office official told us that he believes the memorandum arrived at the regional office shortly after July 25 although the date it was received was not stamped on the memorandum. No changes were made in recruiting for the grower who changed the date of need.

The other 93 workers who were scheduled for two growers arrived on September 10. Those growers also said they could not accept the workers at that time.

All 133 workers were lodged in West Virginia hotels until other arrangements were made for them. West Virginia State employment security agency's and CETA title III grantee's records show the following:

Workers	Activity	Date
38	Returned to Puerto Rico	9/14/78
67	Sent to New York growers	9/15/78
a/17	Sent to Virginia hotel	9/15/78
11	Unknown	-
133		

a/Of the 17 workers who were sent to Virginia, 14 returned on September 16 to work for one West Virginia grower.

West Virginia local employment security agency records show that, on September 14, two of the three growers who did not accept the workers when they first arrived indicated they would accept 90 Puerto Rican workers on September 17. However, other arrangements had already been made for the 133 workers who were recruited for West Virginia. State employment and Philadelphia regional office officials told us that they could find only 24 workers to fill the 90 positions because of the problems which had occurred. On September 16, one grower was sent the 24 workers who were being housed in Virginia hotels. Of these, 14 had originally been sent to West Virginia and then transferred to the Virginia hotel when work was not available. The other 10 workers were originally sent to Virginia and also lodged at the Virginia hotel because the growers' labor camp was full. Only 6 of these 24 workers stayed 15 consecutive days or longer, and only 3 completed the season.

Workers in Virginia remained on the job a short time

Virginia growers' stated date of need for workers was generally September 5, with a few as late as September 15. Workers arrived as follows:

Date	Workers	Lodging
Sept. 6	54	Labor camp
" 7	77	Labor camp
" 8	52	Labor camp
" 11	238	84 at labor camp/ 154 in hotels
Total	421	

APPENDIX I

Virginia State employment security agency records show that during the first 3 days (Sept. 6, 7, and 8) the 183 workers who arrived were housed by the growers at their labor camp. Labor scheduled 250 workers to arrive on September 11 and 150 on September 12. On September 9 the growers' association notified the local employment security agency and Labor that there was only enough room in the camp for 126 additional workers because foreign workers from Jamaica had already arrived. According to Virginia State employment security agency documentation, the date of need for most growers (September 5) had passed without Labor informing the agency of the arrival date for Puerto Rican workers, and Jamaican workers had arrived in their place. A Philadelphia regional office official told us that a growers' association official requested that the workers' arrival be staggered so that all of them would not arrive on September 5.

Two flights arrived on September 11 with 238 workers. The growers housed 84 workers at the labor camp; the other 154 workers were housed at hotels. Some workers housed in hotels were later hired by the growers as room at the labor camp became available. Based on the best available information, the following table shows the approximate number of Puerto Rican workers who arrived in Virginia, were hired by growers, remained 15 consecutive calendar days or longer, and completed the harvest.

Activities of Workers in Virginia

Number arrived	421
Hired by grower	332
Number remaining 15 consecutive calendar days or longer	41
Completed harvest	16

While the State employment security agency was not able to obtain information on each worker, available documentation indicated that 289 workers quit and 24 were fired. Labor, State and local employment security agency, and CETA title III grantee staff, as well as growers we interviewed, attributed this situation to poor recruiting in Puerto Rico. The reasons varied for quitting, but the major reasons were:

--Wages, picking method, and job description were not what they expected.

--Bag lunch, consisting of three sandwiches, was not satisfactory.

--Living conditions at labor camp were not satisfactory.

--There was not enough or no work available.

--Work was too hard. Ladders were too heavy, and trees were too tall.

According to the Virginia State employment security agency, the major reasons growers fired workers were low productivity and lack of motivation. Labor headquarters established a task force to determine the problems Puerto Rican workers' encountered during the 1978 apple harvest. Although Labor has some reservations about the accuracy of the data it gathered, these data show that the workers' impressions on whether they were fired or quit are similar to those cited by the Virginia State employment security agency. Given the overall similarity of data from various sources, it appears that many workers did quit in Virginia.

Workers filed many complaints

Puerto Rican workers filed 26 complaints at the local employment security agency in Virginia. The complaints generally related to rate of pay, meals, and meal charges. Twenty-two of these were filed against the Puerto Rican Department of Labor and Human Resources and were forwarded to Labor's Philadelphia regional office on September 22, 26, and 29, 1978, for appropriate referral to Puerto Rico. The Department of Labor and Human Resources has responded to the 22 complaints, saying that the allegations were not valid and were due to the workers' misunderstanding during recruiting.

The four remaining complaints filed against the Virginia employers were investigated by the Virginia State Monitor/ Advocate's Office. A determination was made that employment service regulations were not violated, and the complainants were so notified on October 6 and November 16, 1978.

After returning to Puerto Rico, according to the Virginia State employment security agency, workers filed 142 complaints against growers which the Puerto Rican Department of Labor

and Human Resources forwarded to the Virginia State employment security agency. The complaints generally related to pay rates, poor food, inadequate housing, and hot temperatures in the orchard. The Puerto Rican workers also complained about not being reimbursed for the cab fare from their home to the airport in Puerto Rico.

In West Virginia 34 complaints were filed against growers. Twenty-eight of these were filed by workers who returned to Puerto Rico within a few days after their arrival in West Virginia. They wanted to be paid for the time they would have worked had they been hired and for transportation expenses. The West Virginia State Monitor Advocate in charge of handling worker complaints stated that it was determined that, since the growers' camps were full and the harvest was late, the workers were not entitled to payment. Six complaints, which were filed at a later date against two West Virginia growers, alleged that workers were fired unfairly. However, only one of these workers had ever been employed in West Virginia.

HANDLING OF FUNDS FOR 1978 APPLE HARVEST

Labor used CETA title III grantees in Puerto Rico, New York, Virginia, West Virginia, and Maryland to make transportation, lodging, and meal arrangements. Labor extended a $250,000 letter of credit to the CETA title III grantee in Puerto Rico and notified the State CETA title III grantees to use their title III grant funds.

The Puerto Rican CETA grantee primarily used the funds to transport workers to the mainland. CETA title III grantees in the States also incurred costs for Puerto Rican workers. Their expenses were mainly for food, lodging, and return transportation to Puerto Rico. We found no evidence that workers were paid salaries with CETA funds while they waited in hotels for job assignments.

CETA title III section 303 was designed to help migrant and seasonal farmworkers find employment and receive training. Labor's regulations implementing that section state that eligibility for participation in title III section 303 programs is limited to farmworkers and their dependents who have, during the 18 months preceding their application for enrollment: (1) received at least 50 percent of their total earned income as agricultural workers during any consecutive 12-month period, (2) been employed in agriculture on a seasonal basis, and (3) been identified as ecomonically disadvantaged.

Labor anticipated that some workers recruited for the harvest would not meet the eligibility requirements of its title III regulations. Therefore, Labor planned and authorized the use of CETA title I discretionary funds to reimburse the Puerto Rican and State CETA grantees for expenses incurred for workers ineligible under CETA title III.

As the recruiting effort turned out, only about one-third of the Puerto Rican workers were eligible for CETA title III benefits. Labor required the grantees to determine the amount of funds spent on workers eligible and on those ineligible under title III and to submit notarized statements showing these costs. However, the number of workers State grantees reported as being eligible for title III did not agree with the Puerto Rican grantee's data. Labor decided that the Puerto Rican grantee's data were more accurate and required State grantees to resubmit adjusted notarized statements which allocated costs based on the Puerto Rican grantee's list of eligible and ineligible workers. The following table shows the final allocation of costs under titles III and I of CETA.

Grantee	Total costs	Title III costs	Title I costs
Puerto Rico	$134,627	$42,402	$92,225
Virginia	54,924	16,480	38,444
West Virginia	26,654	7,582	19,072
New York	48,089	11,450	a/36,639
Maryland	11,145	1,440	9,705
Total	$275,439	$79,354	$196,085

a/The grantee told us that this figure includes $10,573 of title I funds which the New York Department of Labor gave to the title III grantee to help pay transportation expenses for the return trip to Puerto Rico.

In addition to the above costs, West Virginia employment security agency records show that the State spent $1,037 to transport workers by bus and $54 to transport staff, both of which were reimbursed by Labor. Virginia employment security agency officials reported that no additional expenses were incurred for workers.

We also requested Virginia, West Virginia, and Labor to supply us with cost estimates of staff time spent on the 1978 apple harvest and any other costs resulting from the harvest. West Virginia employment security agency officials told us that

about $8,400 was attributable to the harvest. However, a State employment official said that the work is considered part of the job.

According to Virginia State employment security agency officials, they incurred no additional costs beyond normal staff salaries. Labor officials also felt that no additional costs were incurred beyond normal staff salaries which would have been paid regardless of what the employees were working on. However, we believe that a considerable amount of staff time was spent monitoring the placement activities, working on the Labor task force which accumulated information on the harvest problems, and resolving worker complaints that might have been avoided had the effort been properly planned and managed.

Labor planned to recoup from the growers some of the costs for transporting workers to the mainland and back to Puerto Rico. Labor's regulations state that employers must offer U.S. workers at least the same benefits they are offering temporary alien workers. In accordance with the regulations, the growers' job orders offered to reimburse domestic workers for transportation expenses to the place of employment if the workers stayed 15 consecutive calendar days or longer, and to provide or pay return transportation costs if the workers completed the contract period.

Because the Puerto Rican effort was of limited success in retaining workers for 15 days or longer, Labor expects that little of the transportation costs will be recouped from the growers.

As requested, we gathered data and compared the cost of transporting, feeding, and housing the workers to the wages earned by the workers. In Virginia and West Virginia, the CETA funds spent far exceeded the wages earned by the workers. In Virginia and West Virginia, $153,066 1/ of CETA titles I

1/This figure includes $71,488 which was incurred by the Puerto Rican CETA title III grantee to transport workers from Puerto Rico to mainland growers. To estimate this cost, we computed the average transportation cost ($129.04) for each worker by dividing the total transportation cost ($128,007) the Puerto Rican CETA grantee incurred by the total number of workers (992) sent to east coast growers and then multiplying the average cost by the number of workers (554) who were transported to Virginia and West Virginia growers.

and III funds was spent, while according to the growers, the workers earned only an estimated $48,484. It should be noted that the gross wages do not include any wages of 67 workers transported from West Virginia to New York to work for apple growers in that State. Although we do not know how much these 67 workers earned in New York, it should not be much since, according to Labor's data, only 37 of the 448 workers hired in New York stayed 15 days or longer. Furthermore, our CETA cost figures for West Virginia do not include transportation costs of those 67 workers going back to Puerto Rico because the New York State CETA title III grantee would have incurred that cost.

LABOR COMMENTS AND OUR EVALUATION

In a November 1, 1979, letter (see app. II), Labor took no exception to the report recommendations and in fact stated that the Secretary of Labor had initiated actions in planning a Puerto Rican recruiting effort for the 1979 harvest which closely paralleled our recommendations.

Labor also made general and specific comments that for the most part are not pertinent to the report's findings and recommendations. The comments basically reflect Labor's opinion on our presentation of the events related to the 1978 Puerto Rican recruiting effort. Some of the specific comments are self-explanatory in that Labor restated facts presented in the report and then added further explanation and/or its interpretation of those facts. (See app. II, page 36, comments 1 and 3; page 37, comment 1; and page 39, comment 2.) However, we inserted Labor's specific comments in the report where we felt this would help clarify events. (See app. I, pages 10 and 11.) Following our assessment of Labor's general comments, we discuss the specific comments we believe require additional explanation.

General comments

Labor believes the expenditure of about $275,000 was justified and that it acted prudently and responsibly under the circumstances to protect the interests of U.S. workers. Labor stated that the report (1) did not provide relevant information on why Labor paid the Puerto Rican workers' transportation costs, (2) ignores completely the actions of the U.S. District Court for the Western District of Virginia, and (3) grossly underestimates the disruptive effects of the actions of certain growers.

With respect to the first comment, Labor gave some background on the transportation issue which generally indicated that, because of growers' concerted actions in 1977 to not advance transportation to U.S. workers as they had done in the past and other considerations, Labor decided to pay for transporting workers from Puerto Rico. Labor also said that it was carrying out its responsibilities under immigration statutes. We agree that Labor was carrying out its responsibilities. Our concerns relate to the way Labor managed the unsuccessful Puerto Rican recruitment effort.

Labor in its second comment brought up an August 31, 1978, court action directing Labor to certify all foreign workers requested by Northeast apple growers as a significant factor affecting the 1978 harvest events. The effect of the court action to which Labor refers was to ensure that growers would have an adequate work force if Labor could not provide enough domestic workers. First, we do not believe the court order could have had a major impact on the planning for and recruiting of Puerto Rican workers because the order was issued well after the period when these efforts should have been accomplished. Second, as a cause for the problems that occurred after the Puerto Rican workers arrived, this point was not mentioned to us by Labor during our review, nor was it mentioned by Labor in the May 17, 1979, hearings on the 1978 harvest events held by the Subcommittee on Labor and Health, Education, and Welfare of the Senate Committee on Appropriations. Consequently, we did not evaluate the impact of the court's action. We do believe, however, if Labor felt the court action significantly complicated the Puerto Rican effort, it should have acted to reduce the numbers of workers being transported to mainland growers in an effort to avoid the problems that later occurred.

Regarding Labor's final comment on underestimating the disruptive effects of certain growers, we believe growers' actions are fairly characterized in the report. While we recognize that the Puerto Rican effort was difficult to administer, the results of our work show that Labor could have done a better job managing the effort.

Specific comments

The remainder of this section includes a discussion of some of Labor's specific comments and our evaluation.

1) Labor comment. "It is stated on these pages (3 and 11) that the workers were not qualified and not trained in how to pick apples. * * * It is a long standing DOL [Department of Labor] policy that the only qualification for agricultural field and orchard workers is that the person be physically capable of performing the job in keeping with the definition of "non-immigrant alien" contained in Section 101(a) (15) (H) (ii) of the Immigration and Nationality Act. Agricultural employers do commonly provide a few days' on-the-job training for inexperienced workers. For example, some New York growers did specify on-the-job training in their job orders. Although the DOL may not limit recruitment of workers for unskilled jobs as suggested, one-third of those recruited had enough agricultural experience to qualify for CETA 303 support."

Our evaluation. Our review did not address the qualifications of each Puerto Rican worker recruited by Labor. Our statements about the Puerto Rican workers apparently not being qualified are based on both the unfavorable results of the effort (only 97 of 992 workers still working after 15 consecutive calendar days) and assessments of those involved in the actual recruitment and later monitoring at growers' orchards. (See app. I, pages 1 and 13.)

Regarding Labor's comment on training, the results of the 1978 Puerto Rican effort do indicate a need for the Department to consider providing training in future efforts of this nature. In fact, recent testimony shows that Labor has considered this matter.

In May 17, 1979, hearings before the Subcommittee on Labor and Health, Education, and Welfare of the Senate Committee on Appropriations, Labor's Assistant Secretary for Employment and Training said for the 1979 harvest the Department had identified workers who were interested in picking apples and then described the training that would be given these workers. He said:

> "Well, as I understand it--the picking, the climbing the ladder, carrying the bag, being able to climb up and down the ladder, picking the fruit carefully, putting it in the bins; and being able to do it in a timely fashion, is the type of training that would be involved."

In addition, Labor, in its response to our report recommendation dealing with implementing an effective recruitment program, stated that in 1979 it established an orientation center in Puerto Rico and workers received 2 days of orientation on apple picking jobs, including simulated apple picking experience.

2) Labor comment. "Grower representatives were extensively briefed on the new regulations at meetings as early as March and April, and DOL did issue formal operational guidelines prior to the 1978 apple harvest season (GAL No. 41-78 on June 29, 1978). Prior to the transportation or employment of any workers a joint meeting was held at INS [the Immigration and Naturalization Service], attended by representatives of DOL and the growers, to inform the growers of the procedures for replacing any domestic workers who failed to appear or quit."

Our evaluation. Our report points out that growers, State and local employment security agency officials, and the growers' attorney were not certain as to the new regulations' requirements. The guidelines referred to were interim only and, as our report states, final guidelines were not issued until March 16, 1979. Even so, the interim guidelines issued on June 29 did not assist growers, most of whom were preparing their job orders during the March through June period to meet Labor's requirement for orders to be filed 80 days in advance of need for workers.

3) Labor comment. "From the beginning it was planned to use both CETA Title I and III funds depending on eligibility of recruited workers. It then became a matter of determining which workers would be covered under the provisions of Title III which is restricted to workers whose recent work background is primarily agricultural. Those not meeting this criterion were covered by Title I funds. There was some uncertainty when some 303 grantees on the mainland made different eligibility determinations but this was quickly resolved by DOL."

Our evaluation. We do not agree that this problem was quickly resolved. The final eligibility determinations by CETA title III grantees were not completed until several months after the 1978 harvest. Also, the final reimbursement, which was based on the eligibility determinations, was not made until April 1979.

While Labor anticipated that some recruited workers would not be eligible for CETA title III funds, it appeared that Labor expected more than one-third of the workers to be eligible for that title since it extended, using title III funds, a $250,000 letter of credit to the Puerto Rican title III grantee. In providing a response to a question raised during the May 1979 hearings before the Senate Subcommittee on Labor and Health, Education, and Welfare, Labor stated that:

> "Considerable difficulty was encountered by the mainland 303 grantees in securing itemized statements from motels and then breaking down the statements to determine costs charged to eligible 303 workers and noneligible workers. Puerto Rico was reimbursed on April 5, 1979. Reimbursement to the grantees from Maryland, Virginia, West Virginia, and New York was authorized on April 17, 1979."

4) Labor comment. "It is inferred that DOL encountered a problem with the 'time frame for commencing the 60-day period within which Labor must certify an employer's petition for alien workers.' * * * The submission of applications by employers was not a problem for DOL as only a few employers submitted them late. It is not clear why this and other items on page 4 of app. I are included as issues in the report. They are not substantiated and don't appear to relate to the disposition of the 554 Puerto Rican workers referred to Virginia and West Virginia growers."

Our evaluation. Labor's reference in this comment is to the five areas of concern (see p. 4 of app. I) which relate to provisions of the regulations governing the alien labor certification program which were issued before the 1978 apple harvest. The concerns are discussed because growers, State and local employment security agency officials, and even some Labor officials we interviewed told us that these provisions were unclear and subject to varying interpretations. While our report states that the scope of our work did not permit an indepth assessment of these issues and the potential problems with these regulations, we believe that Labor should be concerned when the parties responsible for implementing its regulations express such confusion.

As our report notes, the growers' attorney sent a letter to the Secretary of Labor before the harvest delineating

growers' concerns with the regulations. In addition, Labor's Deputy Administrator of the U.S. Employment Service recommended in an October 5, 1978, memorandum (after the Puerto Rican recruitment problems) that the regulations should be clarified.

Notwithstanding the fact that in March 1979 Labor issued guidelines to all State employment security agencies to clarify aspects of the new regulations, we believe Labor should give careful attention in the future to these concerns to ensure that affected parties clearly understand the regulations' provisions.

5) Labor comment. "The letter of August 18 transmitted changes concerning New York employers only. In any event, the largest West Virginia grower's job order and the three largest Virginia growers' orders would not have been included in any letter because those orders were not accepted by the Puerto Rican Employment Service. When an order is extended, the receiving State has the option of accepting or refusing it. For example, the West Virginia order was not accepted because the employer had in his camp Puerto Rican contract workers (under PL 87) who were working in the peach harvest. The Puerto Rican agency chose not to mix contract and noncontract workers."

Our evaluation. The letter Labor refers to is discussed on page 12 of app. I. Copies of that letter with enclosures were provided to us by a Labor official. The document transmitted revised job order openings for New York, Virginia, and Maryland and the original numbers for West Virginia.

Regarding Labor's assertion that the three largest Virginia job orders and largest West Virginia job order were not accepted by Puerto Rico, we found no documentation substantiating that claim. The Puerto Rican Secretary of Labor and Human Resources did not send the letter which accepted growers' job orders and exempted them from Public Law 87 requirements until August 23, 1978. We found no other documentation on this subject.

6) Labor comment. "* * * and the proposed report generally fail to address the lack of cooperation from the growers in DOL's efforts to place Puerto Rican workers. It does not mention the impact of the court order by the Fourth Circuit under general comments. Also, information obtained by DOL from the Immigration and Naturalization

Service indicates that beds were available at the Frederick County Fruit Growers Camp at the time Puerto Rican workers were refused on September 11. From September 14 through September 22, 423 alien workers were admitted for members of the Association."

Our evaluation. As mentioned earlier, we believe the report fairly characterizes the growers' actions. We also addressed in an earlier comment Labor's point on the court action which, if it was that significant, should have affected Labor's decision on the number of Puerto Rican workers transported to mainland growers.

Regarding the availability of beds when Puerto Rican workers arrived, a State employment security agency official told us that space was not available. As for the September 14 through September 22 period, it is not surprising that space was available since most of the Puerto Rican workers accepted by growers had left their job during this period.

7) Labor comment. "Only two West Virginia growers, who were exempted on September 1, were notified on September 13, 1978. However, a copy of the exemption letter dated August 23, 1978, which included specific exemptions for all Virginia growers and two of the four West Virginia growers whose orders had been accepted, was given by the Department's Solicitor's Office to the attorney for the growers, Mr. Karalekas, on or about August 24, 1978. It was also entered into the court record in the U.S. District Court for Western Virginia on September 5, 1978."

Our evaluation. Our report noted that two growers were exempted from Public Law 87 on September 1 but, according to local employment security office files, not notified until September 13. Considering the concerns over Public Law 87, it appears reasonable that Labor officials responsible for the Puerto Rican recruitment effort should have ensured that each grower was notified at the earliest date of their exemptions rather than relying on the growers' attorney or assuming that each grower would obtain the information from court records.

APPENDIX II

U. S. Department of Labor

Inspector General
Washington, D C. 20210

NOV 1 1979

Mr. Gregory J. Ahart
Director
Human Resources Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Ahart:

This is in reply to your letter to the Secretary of Labor requesting comments on the draft GAO report entitled, "Efforts to Recruit and Place Puerto Rican Workers With Growers During the 1978 Apple Harvest Were Unsuccessful."

The Department's response is enclosed.

The Department appreciates the opportunity to comment on this report.

Sincerely,

MAJORIE FINE KNOWLES
Inspector General

Enclosure

GAO note: Page references have been changed to agree with the final report.

APPENDIX II

U. S. Department of Labor Response To
The Draft General Accounting Office Report
Entitled --

Efforts To Recruit and Place
Puerto Rican Workers With
Growers During the 1978 Apple
Harvest Were Unsuccessful

The Department of Labor (DOL) comments on the proposed report on the 1978 apple harvest are divided into three categories--general (Appendix I), comments on GAO recommendations (Appendix II), and comments on specific statements (Appendix III). The general comments refer to the proposed report as a whole while comments on GAO recommendations refer to the four recommendations on page 5 of the summary background attachment to the drafted letter to Senator Byrd.

APPENDIX II

GENERAL COMMENTS

In the capsule "cover summary" of the report, it is stated that the report explains the causes of the situation in which the expenditure of $275,000 by DOL was not justified.

DOL believes certain significant factors overlooked by the report justify this expenditure.

DOL believes that it acted prudently and responsibly under the circumstances to carry out its legal obligation to protect the interests of U.S. workers and that:

a. The report fails to provide relevant background to explain why DOL decided to provide transportation to the Puerto Rican workers;

b. The report ignores completely the actions of the U.S. District Court for Western District Virginia at the commencement of the harvest, and

c. The report grossly underestimates the disruptive effects of the actions by certain growers.

The transportation issue

The apple growers in a concerted action in 1977 refused to advance transportation to available U.S. workers as they had customarily done for many years. The U.S. District Court for Western Virginia upheld this action and ordered the Department to certify all foreign workers who had been requested by the growers.

Over 1,000 workers in Florida, most of whom had worked in the apple harvest in 1976, had indicated an interest in working in 1977 but had no means of reaching the work site. DOL, therefore, provided $17,000 of CETA funds for the transportation of such workers to jobs with Northeast apple growers. In 1978, the issue of Puerto Rican Public Law 87 was resolved so that workers from Puerto Rico could be referred to apple picking jobs. The Department, in consideration of the following, decided to provide transportation to workers from Puerto Rico:

(a) The Immigration statute prohibits the admission of foreign workers unless unemployed domestic workers "cannot be found in this country."

(b) Puerto Rico, with an overall unemployment rate of about 20 percent (much higher in rural areas), had an abundance of unemployed workers.

(c) These workers had no means of reaching the orchards in the Northeast.

(d) Growers were obliged under our regulations to reimburse the cost of transportation to workers who completed half of the offered work period.

Court activity

On August 31, 1978, the U.S. District Court for Western Virginia entered a Mandatory Temporary Restraining Order directing the Labor Department to certify all foreign workers requested by the Northeast apple growers. It should be noted that this order was entered 1 day prior to the first of 20 flights that were scheduled to transport a total of 2,077 Puerto Ricans to the mainland during the next several weeks. On September 8, 1978, an emergency appeal was resolved by order of the Fourth Circuit Court of Appeals in Richmond and visas were ordered to be issued to foreign workers in accordance with a procedure set forth by the Court. The effect of these actions on the situation described in the report must not be underestimated. The admission of aliens was authorized for jobs to which Puerto Rican workers had been referred.

Grower actions

The report does not recognize the direct and significant impact of grower action. The report acknowledges that some growers did not change the dates of need on their job orders, and that when workers were delivered in accordance with these job orders they were refused employment because the harvest had been delayed. As a result, the Department was forced to provide room and board for the workers and to seek alternate employment, and ultimately to provide return transportation for many of them. The report also ignores the impact of last minute changes in dates of need by some growers, mostly called into the Regional Offices and not formally submitted by amendment to the job order. In an effort to accommodate these growers, the Department rescheduled flights and reassigned workers, many of whom had already departed their homes for the airport in San Juan or could not be reached prior to their departure, only to hear the growers contend in court proceedings several days later that the dates of need had not been changed and the Puerto Rican workers were overdue.

The contradiction between some growers' testimony in court that workers requested were needed on September 5, 1978, and statements of other growers in contiguous counties that workers were not needed until late September should be noted.

APPENDIX II

GAO RECOMMENDATIONS

GAO's recommendations to the Secretary of Labor on safeguards and actions to take in implementing a recruitment plan for Puerto Rican workers closely parallel the steps which DOL initiated in planning for the 1979 harvest.

Recommendation

Ensure that a Puerto Rican recruitment effort is not undertaken unless growers' exemptions from the Puerto Rican labor law occur in time to permit an adequate recruitment period.

Response

Growers' exemptions from PL 87 were granted by the Secretary of Labor of Puerto Rico by early June of 1979, and job orders from apple growers in the ten east coast States were delivered to Puerto Rico the last week in June and the first week in July. This permitted a period of at least 6 weeks for recruitment before the first significant certification date and almost 2 months before the first major date of need.

Recommendation

Adequately plan for and implement a recruitment program which includes growers, State Employment Security Agency officials, and CETA Title III grantees in pertinent areas. Recruitment efforts should place emphasis on (1) obtaining qualified workers with work experience and attributes acceptable to employers, (2) providing comprehensive orientation on working and living conditions as well as all aspects of the job, and (3) training workers when appropriate before arriving at their place of employment.

Response

DOL's planning for the recruitment effort began in February of 1979. It involved the establishment of an orientation center on the island for a group of approximately 600 CETA 303 eligible Puerto Rican workers who received 2 days of orientation on apple picking jobs on the U.S. mainland. The orientation consisted of the following key elements: (a) simulated apple picking experience; (b) working and living conditions on the mainland, including detailed explanations of job orders; (c) the risk and benefits of taking the jobs; (d) cultural differences between the island and the mainland; (e) rights and protections available to workers by DOL; and (f) the process of getting to the mainland and settling on the job.

Plans for this orientation center and the recruitment and placement process were discussed in great detail with growers and their representatives (one grower participated as a trainer in the orientation center), SESA officials, and CETA 303 Grantees in Puerto Rico and the Labor demand States. Individual 1-day briefing sessions were conducted in May and June in Washington for these individuals as well as for staff of congressional representatives of the States involved and organizations representing farmworkers, such as the National Association of Farmworker Organizations. Elaborate informational packets describing the entire process in great detail were provided each person attending the briefings.

Recommendation

Select and brief State and local employment security agency and Labor staff participating in the placement effort before the workers arrive. In this regard, emphasize the need for frequent communication with growers to ensure workers arrive when needed and to facilitate an orderly acceptance of workers.

Response

Growers, SESA and CETA 303 Grantee staff were provided briefings on the process designed by DOL to insure the orderly referral and acceptance of workers when they arrived on the mainland. DOL planned for extensive monitoring and technical assistance, emphasizing the need for frequent communication between growers, workers, SESA personnel, CETA 303 Grantees and DOL outstationed field staff, as an effort to resolve differences and disputes before they became escalated into formal complaints or terminations.

Recommendation

Ensure that CETA Title III Grantees are adequately prepared to account for the expenditure of funds if Labor plans to use more than one source of funds. This would eliminate the confusion in accounting for expenditures which was encountered after the 1978 apple harvest.

Response

CETA 303 Grantees from Puerto Rico and the mainland were involved early in the planning phases for 1979 and were thoroughly briefed on their responsibilities and resource availability.

COMMENTS ON SPECIFIC STATEMENTS

Page 1. It is stated that "more than 17,200 workers were referred to and/or employed by growers in ten east coast States during the 1978 apple harvest. Of these workers, 5,345 (31 percent) were aliens and about 11,882 (69 percent) were domestic workers, of which 992 were Puerto Ricans who were referred to growers in four east coast States."

Comment. Since the report is focused on Virginia and West Virginia, it should be stated that in those two States the proportion of alien workers was much higher (1,595 or 58.8 percent aliens and 1,118 or 41.2 percent domestics).

Pages 3 and 11. It is stated on these pages that the workers were not qualified and not trained in how to pick apples.

Comment. It is a longstanding DOL policy that the only qualification for agricultural field and orchard workers is that the person be physically capable of performing the job in keeping with the definition of "non-immigrant alien" contained in Section 101(a)(15)(H)(ii) of the Immigration and Nationality Act. Agricultural employers do commonly provide a few days' on-the-job training for inexperienced workers. For example, some New York growers did specify on-the-job training in their job orders. Although the DOL may not limit recruitment of workers for unskilled jobs as suggested, one-third of those recruited had enough agricultural experience to qualify for CETA 303 support.

Page 3. It is stated that "referral of Puerto Rican workers to Virginia and West Virginia growers was poorly managed."

Comment. Referrals were made based upon stated dates of need of the growers. Although West Virginia growers were given advance notice that 133 workers would be sent from Puerto Rico to arrive on the dates specified on their job orders (September 9 and 10), they refused to hire them when they arrived at the orchards. On September 11, Virginia growers refused to hire 137 Puerto Rican workers who had been referred in accordance with specifications in their job orders.

Page 3. "Labor did not issue formal guidelines aimed at clarifying the new regulations until after the 1978 apple harvest."

Comment. Grower representatives were extensively briefed on the new regulations at meetings as early as March and April, and DOL did issue formal operational guidelines prior to the 1978 apple harvest season (GAL No. 41-78 on June 29, 1978). Prior to the transportation or employment of any workers a joint meeting was held at INS, attended by representatives of DOL and the growers, to inform the growers of the procedures for replacing any domestic workers who failed to appear or quit.

Pages 3 and 14. It is indicated that DOL planning was minimal and not adequate for the situation which arose in 1978.

Comment. DOL planning was for normal experiences occurring before the 1978 harvest. It would have been near impossible to anticipate for the unexpected actions that occurred in 1978. Meetings were held with Federal and State staffs in March and April to plan for recruitment of U.S. workers for the 1978 apple harvest. In those early months, specific plans for the referral of Puerto Rican workers were not included because of uncertainty about the participation of Puerto Rico in the interstate clearance system. As early as April 1978, the DOL prepared an "Outline of Plan" for the 1978 harvest. This outline was later expanded to cover the recruitment and referral of Puerto Rican workers. The expanded outline provided specific instructions for facilitating the movement of workers to the job site. Several meetings involving DOL and State ES staffs were held in July and August to finalize plans for referral of Puerto Rican workers. A conference with representatives from Regions II and III was held in Washington on August 28, 1978, in which the comprehensive plan for the participation of Federal, State, CETA 303 Grantees, and the Puerto Rican Migration Division in the movement of workers from Puerto Rico to the orchards was reviewed. Growers were advised at least 3 days in advance of workers' scheduled arrival. Federal staff persons were sent to Puerto Rico to assist in planning the recruitment effort and to insure the smooth referral of workers to the mainland. Federal staff were present at the airport in San Juan for the departure of all flights and all flights were met at mainland airports. Workers were accompanied to the orchards by Federal, State, and/or 303 staff. The Department could not have anticipated that growers would refuse to hire or terminate the workers with impunity.

Page 3. "Uncertainty regarding which sources of Federal funds to use for the Puerto Rican workers' expenses caused further confusion in handling funds."

Comment. From the beginning it was planned to use both CETA Title I and III funds depending on eligibility of recruited workers. It then became a matter of determining which workers would be covered under the provisions of Title III which is restricted to workers whose recent work background is primarily agricultural. Those not meeting this criterion were covered by Title I funds. There was some uncertainty when some 303 grantees on the mainland made different eligibility determinations but this was quickly resolved by DOL.

Pages 4 and 5. It is inferred that DOL encountered a problem with the "time frame for commencing the 60-day period within which Labor must certify an employer's petition for alien workers."

Comment. The submission of applications by employers was not a problem for DOL as only a few employers submitted them late. It is not clear why this and other items on pages 4 and 5 are included as issues in the report. They are not substantiated and don't appear to relate to the disposition of the 554 Puerto Rican workers referred to Virginia and West Virginia growers.

APPENDIX II

Page 10. "Later in March, Labor notified the States that it was the Solicitor of Labor's opinion that voluntary acceptance by growers of a contract negotiated pursuant to Public Law 87 would not necessarily interfere with the Interstate Clearance System. Therefore, job orders could be sent to Puerto Rico if the State employment security agencies were satisfied that the growers had agreed to a separate contract with Puerto Rico. However, job orders were not distributed to Puerto Rico until after Public Law 87 was amended."

Comment. Job orders were not sent to Puerto Rico before the amendment because it was quite clear that growers were not willing to negotiate a contract under Public Law 87.

Page 11. "While Labor sent staff to monitor the Puerto Rican employment security agency's recruitment effort, neither Virginia nor West Virginia State and local employment security staff and growers participated in the activity."

Comment. It should be noted that the apple growers declined an invitation to participate in recruitment efforts in Puerto Rico. When they were invited to participate, they indicated that they did not have time to participate or express concern about the legality of exemptions. The State agencies did not participate because the growers did not provide them delegated hiring authority.

Page 12. "Labor's New York Regional Office, which has jurisdiction over Labor operations in Puerto Rico, sent a letter to the Secretary of Labor and Human Resources in Puerto Rico dated August 18, 1978, indicating revised numbers of workers for New York, Virginia, West Virginia and Maryland. However, that letter did not include the largest West Virginia grower's job order or the three largest Virginia growers' orders."

Comment. The letter of August 18 transmitted changes concerning New York employers only. In any event, the largest West Virginia grower's job order and the three largest Virginia growers' orders would not have been included in any letter because those orders were not accepted by the Puerto Rican Employment Service. When an order is extended, the receiving State has the option of accepting or refusing it. For example, the West Virginia order was not accepted because the employer had in his camp Puerto Rican contract workers (under PL 87) who were working in the peach harvest. The Puerto Rican agency chose not to mix contract and noncontract workers.

Page 13. It is stated that "of the 992 workers recruited in Puerto Rico, 554 were transported to Virginia and West Virginia. However, many workers were not accepted by growers, and of those who were hired, only 47 stayed 15 consecutive calendar days or longer. These results were caused not only by the previously discussed poor recruitment effort, but also by inadequate communication between Labor and the growers concerning dates of need for workers and the status of growers' exemptions under Puerto Rican Public Law 87, and the shortage of space in growers' labor camps where alien workers were being housed."

Comment. The above paragraph and the proposed report generally fail to address the lack of cooperation from the growers in DOL's efforts to place Puerto Rican workers. It does not mention the impact of the court order by the Fourth Circuit mentioned under general comments. Also, information obtained by DOL from the Immigration and Naturalization Service indicates that beds were available at the Frederick County Fruit Growers Camp at the time Puerto Rican workers were refused on September 11. From September 14 through September 22, 423 alien workers were admitted for members of the Association.

Page 15. "Before the workers were sent to the mainland, an airline manifest was prepared indicating the workers' names, social security numbers, and grower assignments. However, when the workers arrived, the growers found that many of the workers listed on the manifest were not the ones originally assigned to them."

Comment. Although it is minimized in the report, the widespread and unexpected last minute changes in the dates of need plus other unexpected reasons for delaying referrals had a direct impact on the distribution of the U.S. workers. Frequently, for these reasons it was necessary to switch the workers from one employer to another at the last minute prior to their boarding the plane in Puerto Rico. The provision of names and social security numbers is not required by DOL regulations, but was provided as a convenience to growers in case they desired to interview workers who had been referred to them prior to arrival of the workers. (No grower did this.)

Page 16. "As for growers who were scheduled to receive workers actually being informed of their exemption, local employment security office files indicated that West Virginia growers were notified by letter on September 13, 1978 (after the workers had arrived)."

Comment. Only two West Virginia growers, who were exempted on September 1, were notified on September 13, 1978. However, a copy of the exemption letter dated August 23, 1978, which included specific exemptions for all Virginia growers and two of the four West Virginia growers whose orders had been accepted, was given by the Department's Solicitor's Office to the attorney for the growers, Mr. Karalekas, on or about August 24, 1978. It was also entered into the court record in the U.S. District Court for Western Virginia on September 5, 1978.

APPENDIX III

DEPARTMENT OF EMPLOYMENT SECURITY

JOHN D. ROCKEFELLER IV
Governor

September 19, 1979

MICHAEL R. WENGER
Commissioner

Mr. Gregory J. Ahart, Director
Human Resources Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Ahart:

We greatly appreciated the opportunity to review your proposed report draft on the Department of Labor's efforts to recruit and refer Puerto Rican workers to east coast apple growers. We have reviewed the draft and found it to be factual and responsible. We, therefore, have no specific comments on the draft that would enhance or clarify the presentation.

We would like to take this opportunity to express our gratitude to your staff, Mr. Charles McCreery and Ms. Judith Searcy, for their professional and courteous conduct during their visits with our staff.

If we can be of any further assistance in this matter, please feel free to contact us.

Sincerely,

Michael R. Wenger
Commissioner

APPENDIX IV

COMMONWEALTH of VIRGINIA
Virginia Employment Commission
703 East Main Street

Arthur L. Lane, Jr., DPA
Commissioner

P. O. Box 1358
Richmond, Virginia 23211

September 26, 1979

Mr. Gregory J. Ahart
Director
U. S. General Accounting Office
Human Resources Division
Washington, D. C. 20548

Dear Mr. Ahart:

The GAO report on the Department of Labor's effort to recruit and refer Puerto Rican workers to the 1978 East Coast apple harvest is, for the most part, a fair and objective summation of the events as they transpired. It is also true, as your report states, that due to the confusion and great numbers of people involved, all of the facts will probably never be known.

Sincerely,

Arthur L. Lane, Jr., DPA
Commissioner

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