The Honorable G. William Miller  
Secretary of the Treasury  
Department of the Treasury  
Washington, D.C. 20220  

My Dear Mr. Secretary:  

You have asked my opinion whether a rider contained in the Senate-passed version of H.R. 7631, concerning administrative funds for the New York City Loan Guarantee program, affects your authority to issue guarantees pursuant to the New York City Loan Guarantee Act of 1978, Pub. L. No. 95-339 and 95-415. For reasons elaborated below, I conclude that the rider in question has not taken effect, and therefore does not restrict your authority under the Guarantee Act.  

In pertinent part, H.R. 7631, as passed by the Senate, provided:  

For necessary administrative expenses as authorized by the New York City Loan Guarantee Act of 1978 (Public Law 95-415), $922,000: Provided, That none of these funds may be used to administer programs to issue loan guarantees to New York City for the purpose of permitting the Municipal Assistance Corporation to use the proceeds of its borrowings in fiscal years 1981 and 1982 to meet the City's financing needs after fiscal year 1982.  

The italicized language is the rider, which was a committee amendment. 126 Cong. Rec. S 12589 (daily ed. Sept. 15, 1980). There is no provision similar to the rider in the House-passed version of the bill.  

As Fiscal Year 1980 drew to a close, there was no opportunity for the normal conference procedure to resolve differences between the bills, and Congress found it necessary to provide continuing appropriations through H.J. Res. 610 for a number of agencies having pending appropriations. For
agencies whose appropriations had passed both Houses, the
Resolution provides as follows, in § 101(a)(3):

Whenever the amount which would be made
available or the authority which would be
granted under an Act listed in this subsec-
tion as passed by the House as of October 1,
1980, is different from that which would be
available or granted under such Act as passed
by the Senate as of October 1, 1980, the per-
tinent project or activity shall be continued
under the lesser amount or the more restric-
tive authority: Provided, That where an item
is included in only one version of an Act as
passed by both Houses as of October 1, 1980,
the pertinent project or activity shall be
continued under the appropriation, fund, or
authority granted by the one House, but at a
rate for operations not exceeding the current
rate or the rate permitted by the action of
the one House, whichever is lower, and under
the authority and conditions provided in appli-
cable appropriation Acts for the fiscal year
1980.

The apparent purpose of § 101(a)(3) is to distinguish between
matters considered by both Houses, for which the more restric-
tive of the two provisions is to govern, and matters considered
by only one House, for which the "authority and conditions" are
to revert to those found in FY 1980 appropriations.

Because the rider is found only in the Senate version
of the underlying 1981 appropriations bill, and the issue of
restricting the mode of administering New York City loan gua-
rances was not taken up in the House, § 101(a)(3) of H.J.
Res. 610 specifies that the rider falls within the proviso
as an "item included in only one version of an Act." There-
fore, it is superseded by the "authority and conditions"
found in applicable 1980 appropriations.

This reading of the resolution is confirmed by the
following explanation provided by the Managers in the Con-
ference Committee Report on H.J. Res. 610:

The Committee of Conference agrees that,
for the purposes of this resolution, in in-
terpreting the language contained in Section
101(a)(3) concerning restrictive authority in-
cluded in only one version of an Act as passed
by the House and Senate, the restrictive authority, as it applies to the proviso concerning the New York City Loan Guarantee Program, contained in the 1981 HUD Independent Agency Appropriation Act, must have been carried in the applicable Appropriation Act for Fiscal Year 1980, before it is operative in Fiscal Year 1981.

The rider was "included in only one version of an Act" within the meaning of the proviso to §101(a)(3), and was therefore, by the terms of the proviso, superseded by the applicable appropriation act for FY 1980, which contains no such limitation. I therefore conclude that the rider has not taken effect, and does not restrict your authority in administering the Guarantee Act. */

Respectfully,

Benjamin R. Civiletti
Attorney General

*/ As you know, Attorney General Elliot Richardson adopted the formal policy on October 1, 1973, of not issuing opinions regarding the validity of guarantees or other obligations issued by federal agencies unless the opinion request raises a genuine issue of law. Successive Attorneys General including myself have adhered to this policy. In addition, Attorneys General have opined that they do not have the authority to issue opinions when it is apparent that the request has been made, not because the requestor has any real concern about his authority, but because private persons, who engage in transactions with the United States, have insisted upon such an opinion for their benefit. 39 Op. A.G. 11, 17-19 (1937); 20 Op. A.G. 463, 464 (1892). Because your request raises a genuine issue of law, I believe that an Attorney General's opinion on the narrow issue presented is appropriate. I am also persuaded that this is a legal issue over which you have a serious concern, and, for that reason, I believe I have the authority to issue this opinion. I am troubled, however, by the insistence of private lawyers involved in the New York guarantee transaction on receiving an Attorney General opinion addressing this question. I ask you to inform private persons who transact business with your Department that the Attorney General will not issue opinions solely because they feel it is important to protect them or guide them in their transactions and that opinions related to business transactions with the Government will be issued only when the transaction raises a substantial and genuine issue of law arising in the administration of a Department.
June 20, 1980

The Hon. G. William Miller  
Secretary  
Department of the Treasury  
Washinton, D.C. 20220

Dear Bill:

Thank you for your response to the letter from myself and Senator Carn concerning the proposal by the Municipal Assistance Corporation to use the remaining $900 million in Federal guarantees authorized under the New York City Loan Guarantee Act of 1978.

I would appreciate your keeping me informed of the status of this proposal and any consideration of it by the Treasury Department. For your information, I am enclosing a copy of a memorandum prepared by Banking Committee staff which discusses in greater detail the legislative history and other factors bearing on the use of these guarantees. It concludes that present law does not permit them to be used so long as there is credit available elsewhere from any source sufficient to meet the City's needs.

Sincerely,

[Signature]

William Proxmire  
Chairman

Enclosure
MEMORANDUM TO THE CHAIRMAN

FROM: Eleanor Bachman, Professional Staff Member


You asked for the legislative history and other factors concerning the use of the remaining $900 million in Federal guarantees authorized but not yet issued under the New York City Loan Guarantee Act of 1975. The Board of Directors of the Municipal Assistance Corporation (MAC) approved on June 3, 1980 a proposal which calls for the issuance of the full $900 million in guarantees, as part of a financing program for fiscal years 1981-1985 which assumes that the City will make only modest progress toward regaining market access over most of that period.

The financial plan for fiscal years 1975-1982 which was considered by Congress in its deliberations on the New York City Loan Guarantee Act projected the issuance of Federal guarantees in the amount of $750 million in the first two years, 1979 and 1980, with the remaining $900 million to be held in “stand-by”. In the latter two years of the plan, 1981 and 1982, the city’s long-term financing needs were to be met through a combination of $400 million in private placements of MAC bonds and $500 million in public sales of City bonds. To the extent that City bond sales fell short of needs, those amounts were to be made up through public sales of MAC bonds, in the first instance, and then through...
use of the stand-by Federal guarantees only if, and to the extent that, MAC bond sales also fell short.

The MAC proposal would turn this plan on its head. It calls for the "up-front" use of the $300 million in Federal guarantees in 1981 and 1982, along with the MAC private placements and a minimal amount of City bond sales ($100 million a year), to meet the City's capital needs in those years. At the same time, MAC would also sell bonds to the public, in the amount of $800 million, but the proceeds would be held on stand-by to meet prospective needs that might not be covered by City or MAC bond sales in 1983, 1984, and part of 1985.

Although the interest of New York City and State officials in gaining ready access to the remaining $900 million in Federal guarantees is understandable, there is every indication that the proposed use of the guarantees is not permissible under the law. First, the provisions of the Loan Guarantee Act, along with the legislative history of both the authorization and appropriations bills and the Agreement to Guarantee pursuant to the Act, all show clearly that the stand-by guarantees were intended to be used only if there were no credit available elsewhere from any source, including MAC, sufficient to meet the City's needs. Second, these materials are all tied to the four-year period ending on June 30, 1982, when the loan guarantee program expires. There is no indication that the "no credit elsewhere" test can be met prospectively by reference to potential problems arising after 1982, even though it was explicitly recognized that the City might not succeed in regaining full market access by that date. Third, Administration officials have confirmed this reading of the statute on a number of occasion, most recently in the oversight hearings held by the Senate Committee on Banking, Housing and Urban Affairs in January 1980.
Finally, it should be noted that there is no compelling evidence that such use of the remaining Federal guarantees is necessary, even if it were permitted by law. These points are discussed in more detail below.

The first source to consult is the Act itself (P.L. 91-313). The language of the statute provides that guarantees may be made "only if the City is effectively unable to obtain credit in the public credit markets or elsewhere in amounts and terms sufficient to meet the City's financing needs." This language was taken from the House bill, H.R. 11426, and the report of the Committee on Banking, Finance, and Urban Affairs states further that "the use of the word 'effectively' is intended to create a test of the practical unavailability of credit, including maturity and rate, through the private market." Presumably the phrase "or elsewhere" would refer to sources other than the market, including the private placements with financial institutions and pension funds which are a major component of the City's 1979 - 1981 Financial Plan. Since it was made clear to the Committees involved and to the Congress at the time the Act was passed that MAC was and would continue to be a major source of credit for New York City in meeting its financing needs, both through the sales of bonds in the public credit markets and through private placements, it is evident that this "no credit elsewhere" requirement was intended to cover sales of MAC bonds as well as City bonds.

The intended use of the Federal loan guarantees in the context of the City's Financial Plan for fiscal years 1979-1981 was explained in some detail in the course of hearings by the Senate Banking Committee on the proposed New York City loan guarantee legislation in June 1978. Mr. Felix G. Rohatyn, Chairman of the Municipal Assistance
Corporation, and author of both the loan guarantee proposal and the proposal recently adopted by the MAC board, testified that only a portion of the guarantees authorized should be made part of the "original committed package" with the remainder "kept on a stand-by basis against possible failure of future market access" by both the City and MAC. The testimony expressly fore-saw the possibility that the City might fail to regain market access for the bonds "in part or in total" in 1981 and 1982. It indicated that if this occurred, then MAC would "take up the slack before any of the guarantees are called upon." The following are excerpts from Mr. Rohatyn's testimony of June 7, 1978:

"...The Federal guarantee would be limited to $1 billion as part of the original committed package, with the second billion kept on a stand-by basis against possible failure of future market access. The ($4.5 billion) long-term portion would be made up of a private placement of $1.5 billion MAC bonds with city pension systems and financial institutions, $1.0 billion Federally guaranteed bonds with city and state pension systems, $1.0 billion MAC bonds sold publicly over 4 years, $1.0 billion of city and/or MAC bonds sold publicly in years 3 and 4, backed up by the remaining Federal guarantees..."
"...The likelihood of the second billion dollars of Federal guarantees being called upon would be remote, in my judgement. If the city failed in part or in toto with its attempts to re-enter the markets in years 3 and 4, MAC would still have almost $1 billion of capacity to take up the slack before any of the guarantees are called upon."

The intended use of the Federal guarantees and the application of the "no credit elsewhere" requirement were described in the course of Congressional action on the appropriation of the New York City loan guarantees. Based on the testimony of the Treasury Department at a Subcommittee hearing on August 18, 1978, the Senate Appropriations Committee included the following language in the report accompanying the New York City loan guarantee appropriation bills, H.R. Res. 1081:

"The Committee directs that the remaining $570 million in guarantee authority, as well as the $730 million intended to be provided in fiscal years 1979 and 1980, be available on a standby basis only. This means that primary reliance should be placed on sales of MAC bonds as a back-up to anticipated sales of City bonds in fiscal years 1981 and 1982, and guarantees should be provided only to the extent that the MAC back-up is not sufficient to meet the City's financing needs. In general, the Department of the Treasury should seek to minimize the extent of Federal involvement in New York City's financing arrangements."
There was no contradictory language in the House Appropriations Committee report, and the appropriation bill passed both houses of Congress without amendment and was signed into law. Accordingly, the Senate report language would govern in this respect.

The intent of the law, and the directives and understandings contained in the legislative history, were incorporated in the agreement to guarantee pursuant to the New York City Loan Guarantee Act, entered into on November 21, 1971 by the Secretary of the Treasury, acting in the name of the U.S. Government, with the State of New York, the City of New York, the New York State Financial Control Board, and the Municipal Assistance Corporation for the City of New York. Exhibit A of that Agreement to Guarantee sets forth a financing plan showing the levels of MAC indebtedness and long-term City indebtedness for fiscal years 1971-1982. A copy of this Exhibit is attached. It shows $900 million in public sales of MAC bonds in fiscal year 1981 and $600 million in 1982, and reference is made to footnote (3) which indicates that these MAC bonds are "to be issued to the extent that the City is unable to issue long-term City indebtedness in public markets in 1981 or 1982, as per the Financing Plan." Furthermore, Exhibit A also lists a total amount of $900 million in guaranteed bonds to be sold to City and State pension funds in fiscal years 1981 and 1982, with an accompanying footnote (6) which states that these guaranteed bonds are "to be issued to the extent the City is unable to issue long-term city indebtedness in public markets in 1981 or 1982 or MAC is unable to issue MAC indebtedness in 1981 or 1982 on reasonable terms and conditions, as per the Financing Plan."

Thus, it could not be more clear from the formal legal document executed pursuant to the provisions of the Act that the $900 million in "stand-by"
Federal guarantees is to be issued only if, and to the extent that, neither the city nor MDC is able to sell bonds to the public in sufficient amounts to meet the city's financing needs in fiscal years 1981 and 1982.

The preceding discussion of the legislative history and legal comments connected with the New York City loan guarantee authorization and appropriations bills shows conclusively that the intent was to address the city's needs through 1982 -- the date of expiration of the loan guarantee program. At no point did anyone envision the use of the guarantees in order to permit MDC to sell bonds to the public and reserve the proceeds for use after 1980, nor is there any basis for making the "no credit elsewhere best apply prospectively to the post-1982 period.

In subsequent hearings before the Committee on Banking, Housing and Urban Affairs, the Treasury Department has repeatedly maintained the position that the $900 million in stand-by guarantees was to be used only in the event that both city bond sales and MDC bond sales were insufficient to meet the city's financing needs in 1981 and 1982. The most recent instance occurred in the course of the committee's oversight hearings in January and February 1980. The following colloquy between Senator Lugar and Assistant Secretary Altman indicates in detail and unequivocally that the stand-by guarantees cannot be used in the event of failure by the city to sell its bonds in sufficient amounts so long as MDC is able to meet the city's financing needs in those years:
Mr. Altman... We see no reason why the remaining $900 million of guarantee authority will need to be used and it was not foreseen to be used in the original plan. I think the original plan is working and those standby guarantees will remain standby and not be used because any failure by the city to re-enter the markets on schedule, which would be next year for $500 million and the next year for $645 million, will be made up by MAC, not the Federal Government.

Senator Lugar. What is the triggering mechanism that would bring in that $900 million?

Mr. Altman. A failure by the city and a failure by the Municipal Assistance Corp. to be able to get into the public markets or any other bond markets to raise the amounts that have to be raised in fiscal years 1981-82. In other words, the city schedule calls for the public sale of $300 million in fiscal year 1981 and $645 million the following year. If the city cannot sell these amounts publicly, MAC has sufficient reserve debt capacity to meet the city's needs. Only if both the city and MAC fail would the standby Federal guarantees be used.

Senator Lugar. It's your judgment, then, even after this $100 million is guaranteed and we reach the $750, that throughout the rest of this calendar year of 1980 there would not be a need for further Federal guarantees?

Mr. Altman. Yes.

Senator Lugar. And there is some reserve capacity with MAC now that would obviate the need for that in the foreseeable future or, to be very specific, throughout the entirety of this 4-year plan?

Mr. Altman. Yes; MAC has $1.1 billion of scheduled, unused, funding authority during the remainder of the plan. If the city can't meet its plan for $945 million of its own bonds, you have that as a backup and MAC continues to have access to the public credit market.
The legislative history should be sufficiently conclusive to determine that the remaining 5900 million in Federal loan guarantees cannot be used as contemplated in the current MAC proposal. However, it should also be noted that there is no strong evidence that the proposed use of the guarantees is necessary to enable New York City to meet its financing needs in fiscal year 1983 and subsequently. In testimony given at the Senate Banking Committee's oversight hearings in February 1982, MAC Chairman Robalyn recommended an increase in the Corporation's statutory borrowing authority from the present 56.8 billion to 570 billion and stated that the latter amount would be "ample to finance the City through 1984," and well within MAC's economic capacity and maximum funding requirements.

This recommendation was endorsed by the Governor of New York State at the same hearing. The documents accompanying the recent MAC proposal include draft legislation now pending before the New York State Legislature to accomplish this increase in borrowing authority.

Close examination of a schedule developed by MAC projecting the City's long-term financing requirements confirms that they could virtually be met through 1984 by a combination of City bond sales and MAC borrowing up to an authorized amount of 510 billion (and before that point, there should be sufficient economic capacity to support an additional increase in MAC's borrowing authority, if necessary). The figures shown on the MAC schedule may well turn out to be in excess of actual needs. The City's capital spending has fallen far short of projected levels in the first two years of the Financial Plan, 1979 and 1980, and the figures shown for 1982 and
beyond are more than double current capital spending levels.

It has been argued that MAC's public market access is limited to a range of $600 to $950 million per year, irrespective of its borrowing authority or economic capacity, and that this constrains its ability to meet the City's financing needs after 1982. However, calculations using the MAC schedule indicate that annual public sales of MAC bonds even in the $500 - $600 million range from 1981 through 1984 should be sufficient to support an adequate capital financing program, along with the projected City bond sales.

If the latter ran higher than projected, or if the City or MAC were able to obtain modest amounts from other sources, such as additional private placements with financial institutions, then the full program could be carried out, assuming the City has the capability to do this.

This leaves the question, touched on briefly in the materials accompanying the MAC proposal. That is whether MAC's continued market access is dependent on the assurance of the "up-front" availability of the remaining $700 million in Federal guarantees. Obviously this has not been the case to date. MAC has carried out all of its scheduled public offerings, except for one planned for this spring which was cancelled due to extraordinarily adverse market conditions, and also due to the fact that the City did not need the money. Should such conditions recur, and should the need be there, then some of the stand-by guarantees could be provided under the provisions of existing law. In the absence of such extraordinary conditions, there is no evidence that keeping the $700 million in stand-by guarantees
on stand-by will impair MAC's market access. There is only the caution that such assertions, if made too strongly and too often, could become a self-fulfilling prophecy.
United States Senate
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
WASHINGTON, D.C. 20510

June 2, 1980

The Honorable G. William Miller
Secretary
U.S. Department of the Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

We were interested to learn from press reports that New York City and State officials are discussing with the Treasury Department the possibility of using the remaining $900 million in Federal guarantees authorized under the New York City Loan Guarantee Act of 1978, should the City be unable to market its own bonds in that amount in fiscal years 1981 and 1982, as scheduled.

Presently these guarantees are held on "stand-by", to be used only in the event that neither the City nor the State's Municipal Assistance Corporation (MAC) can raise the necessary amounts in the public bond market. The proposal, as described, would be to use the Federal guarantees as the first resort rather than the last resort, in order to free up $900 million more of MAC's borrowing authority for potential use in fiscal years 1983 and 1984, should the City continue to have problems in selling its bonds.

As Chairman and Ranking Minority Member of the Senate Banking, Housing and Urban Affairs Committee, which has jurisdiction over the Act, we see no way that the provisions of existing law would permit such use of the remaining guarantee authority, and we assume that the Treasury Department will confirm this interpretation, as it has done on numerous occasions in the past. The law states that guarantees may be made only if "the city is effectively unable to obtain credit in the public credit markets or elsewhere in amounts and terms sufficient to meet the city's financing needs." Thus it is clear from the statutory language that so long as MAC has the capacity to meet the city's financing needs in 1981 and 1982, no further Federal guarantees can be issued.
The Honorable G. William Miller  
June 2, 1980  
Page Two

The question of whether and under what conditions the remaining guarantees could be used has been discussed a number of times, most recently in the course of the Committee's oversight hearings in January and February, 1980. The following colloquy between Senator Lugar and Assistant Secretary Altman indicates in detail and unequivocally that the standby guarantees cannot be used in the event of failure by the City to sell its bonds in sufficient amounts so long as MAC is able to meet the City's financing needs:

Mr. Altman... We see no reason why the remaining $900 million of guarantee authority will need to be used and it was not foreseen to be used in the original plan. I think the original plan is working and those standby guarantees will remain standby and not be used because any failure by the city to re-enter the markets on schedule, which would be next year for $300 million and the next year for $645 million, will be made up by MAC, not the Federal Government.

Senator Lugar. What is the triggering mechanism that would bring in that $900 million?

Mr. Altman. A failure by the city and a failure by the Municipal Assistance Corp. to be able to get into the public markets or any other bond markets to raise the amounts that have to be raised in fiscal years 1981-82. In other words, the city schedule calls for the public sale of $300 million in fiscal year 1981 and $645 million the following year. If the city cannot sell these amounts publicly, MAC has sufficient reserve debt capacity to meet the city's needs. Only if both the city and MAC fail would the standby Federal guarantees be used.

Senator Lugar. It's your judgment, then, even after this $100 million is guaranteed and we reach the $750, that throughout the rest of this calendar year of 1980 there would not be a need for further Federal guarantees?

Mr. Altman. Yes.

Senator Lugar. And there is some reserve capacity with MAC now that would obviate the need for that in the foreseeable future or, to be very specific, throughout the entirety of this 4-year plan?

Mr. Altman. Yes; MAC has $1.1 billion of scheduled, unused, funding authority during the remainder of the plan. If the city can't meet its plan for $945 million of its
own bonds, you have that as a backup and MAC continues to have access to the public credit market.

It is clear, then, that the $900 million in standby guarantees could become available to New York City only if neither the City nor MAC were able to market bonds in amounts and terms sufficient to meet the City's needs. There are two ways in which this might occur. One would be due to circumstances beyond the City's control, such as a collapse of the municipal bond market. The recent recovery in the bond market suggests that MAC is likely to have continued market access, and there is some potential market for City bonds as well. The other way would be through a "self-inflicted wound," such as a City labor contract settlement so generous as to render it extremely unlikely that the City could balance its budget in accordance with generally accepted accounting principles in 1981 or 1982 or succeeding fiscal years. Should this seem probable, it would be grounds for Congress to consider exercising its authority to veto further guarantees. However, both the Mayor and the Governor assured the Committee that they will not agree to a settlement which would not conform to the City's January 15, 1980 Financial Plan, projecting GAAP-balanced budgets for 1981 and thereafter, so this should not be a problem.

Going beyond the statutory barriers, we see no reason to believe that it would be either necessary or desirable to provide the standby guarantees in order to give MAC "a cushion of an extra $900 million in borrowing power over the next few years." In his testimony at the Committee's oversight hearings, the Chairman of MAC recommended an increase in MAC's statutory borrowing authority from the present $8.8 billion to $10 billion and stated that the latter amount would be "ample to finance the city through 1984," and well within MAC's economic capacity and maximum funding requirements. At that same hearing, the Governor said that he would recommend that the New York State Legislature approve such an increase in borrowing authority.

It should be further noted that the $10 billion figure is based on a worst case assumption that New York City would not be able to sell any of its own bonds during that period, and if that were to occur, then a $900 million "cushion" provided by the Federal Government would not solve the problem in any event. However, the MAC Chairman said he did not anticipate this occurring and then went on to offer the following scenario of the City's re-entry into the credit markets:
The Honorable G. William Miller
June 2, 1980
Page Four

If the city continues on track, within a reasonable economic environment, the city capital funding requirement of 1983 and 1984 could be met through a combination of MAC issuances supplemented in ever-increasing amounts by the city's own debt. It is entirely plausible that the city, having implemented four consecutive GAAP balanced budgets and having successfully issued ever-larger amounts of debt for two years, would then be able to fully meet its own capital needs.

We should also note here that New York City officials and their financial advisors told the Committee that they are exploring other means of meeting the City's long-term financing needs after 1982, including the possible establishment of special enterprise agencies, such as a water and sewer authority, to borrow through a revenue bond device.

Aside from the fact that providing the remaining $900 million in Federal guarantees "up-front" would be both unnecessary and contrary to the law, the only real effect of doing this would be to relieve New York State of the responsibility to increase the borrowing authority of the Municipal Assistance Corporation. In our view, this would be most undesirable. Given the intent of the law that the Federal government be the lender of last resort, and given the reluctance of Congress to provide further Federal guarantees, it is clearly preferable to return the responsibility for meeting all of New York City's financing needs to the State and local level as soon as possible.

Sincerely,

[Signature]

William Proxmire
Chairman

[Signature]

Jake Carn
Ranking Minority Member
May 27, 1980

Mr. Robert F. Vagt
Executive Director
Municipal Assistance Corporation
One World Trade Center
New York, N.Y. 10048

Dear Mr. Vagt:

Enclosed is a copy of my office's most recent report to Congress covering Treasury's activities under the Guarantee Act for the past six months.

Cordially,

[Signature]

John J. McLaughlin
Director
Office of New York Finance

Enclosure
Dear Mr. Chairman:

Pursuant to Section 108 of the New York City Loan Guarantee Act of 1978, I am submitting our fourth report to Congress. This report covers the activities of the Treasury Department under the Guarantee Act during the six-month period since our third report in November 1979.

Since the last report, Federal guarantees of New York City indebtedness have been issued twice — $150 million on January 3, 1980 and $100 million on February 21, 1980 — and the Department has continued its ongoing analysis of the City's fiscal situation and financing prospects.

Your Committee's staff has already been provided with complete copies of Treasury's findings prepared in connection with the January and February 1980 guarantee issuances.

The Director of the Office of New York Finance and other senior members of my staff will be delighted to meet with your staff at their mutual convenience to amplify information contained in this report and to discuss any other matters you may wish to raise.

Best wishes.

Sincerely,

Robert Carswell
Acting Secretary

The Honorable
William Proxmire
Chairman, Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D.C. 20513

Enclosure
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Best wishes.

Sincerely,

Robert Carswell
Acting Secretary

The Honorable
Henry S. Reuss
Chairman, Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D.C.  20515

Enclosure
This is Treasury's fourth report to Congress pursuant to Section 108 of the New York City Loan Guarantee Act of 1978. Treasury's activities under the Guarantee Act during the past six months are presented in detail.

Treasury's activities center on the issuance of Federal guarantees of securities of the City of New York and monitoring compliance with the conditions of the Guarantee Act and the Agreement to Guarantee among the City, the United States and others. Thus, Treasury's Office of New York Finance maintains a staff in both New York City and in Washington D.C. for, among other things, the purpose of monitoring the City's progress towards a budget balanced in accordance with Generally Accepted Accounting Principles (GAAP), its ability to repay the federally-guaranteed bonds, its progress in attempting to reenter the public credit markets, and the other requirements of the Guarantee Act and the Agreement to Guarantee.

Since the last report, the activities of the Treasury Department have included the issuance of $150 million in Federal guarantees on January 3, 1980; an appearance before the Senate Committee on Banking, Housing, and Urban Affairs on January 28; the issuance of another $100 million in guarantees on February 21; and appearances before the Senate and House Appropriations Committees on March 7 and April 2, respectively. A review of these and other activities is presented in this report.

MAJOR ACTIVITIES

I. Issuance of Federal Guarantees

A major responsibility of the Treasury Department under the Guarantee Act relates to the Secretary's determinations as to the City's and other appropriate parties' compliance with the conditions of the Act and the Agreement to Guarantee prior to each extension of Federal guarantees. In the past six months, the City twice requested Treasury to issue guarantees of City indebtedness: $150 million on January 3, 1980 and $100 million on February 21, 1980. Federal guarantees were extended on these dates, but not before Treasury found that the City, the State, the Financial Control Board and the Municipal Assistance Corporation for The City of New York (MAC) were in compliance with the conditions of the Guarantee Act and the Agreement to
Guarantee. Copies of the Secretary's findings with respect to both these issues of guarantees have been transmitted on a regular, timely basis to the staff of the Senate Banking, Housing and Urban Affairs Committee and the staff of House Banking, Finance and Urban Affairs Committee.

**Issuance of $150 Million in Guarantees on January 3, 1980**

This issuance was originally scheduled to occur on November 29, 1979. Due to the high prevailing rates of interest and the City's favorable cash position at the time, the City postponed its request for guarantees to early January 1980.

The most difficult determination prior to the issuance of these guarantees related to Section 103(2) of the Guarantee Act -- "that the City is effectively unable to obtain credit elsewhere in amounts and terms sufficient to meet the City's financing needs." In the summer of 1979, Treasury noted a growing public interest in City long-term securities and asked the City to develop a market reentry strategy. The City did so. Mayor Koch committed himself to "regaining market access for City long-term bonds as soon as practicable."

A public bond sale, however, has not yet been attempted. Treasury received assurances from both the Mayor and the City Comptroller's Office prior to the issuance of the guarantees that the City remained committed to attempting public bond sales as soon as practicable. In addition, we determined that current market conditions precluded the City's re-entry at that time, since general credit conditions had significantly deteriorated since the summer of 1979 thereby greatly increasing the possibility of an unsuccessful City public bond offering if one were to be attempted. It was widely viewed that an unsuccessful offering would severely retard future attempts to regain access to the public bond market.

**Issuance of $100 Million in Guarantees on February 21, 1980**

Between January 3 and February 21, credit market conditions worsened. Treasury's informal discussions with municipal bond traders, institutional investors, and commercial bankers led us to conclude that the continued decline in the credit markets rendered City long-term securities publicly unmarketable. The prospects for City public bond sales had further worsened since the early January takedown. Hence, we again concluded that the City had no "credit elsewhere" and was otherwise in compliance with the Guarantee Act and with the Agreement to Guarantee and, consequently, issued $100 million in guarantees.
The $250 million in Federal guarantees extended in January and February completed the issuance of the $750 million of "up-front" guarantees in the FY 1979 - FY 1980 period. The remaining portion of guarantee authority under the Act -- $900 million -- remains on a stand-by basis for FY 1981 and FY 1982. Further guarantees will be issued only if both the City and MAC are unable to finance the requisite amounts of City capital needs anticipated in the Four-Year Financial Plan.

II. Senate Oversight Hearings

On January 28, January 29, and February 7, the Senate Committee on Banking, Housing, and Urban Affairs held oversight hearings on the Guarantee Act. Witnesses included representatives of the Treasury Department, the City of New York, the State of New York, municipal labor unions, bond rating agencies, and the investment community.

Treasury's testimony focused on the City's ability to achieve its budget goals in FY 1980, FY 1981, and FY 1982 and its ability to regain market access for its securities. The testimony included discussions of major factors affecting the City's progress toward financial self-sufficiency, including the national and local economy, the continuity of Federal and State aid, the prospects for increases in City tax rates that are subject to State and/or City legislative approval, the extent of operating deficits in the Board of Education and the Health and Hospitals Corporation (HHC), the impact of wage settlements for municipal workers (the current contracts expire on June 30), and capital spending. Treasury's view was that the City has, to date, complied with the requirements of the Guarantee Act and the Agreement to Guarantee. Copies of follow-up correspondence between the Committee and the Secretary are appended to this report as attachments A and B.

III. Fiscal Monitoring

Crucial to the City's recovery is its ability to balance its budget in accordance with Federal and State law. Accordingly, Treasury considers its major continuing responsibility to be the monitoring of the City's budget progress. Since the last report, three important actions were undertaken with respect to the City's budget: the City's submission and the Control Board's approval of the First Quarterly FY 1980 Financial Plan Modification; the City's submission and the Control Board's approval of the Second Quarterly FY 1980 Financial Plan Modification; and the new Four-Year Financial Plan and the related Program to Eliminate the Gap (PEG). In addition, the Metropolitan Transit Authority reached a tentative two-year wage settlement with the Transport Workers Union and the Amalgamated Transit Union. A brief review of these events follows.
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The first quarterly modification to the Financial Plan was completed on December 12, 1979. Three specific changes from the City's initial submission in mid-October were incorporated. First, the modification addressed expenditure overruns and revenue shortfalls in the Board of Education and a detailed program for their solution. Second, the modification reflected an increase in the FY 1980 unallocated general reserve from $108 million to $180 million, as well as an increase in the reserve in the later years through a program of planned underspending. Finally, the modification included an increase of $24 million in the allocated general reserve to provide additional resources to deal with HHC's potential fiscal problems.

Second Quarterly FY 1980 Financial Plan Modification

On January 16, Mayor Koch submitted to the Control Board the second quarterly modification to the FY 1980 budget as well as the City's new Four-Year Financial Plan through FY 1984 and the PEG program. The PEG program would attain the long-sought goal of budget balance according to GAAP next year, one year earlier than Federal and State law requirements. The City's decision to voluntarily move to GAAP balance ahead of schedule is commendable. The City estimated that attaining this goal will require eliminating a $677 million gap in FY 1981 and $1,139 million gap in FY 1982.

The FY 1981 estimate of the gap to be closed is higher than forecast earlier because of the decision to accelerate the achievement of GAAP balance by one year and the budgeting of certain wage increases for the municipal workforce. The FY 1982 gap estimate also increased because of projected wage increases and higher energy costs.

The City's PEG program proposed to eliminate the potential FY 1981 and FY 1982 deficits with $507 million in detailed City actions, including tax increases, in FY 1981, and an additional $222 million in City actions in FY 1982. The remaining gaps, $170 million in FY 1981 and $410 million in FY 1982, were expected to be closed with new intergovernmental aid.

On February 21, the Control Board approved this modification with certain major revisions:

- In FY 1980, the City would maintain its general reserve of $136 million rather than the $104 million general reserve contained in its January submission;
In FY 1981, the City would increase the general reserve by $50 million to a total of $150 million to provide a cushion against various uncertainties.

Due to favorable changes in revenue and expenditure estimates, the FY 1982 gap was revised downward by $69 million to $1,070 million, thereby reducing the City's FY 1982 gap-closing actions to $153 million; and

Due to uncertainties in the levels of intergovernmental aid projected by the City in FY 1982 and FY 1983, the City is to adopt contingency plans of $150 million and $250 million, respectively, to meet potential shortfalls in such aid.

Transit Settlement

On April 11, the Metropolitan Transportation Authority (MTA) and the leaders of the two major transit unions in New York City, the Transport Workers Union (TWU) and the Amalgamated Transit Union (ATU), came to a tentative agreement on a new two-year contract, ending an 11-day transit strike. The agreement consists of several components:

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Day; a procedure to eliminate sick-leave abuses; the use of "broadbanding", whereby management may give workers a variety of jobs not now included in job descriptions; and a new wage progression system that requires 2-1/2 years for a new employee to reach top pay.

(d) Higher contributions to the Unions' health and welfare funds by the MTA. The increase, $5 million per year, will keep the MTA's contribution roughly level with inflation.

In the past, there has been a significant "linkage" effect between the transit settlement and the City's subsequent settlement with its unions. The April 1978 transit contract contained a 6 percent increase in the first year, cash bonuses, and a productivity-tied COLA in the second year. The July 1978 City-wide contract contained 4 percent wage increases in each of two years, cash bonuses, and equalized COLA in the second year. It is estimated that the two contracts produced about the same annual wage increase per employee, and that the municipal unions were committed to equaling the transit pact. If the new City contracts are similar to the transit settlement, the FY 1981 and FY 1982 increases in City expenditures, beyond the amounts already budgeted, would be approximately $185 million and $465 million, respectively. It is not clear whether the City could attain its FY 1981, and particularly its FY 1982, budget goals in the face of such expenditure increases.

IV. Appropriations Hearings

In a letter dated February 19, 1980, to Secretary Miller, Chairman Proxmire and Ranking Minority Member Carn of the Senate Committee on Banking, Housing, and Urban Affairs indicated their intent "to make it very clear that we expect the Treasury to continue to monitor New York City's operations closely in order to ensure continued compliance with all of the conditions of the Act to protect the Federal Government's financial interest." (See Attachment A.)

With this in mind, Assistant Secretary Altman testified before the Senate and House Appropriations Committees on March 7 and April 2, respectively, to discuss the Federal FY 1981 appropriation for administrative expenses of the Office of New York Finance. The following major areas were covered in his testimony: administration of the New York City Loan Guarantee Act; review of Treasury's additional responsibilities imposed by P.L. 95-497 in monitoring the continuing participation of the City and State pension funds in the City's Four-Year Financial Plan; and the level of appropriations Treasury believes necessary to enable it to effectively carry out its statutory responsibilities in the 1981 fiscal year.

Furthermore, prior to each acquisition by a City pension fund of unguaranteed MAC securities under the $4.5 billion Four Year Financing Plan, Treasury must also make certain independent determinations under P.L. 95-497. While Treasury may not be called upon to issue Federal guarantees during City FY 1981 and FY 1982, it will still be required to make the identical determinations as required by Section 103(5) of the Guarantee Act -- the balanced budget finding -- whenever City pension funds purchase MAC or unguaranteed City securities. The City pension funds are scheduled to acquire over $340 million of MAC bonds in the next two years.

OTHER ACTIVITIES

I. Pension Fund Legislation

P.L. 95-497, the "Pension Fund Act", was enacted in October 1978 as companion legislation to the Guarantee Act. This legislation provides that certain City or State employee pension funds will not be considered to have failed to satisfy the requirements for "qualified status", or to have engaged in a "prohibited transaction", under the Internal Revenue Code, merely because such pension fund purchases City or MAC debt. This protection applies to purchases made under the agreements which compose the City's Four-Year Financial Plan. During the past six months, the City and the State pension funds each bought $125 million of federally guaranteed City bonds ($75 million each on January 3, 1980 and $50 million each on February 21, 1980). On December 14, 1979, the City pension funds also purchased $150 million of MAC bonds.

In order for the funds to qualify for the exemptions under the Pension Fund Act, the Secretary of the Treasury is required to make certain determinations. Thus, on each of these three occasions Treasury found that (a) the purchase of the bonds by the pension funds would not cause any individual pension fund's holdings of City indebtedness to exceed 50 percent of the fund's portfolio; (b) the holdings of City indebtedness of the City pension funds collectively do not exceed certain percentage limitations; and (c) the acquisition of the bonds would not cause any of the individual pension funds to have a negative cash flow. Treasury concluded that the pension funds met these criteria and thus were able to make the purchases.

The Secretary of the Treasury is required to approve any new financing agreement, or an amendment to an existing agreement or a waiver of any provision of an existing agreement, before the
pension funds can make purchases that would be covered by the Act. This requires making two findings: (a) the acquisition of the bonds would not impair either the City's or any individual fund's ability to satisfy its future obligations to pay pension and retirement benefits to members and beneficiaries of each plan; and (b) the ability of the City to make future contributions to the funds would not be jeopardized. As the purchases on December 14, January 3, and February 21 were made pursuant to existing agreements that the Secretary had previously approved, and no amendments or waivers were enacted since his approval, it was not necessary for the Secretary to make these latter two findings again.

It should be noted that since the State pension funds do not seek coverage under this special legislation, Treasury was not required to consider these funds when making those determinations outlined in the Pension Fund Act prior to the extension of Federal guarantees on January 3 and February 21.

One of the requirements of the Pension Fund Act is that the financial statements of each of the New York City pension funds must be audited by independent accountants by March 30, 1980. The statements for FY 1979 were audited and attested to by Arthur Young and Company in early March. The firm reported that the statements "present fairly the financial condition [of the retirement system] at June 30, 1979 and the changes in fund balances for the year then ended, in conformity with Generally Accepted Accounting Principles."

II. Statutory Committees

Audit Committee

As provided in Section 103(7)(B) of the Guarantee Act, the City is required to establish an Audit Committee to "assist in the determination of areas of inquiry for, review the progress of, and evaluate the results of, audits to be conducted by" the City's independent auditors. The City's Audit Committee was established in February 1979 and recently released its first annual report, which has been provided to the staff of the Senate Banking, Housing and Urban Affairs Committee and the staff of the House Banking, Finance and Urban Affairs Committee. On February 21, the Financial Control Board reappointed the private members of the Audit Committee to an additional one-year term. The Treasury Department serves as an official observer to all Audit Committee functions.

Productivity Council

Section 103(9) of the Guarantee Act requires the City to establish a Productivity Council to "develop and seek to implement methods for enhancing the productivity of the City's labor
force..." Also, as stated in the Act, the Financial Control Board must review and report annually on the Council's progress. On January 15, 1980, in compliance with the statute, the Control Board issued its first annual report on the Productivity Council. The report cited certain organizational problems within the Council which have rendered it somewhat ineffective. Recent organizational changes should lead to the expansion of the Council's role in the City's fiscal recovery.

III. Review of Reports

Section 6.7 of the Agreement to Guarantee requires that the City furnish the Secretary with certain important reports which enable Treasury to monitor the progress of the City on an ongoing basis. Thus, each month the City provides Treasury with financial plan statements and a report on litigation which might threaten the integrity of its financial plan or the financing agreements, together with any modifications to its Financial Plan. Twice a year, Treasury also receives a report on the economy of the City and a management report which highlights the steps the City has taken to improve employee productivity. The monthly reports have been received in a timely fashion. A Management Report was issued on January 16 and an Economic Report on March 15. All of these reports have been analyzed by Treasury in connection with our continuing oversight of the City's finances.

OFFICE ADMINISTRATION

I. Staff

In order to carry out its responsibilities, Treasury's Office of New York Finance maintains a staff in both Washington, D.C. and New York City. The Washington office has several responsibilities including the analysis of the scale and nature of Federal aid received by New York City; economic forecasting and the assessment of the effects of national economic trends on the City's economy; formal preparation of the Secretary's determinations with respect to the Guarantee Act and Pension Fund Act; preparation of testimony and background materials in connection with Congressional oversight hearings and other requests; and the administration of fiscal and personnel matters for the office.

The staff located in New York City has primary responsibility for Treasury's day-to-day dealings with the City and State, and with State agencies monitoring the City's finances. In addition, the New York office conducts reviews of the City's budget, audits and verifies the reports received from the City and its monitors, and if necessary, recommends changes and improvements to the reports. In addition, the New York office inspects accounts, books, records, and other financial documents of the City or any agency participating in the financing needs of the City.
II. Consultants

In fiscal year 1980, the firm of Deloitte Haskins & Sells is serving as Treasury's consultant. This firm was selected on a competitive bid basis, replacing Arthur Andersen & Co. who had been Treasury's consultant since 1975. In addition, during 1979 Treasury engaged the services of Touche, Ross & Co. to perform a high level review of New York City's Health and Hospitals Corporation.

Since 1976 Treasury has reduced its dependency on outside consultants while substantially developing its in-house capacity. To an extent, however, continued dependency is necessary for two principal reasons:

1. At certain critical times within the City's budget cycle, Treasury must analyze and evaluate the City's budget proposals in a timely manner. The substantial manpower resources of our budget consultants assist Treasury in making these reviews in a short period of time; and

2. There are certain specific issues relating to the City's financial matters where specialized expertise is required. It has proved most cost effective to utilize outside experts to perform this limited work, most often in the area of accounting for municipalities under GAAP.

Currently, the ratio of Treasury staff costs to consultant costs is approximately three to one. We anticipate maintaining this ratio throughout the remainder of the program.

Attachments
Dear Mr. Chairman:

Pursuant to Section 108 of the New York City Loan Guarantee Act of 1978, I am submitting our fourth report to Congress. This report covers the activities of the Treasury Department under the Guarantee Act during the six-month period since our third report in November 1979.

Since the last report, Federal guarantees of New York City indebtedness have been issued twice — $150 million on January 3, 1980 and $100 million on February 21, 1980 — and the Department has continued its ongoing analysis of the City's fiscal situation and financing prospects.

Your Committee's staff has already been provided with complete copies of Treasury's findings prepared in connection with the January and February 1980 guarantee issuances.

The Director of the Office of New York Finance and other senior members of my staff will be delighted to meet with your staff at their mutual convenience to amplify information contained in this report and to discuss any other matters you may wish to raise.

Best wishes.

Sincerely,

Robert Carswell
Acting Secretary

The Honorable
William Proxmire
Chairman, Committee on Banking,
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United States Senate
Washington, D.C. 20515

Enclosure
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Enclosure
REPORT TO CONGRESS
NEW YORK CITY LOAN GUARANTEE ACT OF 1978
UNITED STATES DEPARTMENT OF THE TREASURY
MAY 1980

This is Treasury's fourth report to Congress pursuant to Section 108 of the New York City Loan Guarantee Act of 1978. Treasury's activities under the Guarantee Act during the past six months are presented in detail.

Treasury's activities center on the issuance of Federal guarantees of securities of the City of New York and monitoring compliance with the conditions of the Guarantee Act and the Agreement to Guarantee among the City, the United States and others. Thus, Treasury's Office of New York Finance maintains a staff in both New York City and in Washington D.C. for, among other things, the purpose of monitoring the City's progress towards a budget balanced in accordance with Generally Accepted Accounting Principles (GAAP), its ability to repay the federally-guaranteed bonds, its progress in attempting to reenter the public credit markets, and the other requirements of the Guarantee Act and the Agreement to Guarantee.

Since the last report, the activities of the Treasury Department have included the issuance of $150 million in Federal guarantees on January 3, 1980; an appearance before the Senate Committee on Banking, Housing, and Urban Affairs on January 26; the issuance of another $100 million in guarantees on February 21; and appearances before the Senate and House Appropriations Committees on March 7 and April 2, respectively. A review of these and other activities is presented in this report.

MAJOR ACTIVITIES

I. Issuance of Federal Guarantees

A major responsibility of the Treasury Department under the Guarantee Act relates to the Secretary's determinations as to the City's and other appropriate parties' compliance with the conditions of the Act and the Agreement to Guarantee prior to each extension of Federal guarantees. In the past six months, the City twice requested Treasury to issue guarantees of City indebtedness: $150 million on January 3, 1980 and $100 million on February 21, 1980. Federal guarantees were extended on these dates, but not before Treasury found that the City, the State, the Financial Control Board and the Municipal Assistance Corporation for the City of New York (MAC) were in compliance with the conditions of the Guarantee Act and the Agreement to
Guarantee. Copies of the Secretary's findings with respect to both these issues of guarantees have been transmitted on a regular, timely basis to the staff of the Senate Banking, Housing and Urban Affairs Committee and the staff of House Banking, Finance and Urban Affairs Committee.

Issuance of $150 Million in Guarantees on January 3, 1980

This issuance was originally scheduled to occur on November 29, 1979. Due to the high prevailing rates of interest and the City's favorable cash position at the time, the City postponed its request for guarantees to early January 1980.

The most difficult determination prior to the issuance of these guarantees related to Section 103(2) of the Guarantee Act -- "that the City is effectively unable to obtain credit elsewhere in amounts and terms sufficient to meet the City's financing needs." In the summer of 1979, Treasury noted a growing public interest in City long-term securities and asked the City to develop a market reentry strategy. The City did so. Mayor Koch committed himself to "regaining market access for City long-term bonds as soon as practicable."

A public bond sale, however, has not yet been attempted. Treasury received assurances from both the Mayor and the City Comptroller's Office prior to the issuance of the guarantees that the City remained committed to attempting public bond sales as soon as practicable. In addition, we determined that current market conditions precluded the City's re-entry at that time, since general credit conditions had significantly deteriorated since the summer of 1979 thereby greatly increasing the possibility of an unsuccessful City public bond offering if one were to be attempted. It was widely viewed that an unsuccessful offering would severely retard future attempts to regain access to the public bond market.

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I. Pension Fund Legislation

P.L. 95-497, the "Pension Fund Act", was enacted in October 1978 as companion legislation to the Guarantee Act. This legislation provides that certain City or State employee pension funds will not be considered to have failed to satisfy the requirements for "qualified status", or to have engaged in a "prohibited transaction", under the Internal Revenue Code, merely because such pension fund purchases City or MAC debt. This protection applies to purchases made under the agreements which compose the City's Four-Year Financial Plan. During the past six months, the City and the State pension funds each bought $125 million of federally guaranteed City bonds ($75 million each on January 3, 1980 and $50 million each on February 21, 1980). On December 14, 1979, the City pension funds also purchased $150 million of MAC bonds.

In order for the funds to qualify for the exemptions under the Pension Fund Act, the Secretary of the Treasury is required to make certain determinations. Thus, on each of these three occasions Treasury found that (a) the purchase of the bonds by the pension funds would not cause any individual pension fund's holdings of City indebtedness to exceed 50 percent of the fund's portfolio; (b) the holdings of City indebtedness of the City pension funds collectively do not exceed certain percentage limitations; and (c) the acquisition of the bonds would not cause any of the individual pension funds to have a negative cash flow. Treasury concluded that the pension funds met these criteria and thus were able to make the purchases.

The Secretary of the Treasury is required to approve any new financing agreement, or an amendment to an existing agreement or a waiver of any provision of an existing agreement, before the
pension funds can make purchases that would be covered by the Act. This requires making two findings: (a) the acquisition of the bonds would not impair either the City's or any individual fund's ability to satisfy its future obligations to pay pension and retirement benefits to members and beneficiaries of each plan; and (b) the ability of the City to make future contributions to the funds would not be jeopardized. As the purchases on December 14, January 3, and February 21 were made pursuant to existing agreements that the Secretary had previously approved, and no amendments or waivers were enacted since his approval, it was not necessary for the Secretary to make these latter two findings again.

It should be noted that since the State pension funds do not seek coverage under this special legislation, Treasury was not required to consider these funds when making those determinations outlined in the Pension Fund Act prior to the extension of Federal guarantees on January 3 and February 21.

One of the requirements of the Pension Fund Act is that the financial statements of each of the New York City pension funds must be audited by independent accountants by March 30, 1980. The statements for FY 1979 were audited and attested to by Arthur Young and Company in early March. The firm reported that the statements "present fairly the financial condition [of the retirement system] at June 30, 1979 and the changes in fund balances for the year then ended, in conformity with Generally Accepted Accounting Principles."

II. Statutory Committees

Audit Committee

As provided in Section 103(7)(B) of the Guarantee Act, the City is required to establish an Audit Committee to "assist in the determination of areas of inquiry for, review the progress of, and evaluate the results of, audits to be conducted by" the City's independent auditors. The City's Audit Committee was established in February 1979 and recently released its first annual report, which has been provided to the staff of the Senate Banking, Housing and Urban Affairs Committee and the staff of the House Banking, Finance and Urban Affairs Committee. On February 21, the Financial Control Board reappointed the private members of the Audit Committee to an additional one-year term. The Treasury Department serves as an official observer to all Audit Committee functions.

Productivity Council

Section 103(9) of the Guarantee Act requires the City to establish a Productivity Council to "develop and seek to implement methods for enhancing the productivity of the City's labor
Also, as stated in the Act, the Financial Control Board must review and report annually on the Council's progress. On January 15, 1980, in compliance with the statute, the Control Board issued its first annual report on the Productivity Council. The report cited certain organizational problems within the Council which have rendered it somewhat ineffective. Recent organizational changes should lead to the expansion of the Council's role in the City's fiscal recovery.

III. Review of Reports

Section 6.7 of the Agreement to Guarantee requires that the City furnish the Secretary with certain important reports which enable Treasury to monitor the progress of the City on an ongoing basis. Thus, each month the City provides Treasury with financial plan statements and a report on litigation which might threaten the integrity of its financial plan or the financing agreements, together with any modifications to its Financial Plan. Twice a year, Treasury also receives a report on the economy of the City and a management report which highlights the steps the City has taken to improve employee productivity. The monthly reports have been received in a timely fashion. A Management Report was issued on January 16 and an Economic Report on March 15. All of these reports have been analyzed by Treasury in connection with our continuing oversight of the City's finances.

OFFICE ADMINISTRATION

I. Staff

In order to carry out its responsibilities, Treasury's Office of New York Finance maintains a staff in both Washington, D.C. and New York City. The Washington office has several responsibilities including the analysis of the scale and nature of Federal aid received by New York City; economic forecasting and the assessment of the effects of national economic trends on the City's economy; formal preparation of the Secretary's determinations with respect to the Guarantee Act and Pension Fund Act; preparation of testimony and background materials in connection with Congressional oversight hearings and other requests; and the administration of fiscal and personnel matters for the office.

The staff located in New York City has primary responsibility for Treasury's day-to-day dealings with the City and State, and with State agencies monitoring the City's finances. In addition, the New York office conducts reviews of the City's budget, audits and verifies the reports received from the City and its monitors, and if necessary, recommends changes and improvements to the reports. In addition, the New York office inspects accounts, books, records, and other financial documents of the City or any agency participating in the financing needs of the City.
II. Consultants

In fiscal year 1980, the firm of Deloitte Haskins & Sells is serving as Treasury's consultant. This firm was selected on a competitive bid basis, replacing Arthur Andersen & Co. who had been Treasury's consultant since 1975. In addition, during 1979 Treasury engaged the services of Touche, Ross & Co. to perform a high level review of New York City's Health and Hospitals Corporation.

Since 1976 Treasury has reduced its dependency on outside consultants while substantially developing its in-house capacity. To an extent, however, continued dependency is necessary for two principal reasons:

1. At certain critical times within the City's budget cycle, Treasury must analyze and evaluate the City's budget proposals in a timely manner. The substantial manpower resources of our budget consultants assist Treasury in making these reviews in a short period of time; and

2. There are certain specific issues relating to the City's financial matters where specialized expertise is required. It has proved most cost effective to utilize outside experts to perform this limited work, most often in the area of accounting for municipalities under GAAP.

Currently, the ratio of Treasury staff costs to consultant costs is approximately three to one. We anticipate maintaining this ratio throughout the remainder of the program.

Attachments
The Honorable G. William Miller  
Secretary  
U. S. Department of the Treasury  
Washington, D.C.

Dear Mr. Secretary:

The Committee on Banking, Housing and Urban Affairs held oversight hearings on the New York City Loan Guarantee Act on January 28 and 29 and February 7, 1980. The purpose of the hearings was to determine whether the requirements of the Act are being met and to assess what progress New York City is making toward balancing its budget in accordance with generally accepted accounting principles and toward regaining access to the credit markets. Witnesses at the hearings included the Assistant Treasury Secretary for Domestic Finance, the Mayor of New York City, the City Comptroller, the President of the City Council, the Governor of New York State, the Chairman of the Municipal Assistance Corporation, officials of the various New York City oversight agencies, City employee labor union leaders, and representatives of the municipal bond rating agencies and the financial community.

We understand that New York City is scheduled to receive $100 million in Federal guarantees on February 21, the final allotment of the $750 million of the "upfront" guarantees committed to be issued under the financing arrangements pursuant to the Act. Since you are required to make a number of determinations before providing these guarantees, we thought it advisable to share with you as soon as possible our views with respect to New York City's financial situation, based on information obtained in the oversight hearings.
The Honorable G. William Miller  
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We are pleased to learn from the Treasury testimony and from other witnesses that New York City is not likely to need any additional Federal guarantees beyond the $750 million already committed. It is our understanding that the remaining $900 million in guarantees authorized will be held on stand-by and that under the Act, further guarantees can be provided only in the event that both the City and the Municipal Assistance Corporation are unable to market their bonds in the necessary amounts, an event which the Treasury does not foresee occurring. We view this both as an indication of the City's progress toward financial recovery and as a welcome limitation on the extent of the Federal government's exposure.

At the same time, however, we want to make it very clear that we expect the Treasury to continue to monitor New York City's operations closely in order to ensure continued compliance with all of the conditions of the Act and to protect the Federal government's financial interest. It is evident that the Treasury's authority to require changes in the City's Financial Plan or other actions pursuant to the Act does not end with the last issuance of Federal guarantees, but rather continues so long as the guarantee program is in existence, and beyond that, there is a responsibility to assure repayment of any guaranteed loans outstanding. We expect the Treasury to be vigorous in its exercise of this authority, just as the Committee will continue to take seriously its responsibility to oversee the administration of the Federal loan guarantee program.

In our view, the most important and positive development in New York City's financial situation since the last round of oversight hearings a year ago is the Mayor's decision, announced in his January 16, 1980 Financial Plan for Fiscal Years 1980-1984, to balance the City's budget in accordance with generally accepted accounting principles (GAAP) next year, fiscal year 1981, a year earlier than required by both State and Federal law. We commend the Mayor for his decision, as did other members of the Committee and most of the witnesses at the oversight hearings. At the same time, however, we see this step as more than commendable: it is absolutely necessary. Testimony given in the hearings made it clear that real budget balance in 1981 is essential, both to enable the City to eliminate large budget deficits projected for 1982 and subsequent fiscal years, and also to place the City on a course toward regaining access to the long-term bond market.
The Honorable G. William Miller  
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The important question which remains is whether New York City can actually accomplish that GAAP-balanced budget in fiscal year 1981. This depends to a large degree on actions by other parties, including the City Council and the State Legislature. It also depends on the achievement of a modest labor settlement for fiscal years 1981 and 1982, along the lines of that agreed to in 1978.

We believe it is vital that the GAAP-balanced budget projected for fiscal year 1981 be achieved. The Committee was told that failure to do this would be a serious setback to the City's prospects for regaining access to the long-term bond market. Since the purpose of the Federal loan guarantee program was to give New York City time to get its financial affairs in order, and since there is little disposition on the part of the Committee or the Congress to provide additional guarantees after June 30, 1982, it is essential that the City make steady progress toward regaining market access. Accordingly, we recommend that the Treasury work closely with City and State officials to see that the Financial Plan scheduled to be approved by the Financial Control Board on February 21 gives strong assurances that New York City will achieve a balanced budget in accordance with generally accepted accounting principles in fiscal year 1981 and will maintain such a balanced budget in 1982 and in subsequent years.

In order to obtain such assurances, there are certain problem areas in the Mayor's January 16 Financial Plan which need to be addressed. These include the assumptions of additional State and Federal aid in fiscal years 1981 and 1982, the projected reductions in spending for certain non-mayoral agencies, and the potential impact of the labor contract settlement to be negotiated this spring for fiscal years 1981 and 1982.

The January 16 Financial Plan projects additional Federal and State aid for budget-balancing purposes in the amount of $170 million in fiscal year 1981 and $410 million in fiscal year 1982. With respect to the $170 million for 1981, the Committee was told that the City expects $70 million to come from the State. However, the Mayor has claimed that not only is the $70 million in additional aid not in the proposed 1981 State budget, but also that State plans to cut aid to the City by some $78 million, leaving a potential shortfall of $148 million. The Governor, on the other hand, told the Committee that this was not the case and that the $70 million in additional State aid would be forthcoming, although not necessarily in the form expected by the Mayor. We urge
the Treasury to make efforts to clarify this matter prior to the issuance of the Federal guarantees in late February, and to require the most detailed explanation possible of the amounts of State aid that are likely to be provided to New York City in its 1981 fiscal year, with specific reference to the additional amounts that will be available for budget balancing purposes, over and above those provided in the 1980 fiscal year.

As regards Federal aid, the City has indicated that it expects $100 million in additional aid for budget balancing purposes, and the Treasury testimony indicated that that amount was realistic. However, the Committee was told that the major portion of that $100 million would come from the countercyclical aid legislation now pending before Congress, which was expected to yield somewhere in the neighborhood of $45 million, or half of the expected amount. Subsequently, the House of Representatives passed a countercyclical bill which could cut the expected amount in half. We believe that the Treasury should weigh the consequences of that potential reduction in countercyclical aid in determining the likelihood of the City's obtaining the projected $100 million in additional Federal aid in fiscal year 1981.

As regards the $410 million in additional State and Federal aid for fiscal year 1982 ($240 million more than in 1981), witnesses at the hearings were more doubtful as to whether this could be achieved. Given the fact that the State is facing financial problems and the Federal government is under strong pressure to reduce the budget deficit while increasing defense spending, it may not be realistic to expect substantial increases in aid to New York City in each succeeding fiscal year.

In the course of the hearings, the Committee was told that the Financial Control Board, in its approval of the January 16 Financial Plan, would require the establishment of reserves to cover any potential shortfalls in State and Federal aid. We recommend that the Treasury scrutinize carefully the amount of reserves required for this purpose to determine whether they are adequate to provide strong assurance of a GAAP-balanced budget in 1981, prior to the issuance of the Federal guarantees in late February. Any increase in reserves would, of course, require that the City show equivalent reductions or other budget savings elsewhere in the Plan.

Another problem area in the January 16 Financial Plan concerns certain agencies which are not directly under the Mayor's control, mainly the Board of Education and the Health and Hospitals Corporation.
The City is projecting savings of $110 million in the Board of Education budget in Fiscal Year 1981 and a reduction of $20 million in the deficit of the Health and Hospitals Corporation. Similar reductions were projected for the present fiscal year, 1980, but instead the City ended up spending more than anticipated. Thus, it is questionable whether the projected savings in these agencies can be achieved.

We know that the Treasury has long pressed for substantial reductions in spending in these areas. Also, the Financial Control Board has required the City to impose additional controls on these agencies in the current fiscal year. The Treasury should examine closely the financial plans approved for the Board of Education, the Health and Hospitals Corporation, and any other non-mayoral agencies, in order to determine whether the budget savings projected for fiscal years 1981 and 1982 are likely to be achieved. In particular, there should be a determination as to whether adequate reserves have been established to cover any potential shortfalls in the realization of such savings, prior to the issuance of the Federal guarantees.

Another major problem for the City's budget-balancing efforts is the new City employee labor contracts, which are now under negotiation and which will cover the fiscal year 1981-1982 period. The January 16 Financial Plan allows for a four percent annual increase, along the lines of the present contracts. However, the City labor union leaders stated they would push for far higher increases. The Committee was told that any increase beyond the projected level would cost the City an additional $50 million in each fiscal year. According to the Special Deputy State Comptroller, a 7 percent annual increase in pay rather than 4 percent could cost the City $200 million more in 1981 and $375 million more in 1982, and could raise the projected 1984 budget deficit to over $1 billion. Thus, it is vitally important that the cost of the new labor contracts fall well within the City's ability to pay.

We realize that the collective bargaining process has just gotten underway. However, in view of the importance of this matter, we believe it is essential that the Treasury obtain some assurances that the labor settlement reached will not impede the City's ability to achieve real budget balance. Under State Law, the Financial Control Board has the authority to reject any contract which is not in conformance with the City's Financial Plan. Therefore, we urge that the Treasury obtain from the Financial Control Board a commitment to reject any labor contract settlement which could cause the City to fail to achieve a balanced budget in accordance with generally accepted accounting principles in fiscal year 1981 or 1982, as a condition for providing the Federal guarantees.
It appears that the achieving of a GAAP-balanced budget is a necessary but not a sufficient condition for the City's regaining market access. The purpose of the New York City Loan Guarantee Act was to assist the City in meeting its short-term seasonal and long-term capital financing needs over the four-year period ending on June 30, 1982, after which the City was expected to be fully back in the credit markets and able to meet all of its financing needs on its own. In order to stimulate the City to make progress toward this goal, the Act requires the City to sell its short-term notes in the public markets in fiscal years 1980, 1981, and 1982, and to do public sales of its long-term bonds in fiscal years 1981 and 1982. The City is required to do this unless the Secretary determines that it would be inconsistent with the City's financial interest.

In the course of the oversight hearings, the Committee found that New York City has made considerable progress toward meeting its short-term seasonal financing needs in the public market. First it has, by various means, reduced those needs substantially -- from $2.1 billion in fiscal year 1977, under the Federal seasonal loan program, to $600 million in the current 1980 fiscal year. Second, the City sold $275 million in notes last year, 1979, a year earlier than required by law. Third, the City has sold $375 million in notes thus far this year, and expects to meet the full $600 million in seasonal financing in the public markets, without having to resort to a back-up financing facility provided by a consortium of financial institutions. Barring any serious, adverse developments in the markets, it is anticipated that the City will continue to meet all of its seasonal financing needs in the public market in fiscal years 1981 and 1982, although back-up facilities will continue to be arranged.

It should be pointed out, however, that thus far the City has only been able to market revenue anticipation notes (RAN's), which are issued in anticipation of State aid payments to the City and, therefore, are more a reflection of the State's credit than the City's. The Committee was told that the City had explored the possibility of selling tax anticipation notes (TAN's), which would be backed by City real estate tax collections, but had not been encouraged about the prospect of receiving a satisfactory rating on those notes. It was stated further that strategic goals for fiscal year 1981 could include: a note sale through competitive bidding by underwriters, rather than through negotiation; a sale of TAN's; and obtaining a better rating on the City's notes. We believe that the Treasury should encourage the City to make efforts to accomplish these goals, in order to show a record of continual progress toward improving its access to the market for short-term notes.
The Honorable G. William Miller  
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The City's ability to meet the requirement of public sales of its long-term bonds in 1981 and 1982 appears to be more problematical. The January 16 Financial Plan projects sales of $300 million in City bonds in 1981, $645 million in 1982, and then $1.177 billion in fiscal years 1983 and 1984, after the Federal loan guarantee program has expired. In addition, the plan includes private placements of MAC bonds in the amounts of $547 million in 1981 and $325 million in 1982, and it indicates that public sales of additional MAC bonds will be carried out should sales of City bonds fall short of projections.

The Committee was told that there is probably some market for City bonds at this time, largely of a speculative nature, but that full market access for substantial amounts of long-term City bonds is not likely to occur until after the City obtains an investment grade rating on its bonds. These bonds are currently rated "B" by Moody's Investors Service -- two notches below the lowest investment grade rating (Baa) -- while the other agency, Standard and Poor's, suspended its rating in 1975 and has not yet reinstated it. Witnesses from both of these agencies told the Committee that New York City will probably have to establish a record of consecutively balanced budgets in accordance with generally accepted accounting principles over at least a three-year period in order to regain an investment grade rating on its bonds.

Testimony at the hearings revealed differences of opinion as to whether New York City should attempt a bond sale in the absence of an investment grade rating and what amounts could be sold under those conditions. The Mayor and the City Comptroller indicated that the City intends to comply with the requirement of public bond sales in 1981 and 1982 and that efforts toward this would proceed next fall, after the City has an audited financial statement for fiscal year 1980. However, the view was expressed that a sale of less-than-investment-grade City bonds to a basically speculative market would not be a real measure of market access and could even be counterproductive.

The Committee has generally taken the position that it is vital for New York City to do public sales of its bonds as soon as possible in order to establish a track record. However, it is reasonable to contend that this should be done in a context which will enable the City to make real progress toward regaining full access to the long-term bond market. Accordingly, we urge the Treasury to work with the City and its financial advisors to explore fully the potential for complying with the bond sale requirement in the Act, while recognizing that the requirement can be waived if it is determined that compliance would not be consistent with the City's financial interests.
The Honorable G. William Miller  
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The possibility that the City bond sale targets for 1981 and 1982 may not be met raises the question of whether the projected $1.177 billion in City bond sales for fiscal years 1983 and 1984 will be accomplished. Witnesses at the hearings said this was doubtful even with an investment grade rating, and probably impossible without one. In view of the fact that there are not likely to be additional Federal guarantees authorized after 1982, it is imperative that New York City find alternative means of meeting its long-term financing needs during the transition to full market access after the loan guarantee program ends. In the course of the hearings, several potential alternatives were discussed.

First, the Municipal Assistance Corporation could continue to aid the City in meeting its long-term capital financing needs, as it has done since 1978. The Committee was told that an increase in MAC's borrowing authority from $8.5 billion to $10.1 billion would enable the Corporation to do all of the City's long-term financing through fiscal year 1984, and that there is sufficient economic capacity in the revenues supporting the MAC bonds to permit such an increase. Both the Governor and the Chairman of MAC stated they would recommend that the New York State Legislature approve such an increase in MAC's borrowing authority. We believe it is important that such legislation be enacted as soon as possible, and we urge the Treasury to work with New York State and City officials to accomplish this. This would give the City a "safety net" to back up sales of its own bonds. We also feel, however, that it is in the interests of all concerned that the City regain the ability to finance itself fully as soon as possible. Accordingly, the MAC borrowing authority should only be available on stand-by, to be used to the extent that City bond sales fall short, and it should be made clear that MAC is not intended to replace the City as a long-term borrower on a permanent basis.

A second alternative which the Committee was told the City could pursue is the establishment of special enterprise agencies, such as a water and sewer authority, which could do revenue bond-type financing for their own purposes. It was stated that this device had been successful in other cities with fiscal problems. On the other hand, the Committee was also told that there were certain legal problems connected with this approach. We urge the Treasury to encourage the City and State to explore the possibility of establishing such enterprises and to deal with any legal problems involved, so that the City will have other means available for meeting its long-term financing needs after the Federal loan guarantee program ends.
Another alternative to explore would be the possibility of obtaining commitments from New York City financial institutions and pension funds to purchase additional amounts of MAC and/or City bonds during the transition period after 1982, along the lines of the present four-year financing plan pursuant to the Act. If the City continues to make progress toward financial health, there would seem to be little reason why the financial institutions could not make such additional commitments, at least on a stand-by basis, given the growth in their own financial capacity over the four-year period. Additional City pension fund commitments would present some special problems, since this would require extension of the current Federal legislation providing certain tax law exceptions for this purpose. Nonetheless, it is also true that the pension funds' investment in New York City obligations will have been reduced considerably by the end of the four-year period, thus making the assumption of any new commitments relatively less onerous. While the latter prospect appears more remote than that of additional commitments by the financial institutions, it should not be ruled out.

We recognize that it is too early for the City to obtain any such financing commitments for the post-1982 period, and that the need has not yet been established. Nevertheless, we believe it is important to suggest the possibility of doing it at this point, since this would be a logical extension of past practices.

In considering New York City's ability to meet its long-term capital financing needs, questions can be raised about the City's projections of those needs. With a GAAP-balanced budget in 1981, the City will be borrowing long-term only for "true" capital purposes. And while the need for upgrading the capital plant is undeniable, the Committee has long questioned whether the City has the capacity to carry out its full $2.3 billion capital plan by 1982, in view of the fact that its actual capital spending has continued to lag far behind projections. This has implications for the post-1982 period as well, since it means that the questions about the City's ability to raise over $1 billion a year in the bond market should be coupled with questions as to whether it can really spend that amount in any event. However, the City continues to claim that its capital spending projections are correct, and the Mayor pointed to improvements made in the capital planning process and to recent monthly increases in capital spending figures to back up this contention.
We continue to be skeptical about the City's ability to achieve its full $2.3 billion capital plan by 1982 and to sustain the levels projected for succeeding fiscal years. While it would be premature to require the City to revise its projections at this point, if the prevailing trend toward underspending for capital programs does not turn around within the next fiscal year, then the Treasury should encourage the City to reduce its capital spending and long-term financing figures to a more realistic level. Given the questions about the City's ability to raise $1 billion a year in the market in any case, it would seem counterproductive to project such amounts if they are not likely to be needed.

The Committee was told that the basic test of New York City's ability to regain access to the bond market will be its ability to sell bonds outside of the New York area. Without access to a nationwide market, there is no way that New York City can meet all of its projected long-term financing needs. Witnesses at the oversight hearings stated that there are various steps that New York City can take to enhance its appeal to out-of-state investors. In addition to the steps mentioned above -- achieving and maintaining a balanced budget, successfully concluding the labor contract negotiations, and rehabilitating its capital plant -- the Committee was told that the City needs to build a more credible and vigorous economic development capability, in order to provide greater assurance of future financial health. We urge the Treasury to work with City officials to ensure that such an effort is in place and ongoing, as a necessary support to the city's efforts to regain market access.

Sincerely,

William Proxmire
Chairman

Jake Garn
Ranking Minority Member
Dear Mr. Chairman:

Thank you for your recent letter discussing New York City's recovery efforts and the thorough and thoughtful analysis of the fiscal and financing problems affecting the City. Your insights are particularly valuable in light of your Committee's extensive oversight hearings following Mayor Koch's January 16, 1980 submission of the City's Four-Year Financial Plan and related Program to Eliminate the City's fiscal year 1981 Budget Gap ("PEG").

New York's two critical problem areas remain its operating budget and its access to long-term credit markets. First, concerning the budget, the Control Board has required revisions to the City's Financial Plan and PEG Program and the City has prepared and agreed to a revised edition of its January 16, 1980 submission reflecting the Board's requirements. The Board's action today reinforces the probability of the City's continued compliance with the requirements of the Guarantee Act.

Specifically, the Control Board required that the City increase its general reserve by $32 million in FY 1980 and $50 million in FY 1981. These increases are designed to cover shortfalls that may occur in City deficit reduction actions, intergovernmental assistance, and the continuing problems at the Board of Education and the Health and Hospitals Corporation. The Board has also required the City to prepare a $150 million contingency deficit reduction program for FY 1982, expanding to $250 million in FY 1983.

The Board has also required tighter City control and oversight mechanisms over its Covered Organizations. The implementation of these control plans and their progress must now be reported on a continuing basis to the Board.
You also asked about the amounts for labor settlements projected in the City's baseline estimates. The Control Board has reminded the City of its statutory responsibility to certify that any labor settlement be consistent with its ongoing efforts to achieve true budget balance. We have also again reviewed with the Control Board its own responsibility to disapprove any labor settlement or any contract, for that matter, which is inconsistent with the approved Financial Plan. It has specifically adverted to this responsibility in its report on the PEC plan. We are satisfied that the Control Board can fulfill its responsibilities.

With respect to State aid, Governor Carey has promised that the City would receive additional aid. Although the State's upcoming budget will be a tight one and has not yet been acted upon by the State legislature, Governor Carey has an unblemished record in fulfilling commitments to the City for increased aid. In addition, the Control Board, of which the Governor is Chairman, will require the City to increase its FY 1981 general reserve to cover any possible shortfalls. This reserve, together with the Control Board's responsibilities to seek further budget corrections as the fiscal year progresses, should provide a sufficient hedge against any third party aid shortfalls in FY 1981.

With respect to Federal aid in FY 1981, the President's budget provides for modest increases in categorical and unrestricted aid for the City. Specifically, a targeted and countercyclical fiscal assistance bill has passed both Houses of Congress. The House and Senate versions differ and the Conference Committee must resolve these differences. It is entirely possible, however, that New York City would receive up to $45 million in fiscal 1981 under the final bill. Other Federal initiatives, most of which depend on legislative action, could provide more gap closing assistance.

With respect to Federal and State aid to the City in FY 1982, it is too early to make a firm judgment. The State's record indicates that further increases are not improbable. Federal aid to the City has increased every year since 1976. It is not unreasonable to expect this pattern to continue. Nevertheless, the Control Board has required the City to provide a $150 million contingency in case there is a shortfall in Federal and State aid. Mayor Koch's January 16, 1980 submission contained $410 million of such aid. Thus, the increase in intergovernmental aid from FY 1981 to FY 1982 could drop to $90 million, from the $240 million originally projected, and such a reduction would still be accommodated by the Financial Plan.
With respect to the City's ability to reenter the public bond market, Treasury subscribes to your principal conclusions. Treasury has and will continue to work with the City to gain access to the public bond markets as soon as practicable, to find alternative credit sources, and, as you point out, to reassess its capital spending goals.

We will be providing you with our findings with respect to today's issuance of Federal guarantees in the next ten days.

Sincerely,

Signed/ Bob Carswell

Robert Carswell
Acting Secretary

The Honorable
William Proxmire
Chairman
Committee on Banking, Housing
and Urban Affairs
U.S. Senate
Washington, D.C. 20510