

DIVISION OF ADMINISTRATION MANAGEMENT

TRAINING PROGRAM LECTURES

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Subject: Division of Administrative Management

Speakers: Mr. A. K. Scheidenhelm, Executive Director
Division of Administrative Management

Mr. Frank Donaty, Budget and Fiscal Officer

Mr. Harry Pollack, Director of Personnel

Mr. James Hindle, Records and Service Officer

MR. SCHEIDENHELM. We are very happy to be here this morning at the invitation of Mr. Blackstone to describe for you some of the more important work of the Division of Administrative Management. I should like to congratulate Mr. Blackstone and Mr. Woodside for developing and putting into effect this very excellent training program. As you know, I have attended several of the sessions and was very much impressed with the comprehensiveness of the program and the quality of the presentation.

I am going to begin by giving you a brief outline of the functions of the three branches of the Division of Administrative Management. I shall then turn the program over to the Branch Chiefs.

The Branch of Budget and Finance performs the budgetary and fiscal management functions of the Commission. These functions include the preparation of and assisting in the justification of the Commission's budget estimates, supervision over the obligation and expenditure of funds, the planning, control and review of the Commission's appropriation, the preparation and audit of pay-rolls, and the administrative audit and approval of all claims and vouchers for services rendered to the Commission.

The Branch is also responsible for the operation of the Commission's machine tabulation unit.

The Branch of Personnel performs all of the Commission's personnel management functions, including the recruitment and placement of new employees, the classification of positions, and the administration of various employee programs such as the incentive awards program.

The Branch of Personnel also does the administrative work in connection with the Commission's work on outside employment and personal securities transactions of its employees. In addition the Branch performs the administrative work for the Commission's Board of U. S. Civil Service Examiners and for the Legal Examining Committee.

The Branch of Records and Service is responsible for the administration of the Commission's program of records management and for the performance of all service functions. These include the maintenance of public reference and mailing services, the control and maintenance of the general files of the Commission, the preparation, maintenance, dispatch and control of documents and formal files, the dispatch and control of all communications, the procurement, storage, distribution and utilization of supplies and equipment, procurement and utilization of office space, and the maintenance of reproduction, printing, duplicating, graphic arts and messenger service.

The performance of these varied functions requires close liaison with several other Agencies of the Government, such as the General Accounting Office, Treasury Department, the Civil Service Commission, the General Services Administration, the United States Employment Service, and the Office of Defense Mobilization.

The work for which the Branch Chiefs are responsible requires membership in a number of interdepartmental committees. For example, Mr. Hindle, our Records and Service Officer, is a member of the Federal Records Council. Mr. Donaty, our Budget and Fiscal Officer, is a member of the Interdepartmental Savings Bonds Committee. Mr. Pollack, our Director of Personnel, is a member of the Interagency Advisory Group of the Civil Service Commission.

We hope the program which we have developed for this morning will be of interest to you all, and I shall now call on Mr. Frank Donaty, our Budget and Fiscal Officer.

MR. DONATY. Thank you, Mr. Scheidenhelm, and good morning, ladies and gentlemen.

Before I embark upon my short discourse of the various processes in the field of budget administration and other general subjects, I should like to define certain terms that I shall use.

First, what is a "budget"? A budget is an instrument by which the functions of an agency are expressed in work-load and related monetary terms of the past year, present year, and the ensuing fiscal year.

The term "fiscal year" in the Government's operations means a period beginning July 1 and ending June 30. For instance, we are now in fiscal year 1957. Fiscal year 1958 starts July 1, 1957 and it ends June 30, 1958.

The term "obligation" means a commitment of funds in the accounting records of an agency. That is, we first commit or earmark funds by means of a purchase order. A contract, or a personnel action in order that we may make future payments out of our appropriation.

Finally, we have an "appropriation limitation". That means there is a specific limitation, generally a maximum amount, in the appropriation language of the agency, that may be utilized for a certain expense classification. For instance, in the 1957 appropriation, the Congress put a maximum limitation of

\$197,500 for travel, and a maximum limitation of \$1,125 for the purchase of newspapers.

Budget administration is the process whereby funds are procured, obligations and expenditures are controlled within the amount of the appropriation of the agency and, of course, within any specific limitations. Although funds for financing the Government's operations may be procured in numerous ways, approved by the Congress, the basic source of funds is an annual appropriation. I mean that the Congress appropriates to each agency a specific amount of money to be obligated within a fiscal year.

Ever since the S.E.C. was created, we have been working with one annual appropriation entitled "Salaries and Expenses--S.E.C."

In conformity with the fiscal policy of the Government, budget administration is developed and conducted on a fiscal year basis, namely, from July 1 to June 30. Basically, budget administration is composed of two phases: (1) formulation and (2) execution. My explanation of these two phases can best be expressed in terms of the steps we follow in the S.E.C.

We are presently in fiscal year 1957. Before the Congress at the present time there is the fiscal year 1958 estimate, which when approved by the Congress, results in an appropriation. The formulation stage in budget administration generally starts at the time the Commission formulates certain policies for the ensuing fiscal year. For instance, the Commission will in the latter part of this month or the first part of July set forth certain policies for the budget estimate for fiscal year 1959, which starts on July 1, 1958. In other words, we are always one year ahead of actual operations in the preparation of a budget.

Once the criteria or policies are approved by the Commission, they are then distributed to the Division and Office heads and Regional Administrators, and based upon these program criteria, these officials prepare the budget requests for their respective units. They develop their personnel requirements and any extenuating or unusual travel circumstances for fiscal year 1959. These forecasts are to be received on or about July 30.

Upon receipt of these budget requests, the Branch of Budget and Finance performs certain analyses of these forecasts; for example, the relationship of work-load to estimated costs, ascertaining that personnel in the forecasts submitted by the operating units are sufficient for the work-load indicated for the fiscal year.

After analysis and evaluation in terms of the cost of personnel, equipment, supplies, travel and other requirements, the budget is then summarized, taking into consideration the justifications for the estimates.

The budget estimate is transmitted to the Executive Director and, in turn, to the Commission for approval. This is accomplished by about August 31.

Following discussions between the Executive Director and Budget and Fiscal Officer, the budget is transmitted to the Commission for consideration and final

determination as to the program for the fiscal year. It is then returned to the Branch of Budget and Finance through channels and it is revised and "dressed up". By this I mean there are added what we call "green sheets", which supply summary financial information such as cost by activity, listing the various types of expenses, an analysis of expenses, etc. Keep in mind that all this information is shown on a comparable basis for three fiscal years; as to fiscal 1957 (the past year), fiscal 1958 (the current year), and our estimate for fiscal 1959.

The budget estimate is then submitted to the Bureau of the Budget. The Bureau asks a number of questions before the formal hearing, which usually takes place in the latter part of October. Some of these questions are very specific and relate to the costs of various types of activities, for example, "What is the cost of your broker-dealer inspection program?"

At the hearing before the Bureau of the Budget the key officials of the Commission appear to present the justifications for the 1959 estimates. Generally the questioning at the hearing is on a broad policy level, although there may be occasional specific questions as to operations. They may want to know, for example, the necessity for a two-year cycle of broker-dealer inspections, instead of a three-year cycle.

After this hearing, the Bureau of the Budget examiners are not finished. They request additional information of the Budget and Fiscal Officer at frequent intervals.

Finally, the Commission's estimate and the examiner's recommended amount goes to the Board of Review in the Bureau of the Budget. They review both amounts, and recommend a final figure to the President.

The Commission is then advised as to the amount that the President has approved for the Commission. At this point, this information is considered administratively confidential until the President presents his budget message to the Congress.

Generally, we hear from the President as to the amount he has approved in the latter part of November or the beginning of December. In the last two years we have been fortunate in that the President has recommended to the Congress the full amount of our estimate.

In most cases, the Bureau of the Budget may reduce an estimate. The agency then has to revise its financial statements as well as its justifications.

After presentation of the budget message by the President before Congress in the early part of January, the justification for the S.E.C. is sent to the House and Senate Appropriations Committees. Up until this time we are constantly analyzing our budget estimates to see where possible questions could be raised by the Bureau of the Budget and the Appropriations Committees of the Congress.

Once the justification is sent to the House and Senate Appropriations Committees, financial information is being developed and/or brought up to date. The House Sub-Committee on Independent Offices notifies the Commission of the date of the hearing. Again, the key officials of the agency attend the hearing. Congress, in my estimation, is like a board of directors in a corporation. They review the financial requests of the agency.

After the Sub-Committee hearing, we then wait for their report on the estimate. The Sub-Committee reports to the full Committee on Appropriations as to their recommendations. A written report is issued by the House Appropriations Committee to the full House requesting approval of the Independent Offices Appropriation Bill which includes the recommended amount for the S.E.C. The House then votes on the appropriation.

Following approval by the House, the Senate Appropriations Committee begins hearings for each agency included in the Bill. Again, we are assigned to the Sub-Committee on Independent Offices. Eventually, this Sub-Committee makes a report to the full Senate Appropriations Committee which, in turn, makes a written report to the Senate for its action.

If the House version is the same as the Senate version, there is no conflict and the Independent Offices Appropriation Act is sent to the President for his signature. If there is a conflict as to the amount of any appropriation, it goes to a conference committee consisting of certain members of the House and certain members of the Senate for reconciliation of the differences between the House and Senate versions.

Once the Conference Committee agrees, the Bill then goes back to both Houses for passage. Thereafter, it is transmitted to the President for signature.

That covers the formulation stage of the budget very briefly.

As to the execution stage, once the appropriation has been enacted into law, the Commission may then determine upon distribution of the appropriated funds according to major programs and purposes, except that it may not exceed the amount of any "limitation" in the appropriation such as those for travel or newspaper expenses. Meanwhile, Division and Office Heads and Regional Administrators are preparing their operating budgets based upon their workload for fiscal year 1958. These operating budgets are broken down by calendar quarters, asking so much for personnel services, travel, communication services, travel, communication services, supplies, equipment, etc., for each quarter. The operating budgets are submitted to the central office where they are reviewed and evaluated in terms of dollars versus workload. After the review, the operating budgets go to the Executive Director and, in turn, a summary goes to the Commission for approval. The Executive Director then signs the operating budgets, copies are sent to the appropriate staff officers, and they are ready for use as operating budgets.

Upon receipt of the operating budgets from the operating officials, we are also required to send a document known as an apportionment schedule to the Bureau of the Budget requesting authority to obligate the funds necessary for each quarter. It is mandatory that we stay within these figures. We have to change them in advance of an action, and not after it has occurred.

There are a few general subjects I should like to cover at this time. First, work reports. When we submit our budget estimates to the Bureau of the Budget and to the Appropriations Committees, we must state in monetary terms what an activity costs. An activity is a segment of the agency's program that

has a single separable objective. For instance, what is the cost of Regulation A? What is the cost of processing registration statements? Many of these questions have been asked repeatedly through the years and we are expected to have consistent answers.

Man-hours shown on work reports of the various offices of the Commission are converted into dollars so that we will have the information available when such questions are asked. I want to point out that as of August 1 of last year, there is a law on the books that states that each agency will maintain its accounts in such manner to provide costs by expense item, organization, and by function or activity.

Second, time and attendance reports. The basis for receipt of your check is a time and attendance report. If you fail to initial or submit the proper form before you take annual leave, it is possible that you will not receive your pay check. At the same time, we realize that emergencies arise which prevents one from complying with this rule.

The last item is travel. At any time that you travel on official business for the Government, always make sure that a travel authorization has been prepared. If an authorization is not prepared and you are involved in an accident, there may arise the question of duty status, pay, etc.

MR. SCHEIDENHELM. There is one thing I should like to add in connection with the S.E.C. budget. There is an off-setting factor, that is, the fees which the Commission collects. These run something better than \$2,000,000 now. We have recommended to Congress that the fees be increased somewhat. Present fees run about 1/3 of our total budget, but are not applicable against our budget. They are deposited directly to the General Fund of the Treasury. It is merely a way of computing the net cost to the taxpayers.

We are now going to move on to Mr. Harry Pollack who is Director of the Branch of Personnel.

MR. POLLACK. I think it would be helpful to those of you who are fairly new to the Federal Service to have some of the general background on the development of our Government's personnel system as it exists today.

To understand the Federal personnel system it is important for all of us to recognize that there are certain definite and distinguishing features about Government employment that we don't find in private industry. First, of course, Government service is public in character. This means that all of our citizens should have equal opportunity for Federal jobs without regard to any racial or religious background and in keeping with our country's national policy, that we give preference to veterans in filling Federal jobs.

Another very important factor that affects our whole Government personnel system is, of course, the bigness of the Federal Government itself. Uncle Sam is far and away the largest employer in the United States. As of today we have about 2-1/3 million people working for the Federal Government. Surprisingly enough, only about 10% of that number are here in Washington, D. C. The remaining 90% are distributed throughout the United States and in foreign service.

Since Government is considered a single employer, it is very important that employees in the different Government departments and agencies and at work in different locations have the same general conditions of employment. To accomplish this we must have a fairly complex set of Government regulations. It will help your understanding to realize that much of the regulations we have are a matter of necessity because of the type of operation the Federal Government has and its size.

The Government's personnel policies overall, of course, are established first by Congress and the President, as representatives of the people. The laws passed by the Congress and the executive orders issued by the President are then implemented by regulations and interpretations of the Civil Service Commission.

I should like to say a thing or two about this whole structure which we call the Federal personnel system. As is true in private industry, the aim is exactly the same: to get the job done just as efficiently and economically as we can. To do this, we have to accomplish two basic things: first, we must maintain for our Federal employees good working conditions, including good pay, opportunity for advancement and protection against unwarranted action or capricious removal. Secondly, we have to meet the standards of public service in our democratic form of government. This means as I said a moment ago equal opportunities to compete for Federal employment, appointments based on merit, and non-discrimination in all of our personnel actions, and at the same time provide the high caliber of service to which the public is entitled.

I want to take you back, for a moment, some seventy-five years to 1883, when the civil service merit system was established. Prior to 1883 Government jobs were filled on a basis of personal and political patronage under what we all know as the "spoils system". That system, of course, produced some very serious inequities among applicants and employees and impaired the operating efficiency of the Government, and denied supervisors the staffing authority they needed for sound management.

In the year 1883, as a result of a public outcry against the spoils system, Congress passed what is known as the Civil Service Act. This Act essentially provided for appointments to Federal jobs on a basis of merit and fitness without regard to political considerations. The Act also created the agency we know today as the Civil Service Commission, and charged it with carrying out the rules under this new merit system.

In recent years, the Civil Service Commission has seen fit more and more to delegate much of its authority to the individual agencies. The agencies, in turn, have looked more and more to supervisors not only for carrying out the Civil Service rules, but for creating a general working environment that helps get the work best done by the employees under their direction. In the final analysis, the effectiveness with which our personnel system operates actually is determined to a great extent by the role the supervisor is willing to play in insuring that we live by the rules and regulations under which we must operate.

I want to turn now briefly to the process of recruitment, examination and appointment in the Federal service. Here in the S.E.C., with the general exception of the attorney category and a few of our top level policymaking jobs, all

of our positions are in the competitive Civil Service. This means that the initial appointment to a Government job must be by qualifying in an appropriate competitive civil service examination. Some of these examinations are written, and others are what we call unassembled, where applicants are simply rated on the basis of their academic training and/or experience as described in an application. We make our appointments here initially from what we call a list of eligibles established for the most part under civil service examinations conducted by the Civil Service Commission itself. Many of you here today who have fairly recently come to our staff, were appointed from the register of eligibles of the Civil Service Commission, established under the Federal Service Entrance Examination. That examination program, incidentally, was created as recently as 1955, and is a general type of examination that has as its main purpose attracting to the Federal service college caliber people.

Once you have passed your examination, your name goes on a list of eligibles in order of numerical rating. When an agency has a vacancy to fill, it makes a request for certification from the Civil Service Commission. For any one vacancy the Civil Service Commission refers the names of the top three eligibles on the list.

One of the difficulties we run into in this selection process has to do with the Veterans Preference Act. Few people quarrel with the basic philosophy that people who have performed military service for their country are entitled to some sort of special consideration. If we have three people certified for a vacancy, you cannot select any one of the three who might be a non-veteran by passing over a veteran standing higher on the list.

Many authorities in the field of personnel have expressed dissatisfaction with this system of selection, and the second Hoover Commission, among others, has made some suggestions for broadening this selection process so that agencies would have a wider area from which to select.

In recent years the Civil Service Commission has recognized that it is not the best agency to be conducting examinations for certain types of jobs. For example, here in the S.E.C. we have a position known as Securities Investigator. It is a job that is entirely peculiar to the S.E.C., and it makes little sense for the Civil Service Commission, which is servicing agencies generally, to be concerned with conducting a specialized examination for that job. Accordingly, Boards of Civil Service Examiners have been established within many departments and agencies. We have such a Board here in the S.E.C. The Board is composed of operating officials on our own staff, and applicants are actually rated by these officials. You can see some of the advantages of that system of examination as against general Civil Service examinations. It insures, for one thing, that the requirements set up in the examination are realistic and best suited to do the job, and our operating officials can better evaluate the specialized experience that we need here at S.E.C. for a job such as Securities Investigator.

I should like to speak for a moment about the second type of recruitment that we have here at the S.E.C., that is, for excepted positions. Jobs are placed in the excepted service on agency recommendations and a finding by the Civil Service Commission that it is not practical to fill them through

competitive civil service examinations. This doesn't happen to be the case with respect to the category of attorney positions, all of which are in the excepted service. Going back to the fiscal year 1945, the Congress saw fit to deny the Civil Service Commission funds for the purpose of examining attorneys. Ever since that time, this restriction has been in the Civil Service Commission's annual appropriations. Having no statutory authority to examine attorneys, the Civil Service Commission was left with no choice, but to remove attorney positions from the competitive service, and that is how we stand today.

The basic distinction between competitive and excepted appointments is this: A person who is appointed to a job in the competitive civil service through the competitive examination process has what we call civil service status. That status has significance in two respects: First, it gives the appointee a special job tenure or protection from removal, in that he cannot be summarily dismissed and is subject to removal for cause only. Secondly, any one who has a competitive civil service status can move freely by transfer among agencies, without submitting again to any sort of competitive examination - the only requirement being that he qualify for the job involved.

On the other hand, incumbents of excepted positions, attorneys, for example, who do not have veterans preference, do not have that sort of protection. However, peculiarly enough, because of the Veterans Preference Act, a veteran (even though in an excepted job) who has completed a year of service, has protection against removal just as the competitive job person does. This protection flows from the Veterans Preference Act rather than from having competitive civil service status.

I should like to turn now to a discussion of matters that I am sure are of more than casual interest to you. These are classification and pay. I should like to quickly dispel for you some of the misconceptions that we have about how the classification system works. In the first place, it is the Classification Act of 1949, as amended, a statute enacted by Congress, which establishes our whole classification and pay system. This system provides that an employee's duties and responsibilities must be clearly set down in what we call an official position description. Once we have that information, we are required to weigh those duties and responsibilities against specific occupational standards issued by the Civil Service Commission, and determine the appropriate classification grade in which the position belongs.

Frequently when we are confronted with the proposition of a Division recommendation to promote someone to a higher grade position, and we suggest to the Division that we would like to have either from the employee or the supervisor a statement of duties and responsibilities, we get the reaction, "We thought the Personnel Office writes job sheets." Even if we wanted to, in the Personnel Office we cannot sit in our ivory tower--being away from the immediate work situation--and know exactly what people are doing. I want to emphasize as strongly as I can that good classification depends upon our looking first to the employee and/or the supervisor for a statement of duties and responsibilities which gives us the information we need to properly allocate the job.

Secondly, classification is not a static thing. Since your grade depends on the duties and responsibilities assigned to you at any given time, it is possible over a period of time that they will either increase or decrease. For that reason it is important that job sheets be kept on an absolutely current basis.

In the Personnel Office we unfortunately do not have a large enough staff so that we can periodically come into the various Divisions and Offices and look at these jobs ourselves. Again, we have to depend upon you and your supervisors to make sure that your position description is current and accurate.

Just one other word about classification. The whole concept of the Classification Act is to guarantee equal pay for equal work. Many people have a misconception that classification is the means for rewarding someone who is doing a good job. The Classification Act was not designed to reward employees for efficiency or for volume of work produced. However, there are other means by which we can give employees recognition for competency. There has been some recent talk about the need for getting into the Classification Act some greater incentive for people who are doing a better-than-average job as against a person in the same position and grade doing an average job. One of the suggestions offered was that instead of making periodic within-grade salary advancements on the basis of length of time served, agencies be given the discretion to make within-grade promotions in recognition of excellent work.

I want to move on now to the subject of training and career development. The biggest problem we have with any training activity here in the Commission is that while training is recognized as a good thing, we don't find the time to plan or participate in such programs to the fullest extent. I want to make a general statement on that. The right kind of training will reap many benefits beyond the initial investment of time. The time you devote to training should be more than offset by the resulting ability to do a better job.

In any event, our approach to training here at the S.E.C. is essentially this: first, we have continuing training going on right in your own office in what we call "on the job" training. By that I mean that your supervisor works with you from day to day and gives you instruction, helping you to develop on the job, and teaching you what you have to know to do the job properly.

Our second form of training we have evidenced here today in this formal training session.

We have a third type of training that depends more on your initiative than on anything else. Until such time as the Congress may see fit to give agencies the necessary authority and funds to send people to schools and universities for special training that would help them in their jobs, people on the staff who feel they could benefit from further study must do this at their own expense and on their own time. We would be very happy in the Branch of Personnel to talk to you at any time and advise you on the types of courses that might benefit you most in the work you are doing here at the Commission.

I should like to discuss now the subject of promotions. From its inception, the Commission's basic policy in this respect has been one of promotion from within. As higher grade vacancies develop, we usually find the best qualified people among those already on the staff and they generally are upgraded to the higher positions. We do have to bear in mind that our end result in filling any job here in the Commission is to find the best qualified person to do the work, so that we don't have the promotion from within policy to the exclusion of looking outside for someone who may happen to be better qualified.

Promotions, incidentally, come about through two or three different methods, and I think it important to understand this, too. We cannot use the classification system as such to reward someone for efficiency on the job. So the first requirement we have for grade promotion is that it is necessary that there either be a position already established in a higher grade which becomes vacant, or, in the alternative, you are given increased duties and responsibilities to the point where, under the classification standards, we can find that the job enlargement merits a higher grade.

We who work for the Government live, so to speak, in a glass house. This brings us to the subject of employee conduct. There are things that we as public servants cannot do ethically that might be perfectly all right in private employment. For that reason, the Commission has adopted a comprehensive conduct regulation which is applicable in such areas as outside employment, employee securities transactions, and appearance or practice before the Commission by former employees. This conduct regulation is spelled out in detail in Appendix A in an Employee Handbook. I urge you all to read the conduct regulations very carefully, and if you have any questions about their application, I suggest you inquire in our Personnel Office.

Our incentive awards program is certainly one area in which we can recognize people for outstanding work. The incentive awards plan contemplates that you as employees will be able to make very significant contributions to the efficient conduct of the Commission's business, if you will just think through some of the procedures you deal with and develop any ideas or suggestions you may have on improving these procedures in the interest of greater efficiency and economy. Your supervisor will be glad to help you state your suggestion in specific form so that its merit may be evaluated. As you know, we make cash awards for adopted suggestions. We also grant cash awards given to employees who have demonstrated by work performance a sustained and outstanding ability.

MR SCHEIDENHELM. Mr. James Hindle, our Records and Service Officer, will now discuss Commission records.

MR. HINDLE. Regardless of the type of work you do in the Commission, each of you may some day have a case that develops into an administrative proceeding. As in your other work, keeping the proper records and protecting the documentary material concerned with the proceeding is highly important. Nothing can be more embarrassing to the Commission's staff than an incomplete or incorrect record. Certain phases of the hearing process are handled jointly by the staff of an operating Division and the Division of Administrative Management.

At the outset you must realize one primary thing: Whether you are a lawyer or an accountant assisting a lawyer, you are not representing an individual client. The Commission is a representative part of the United States Government and has responsibilities not generally attached to the usual civil and criminal case. All the documents in a public hearing of the Commission are immediately available to the general public and even the material in a non-public case is potentially available either through action of the Congress or action of the Federal Courts. So your duty is not only to the Commission and the laws that it administers, but also to the treat mass of the public in keeping this material available for thier use.

All administrative proceedings, public or non-public, begin with the issuance of an order by the Commission in which a date for the hearing is set and a hearing examiner named. Copies of the order are sent to the Certification and Service group in the Docket Section for service upon the parties according to the Rules of Practice and for filing. Service is made either personally or by registered mail according to the Statute. The information about the service is entered on the register sheet, and then an index card is initiated which will carry a complete chronological record of the proceeding. It will show the dates when the hearings are held, the number of pages of transcript, dates when service is made, when return papers are due from the parties, the listings of parties, attorneys of record, and other important facts. Additional orders, and documents such as motions, pleadings, briefs, etc., are also recorded. Service is made to parties shown on the card and return receipts for such service are recorded and filed.

Arrangements for a hearing room and reporter are made by the Certification and Service group. They should be informed promptly of any change in date or time so that those arrangements can be modified to conform to the new schedule.

The Commission's reporting contracg calls for the furnishing of three copies of transcript with provisions for the supplying of additional copies free or at reduced rates. Delivery of ordinary copies (that is, the usual case) is within five business days in the Washington area and 10 business days in the Field. If you need the transcript daily--if you need the transcript tomorrow morning of a hearing held today because of the urgency of the case--or you want it tonight to read over because of special matters coming up the next day--special arrangements can be made with the hearing-room clerk. Always check with the hearing-room clerk to determine the cost of these services because these are extra services and must be used only when they are absolutely necessary. Sometimes attorneys attempt to provide free copies for respondents. The Commission does not give free copies.

When transcripts are delivered to the Commission, they are closely checked to determine the number of pages, the number of exhibits, completeness, and the indexing of stipulations, motions, etc. The information is posted to the chronological index cards. A copy is filed in the original docket and other copies are sent to the attorney in the case. This same procedure is followed with all other papers in the proceeding--motions, proposed findings, recommended decisions by the hearing examiner, exceptions, briefs, reply briefs, and all documents covered by the Rules of Practice.

After the original order is issued, a complete set of documents is made up, with the exception of the transcript and the moving papers, for each Commissioner, so that he, from that point on, is advised of the progress of the case.

It is essential that all exhibits in cases be fully described, and that you make certain that proper action has been taken to include them in the record. Don't ever wind up a hearing and find that you have offered material for identification and then failed to have it received as exhibits.

All appearances must be recorded so that we may be sure that due process has been observed in the service of all papers.

In many cases books of record are subpoenaed from firms. Witnesses send in particular papers of importance of their own and, of course, want them back. But they are entered as exhibits in the case and are necessary to us. We have a provision for photocopying and substituting them in the record. Be sure that you make a stipulation to that effect, though, so that we are able to return the papers in the case to the people who originally sent them in.

In court work it is possible to make physical changes in transcripts of testimony. However you must not make any physical changes in transcripts of testimony taken in Commission proceedings. Transcripts are filed with the Commission by the reporter and are not prepared by the Commission. They are filed just as a registration statement is filed. Furthermore, it is very easy to ruin the effectiveness of the transcript by writing on it or on any document used in these cases. We have lost cases in the Courts because of the fact that neither I nor the Deputy Service Officer nor the attorney in the case was able to satisfactorily tell the Judge what certain markings meant on exhibits that were entered in evidence.

Changes in transcript can be made in three ways: One, if you catch it quickly, ask the reporter and he will make a corrected page. Two, have the reporter, if it is too late for a corrected page, send out an errata sheet, which will then be sent to all the parties who purchased copies of the transcript. The third method and the one most often used is to prepare a stipulation listing the changes which is signed by the parties, filed with the Commission and made a part of the file.

The exhibits in a case also are handled differently. We are custodians of these papers for the Federal Government. Attorneys in public cases in the courts freely exchange exhibits and transfer them about. We do not do that here. As soon as they are placed in evidence they are a part of the records of the Federal Government and cannot be alienated. It is up to you to safeguard the exhibits, make sure that they are complete, and that all exhibits are with the transcript.

Another thing that is used in our cases is a certified copy of a document to prove a point. We don't want to do too much of that. It has been done to excess in many cases. The Administrative Procedure Act provides that due recognition be given to the files in a Government agency. Certain decisions by various courts have upheld that procedure. So it isn't necessary

for you to present a certified copy of the registration statement that a certain party filed because you are only proving to yourself the fact that you have received something that you know is in your own file, which is a waste of time. Where necessary, incorporation of these papers is made by reference. You state that in the files of the Commission a registration statement is located that has been filed by this person, it is file No. _____, and is hereby incorporated by reference.

The paper I passed around bearing the gold seal is a form of certification which is used to certify copies of documents. The form and authority for the issuance of these certifications is found in Rule 44 of the Rules of Civil Procedure for the District Courts, and Rule 27 in the Rules of Criminal Procedure. This form has been approved by the General Counsel and follows what is in those Rules and has been used for many years without any question by the courts.

We have three types of certification: one, which identifies copies of material placed with or under the certification; another, which states the fact of filing or fact of record in the Commission, which does not include any paper but is merely a narrative certification and is known as a positive-narrative certification; and one which states in narrative form also that the records do not disclose that any material is here. We have had considerable argument about that. We cannot say that the records show that something is not here, but "the records do not disclose that any filing has been made". That is a technical safeguard.

Requests are received for these various certifications for use in administrative proceedings in court cases, and injunctive actions by the Commission's staff. They are prepared for public use, for use in civil actions, for closing for distribution by underwriters, filings with State regulatory commissions, and for records of various corporations. Requests are received from Regional Offices and the Washington staff for Commission use, and they are sent direct to the Records Officer or to the Deputy Records Officer for preparation. Those from the public are still prepared by these same offices, but they are routed through the Public REference Section there is a charge for the preparation of certifications. These must be checked to determine that the material being certified is material which is available to the public through our public files. Only the authorized Records Officer or Deputy Records Officer can certify Commission documents.

The basic information for preparation of these documents is contained in the master index files, the brief cards in the mail room, master card list maintained in the Division offices, the register sheets, and in the files themselves. I want to warn you again on certifications about marking up files. We cannot certify such as being the full, true and complete copy of the original statement filed with us because it obviously is not.

The Commission certifies the record on appeal cases. That is required by the Statute. It is a tremendous task in big cases, but is now being somewhat reduced by the position taken by the Appeals Court that they will accept an index of the case. From that index they then decide what portions will be

certified for actual use in argument and filing of briefs. The making of the index is still a very important matter. In that we often bring to light the fact that someone has failed to properly protect the records and exhibits. Very often papers which should have been in the case are being held by attorneys in their desks through an error in not having them recorded. Be sure you bring all papers that pertain to a case to the Certification Service unit so that it always has a record of them.

A very important point that I want to stress once more is the preserving of the originality of the documents. Don't mark any papers up.

Let me go over these "dos" and "don'ts" once again.

Do properly identify exhibits placed in the record.

Do have all documents received by hand or mail recorded.

Inform the Certification and Service Unit when the hearing is by stipulation with additional transcripts.

Report promptly all the inaccuracies in the transcript so that corrections can be made before the transcript is fully printed.

Make sure that all the exhibits have been properly placed in evidence when they are used.

Check your index of transcript for appearances, stipulations and motions to make sure your case is complete.

Don't make corrections physically on transcripts.

Don't make notes on file copies or transcripts.

Don't release exhibits to others if they are to be removed from the building.

Don't forget to stipulate substitution of photocopies of the original exhibits to be returned.

Don't request certified copies of documents which may be part of the record already--moving papers, etc.