The time is long past due for overhauling contracting practices. With the four bills I am introducing today, I hope to help begin the process of reinventing Federal contracting just as the rest of our Government is being reinvented.

FULL FEDERAL PAY RAISE

My first bill would cut $2 billion in Federal agency funds for service contracts and make this money available for pay raises that are due Federal employees next year. Federal employees are again being required to give up part of their statutory pay increased while, again, contract employees paid for the same Federal budget remain untouched. The intent of my first bill is to eliminate the raw discrimination that allows the Government to seek sacrifices for civil servants because they are where we can see them but to give immunity to contract employees because they are out of sight.

Beyond the discrimination against career employees who are denied modest increases promised by statute, current contracting practices are fundamentally bad business. According to a March 1994 GAO report, issuing service contracts and hiring consultants actually costs Federal agencies more than using Federal employees. In 3 of the 9 cased analyzed by GAO, agencies could have saved over 50 percent by keeping the work in-house.

BUYOUTS

My second bill would plug a gaping hole in the landmark buyout legislation we have only just passed. Congress went to extraordinary lengths to ensure that civil servants who were bought out with cash could not be replaced and that the resulting 272,000 reductions in the Federal work force would be permanent. However, as it stands now, the buyout law would allow untold numbers of contract employees to take the places of bought-out Federal employees—substituting shadow government employees for career employees. My bill would amend the Federal Workforce Restructuring Act to prohibit agencies from contracting out work previously done by buyout recipients.

COST COMPARISONS

The reason most often touted for contracting out work is that it is cheaper. The March 1994 GAO study contradicts this assumption, and an OMB study released in January 1994 shows that the cost-saving assumption is often not even tested. Federal agencies do not compare the costs for contracting with the costs of doing work in-house. My third bill would require agencies to make these cost comparisons and would prohibit any agency from entering into an outside service contract if the services could be performed at a lower cost by agency employees.

SIZE OF CONTRACTING WORKFORCE

One of the chief obstacles to regulating the contracting workforce has been the absence of information on the extent of the workforce. In 1988, for example, Congress passed legislation requiring agencies to significantly cut service contracts. However, a subsequent GAO report found that there was no way to know if the agencies had actually complied with the legislation. My fourth bill requires OMB to develop a Government-wide system for determining and reporting the number of nonfederal employees engaged in service contracts.

All four of these bills would provide more systematic ways for monitoring and constraining the expenses associated with contracting out of services—just as we have insisted for Federal agencies and employees. Efficiency and deficit reduction must not stop at the door of the Federal agency. We need to bring the shadow government into the full light of day so that the sacrifices demanded in the name of reinventing Government may be shared by all employees and by every area of Government.

SUMMARIES OF SERVICE CONTRACTING BILLS INTRODUCED BY CONGRESSWOMAN ELEANOR HOLMES NORTON

1. The first bill cuts $2 billion in Federal agency funds for service contracts and makes this money available for pay raises that are due Federal employees next year. Federal employees are again being required to give up part of their statutory pay increases while, again, contract employees paid from the same Federal budget remain untouched. The intent of this bill is to eliminate this inexplicable discrimination.

2. The second bill amends section 5(g) of the Federal Workforce Restructuring Act of 1994, (Public Law 103–226) to prohibit an agency authorized to offer voluntary separation incentive payments under that Act from contracting out, in whole or in part, the duties previously performed by an employee who separated upon receiving such a payment. This is to ensure that no substitution of shadow government employees for career employees occurs.

3. The third bill prohibits any Executive Branch agency from entering into a service contract if the services to be procured under the contract can be performed at a lower cost by employees of the agency. It requires agencies to perform cost comparisons (contractor cost v. in-house cost) when deciding whether to contract for a service. The requirement applies to contracts entered into after the date of enactment.

4. The fourth bill requires the Director of the Office of Management and Budget (OMB) to develop a government-wide system for determining the number of persons employed by non-Federal Government entities providing services under service contracts awarded by agencies in the Executive Branch of the Federal Government. It also requires OMB to submit an annual report to the Congress indicating the number of such persons providing services and the number with jobs comparable to those of career Federal employees providing services to agencies.

REPORT TO CONGRESS BY RICHARD H. STALLINGS, OFFICE OF NUCLEAR WASTE NEGOTIATOR

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. GORDON. Mr. Speaker, in 1987, Congress created the Office of the Nuclear Waste Negotiator as part of its amendments to the Nuclear Waste Policy Act of 1982. The goal of this office was to negotiate an agreement with a host site for the storage and disposal of spent nuclear fuel. Congressional action in 1994 terminated authority for the negotiator's office. Today, I am submitting for the RECORD, the last report to Congress by Richard H. Stallings, negotiator, of the Office of the Nuclear Waste Negotiator.

For the past 15 months Mr. Stallings and his staff have worked to help resolve our Nation's spent nuclear fuel storage and disposal problem. This office held numerous expert discussions which produced valuable scientific information on possible future uses of spent nuclear fuel. In addition, Mr. Stallings was instrumental in designing and improving the economic development opportunities of the Department of Energy's multipurpose canister [MPC] Program as an integral part of the interim storage facility. As a result of their efforts, I am confident that Congress will be better prepared to consider legislation concerning the management of spent nuclear fuel.

As negotiator, Mr. Stallings also demonstrated the ability for the Department of Energy to develop meaningful communications with potential host States and increased community awareness and understanding of the emotional issues surrounding nuclear fuel. While the authority of Office of the Nuclear Waste Negotiator ended before a host site was designated, I believe it is important for Congress to continue in these educational efforts and open dialog.

I would like to extend my sincere gratitude to Mr. Stallings for his work as nuclear waste negotiator. His findings and expertise are greatly appreciated and will prove invaluable as Congress moves forward with our Spent Nuclear Fuel Management Program for a permanent repository and temporary storage facility.

OFFICE OF THE
NUCLEAR WASTE NEGOTIATOR,
Washington, DC February 8, 1995.

The SPEAKER OF THE HOUSE,
U.S. House of Representatives
Washington, DC.

DEAR MR. SPEAKER: I am submitting the following as the last report to Congress by the Office of the Nuclear Waste Negotiator.

As a result of a legal cloud over our authority to continue operations, I terminated the mission of the Office on January 21, 1995. In closing the Office prior to completing its legislated mission, I leave with a sense of lost opportunity, although much was accomplished over my short fifteen month term. I hope that this report will encourage those who still believe in finding ways for the Federal government and the states to work together for solutions to challenging and controversial public policy issues.

When Congress created the Office of the Nuclear Waste Negotiator in 1987 as part of its amendments to the Nuclear Waster Policy Act of 1982, it recognized the possibility that the storage and disposal of the nation's civilian nuclear waste could be accomplished through cooperation. By giving the Office the authority to negotiate an agreement with a state of tribe, Congress was essentially saying to the states, ''Reliance on Federal supremacy may not be the only way that we as a nation should deal with this issue.'' Perhaps the legacy of this Office should be that we demonstrated that the Federal government can work cooperatively and constructively with the states on this issues, if we are only willing to put forth the effort.

THE OFFICE I ASSUMED IN NOVEMBER 1993

Upon confirmation by the Senate in November of 1993, I took charge of an Office that had been in operation since September of 1990. My predecessor had remained in Office until June of 1993, but with the change of Administrations following the 1992 election, the Office was in essentially a suspended operational status from November of 1992 until I was confirmed a year later. This is important for four reasons.

First, for an Office whose entire term is four years and five months, a year hiatus is a very long time. Second, the lost year was

an off-election year, which is when this particular Office, dealing with such a controversial issue, must make publicly recognizable progress if it is to make any progress at all. Third, one of the four tribes that was officially participating in the negotiated siting program when I took Office, the Mescalero Apache tribe in New Mexico, had become frustrated over that year with the lack of progress and funding and was looking to other opportunities. And fourth and perhaps most importantly, I found that with the passage of that year whatever hope the nuclear utility industry, the Department of Energy, and Congress had had for the mission of the Office of the Nuclear Waste Negotiator was gone. I received general support from these groups, but found their energies focussed more on either a legislated solution to temporary storage, abandonment of Federal away-from-reactor temporary storage altogether, or the development of a private interim storage facility on tribal lands.

With this as the backdrop I committed to making something happen. Congress was on the right track in creating this Office and it deserved the best chance it could get to be successful.

REINVENTING THE OFFICE

The siting program that I took over had relied on what I term a ''trash for cash'' approach. In return for hosting a waste storage facility, the state or tribe would be rewarded handsomely with payments and benefits that bore no necessary relationship to the facility. This approach presented me in November of 1993 with one frustrated tribe, and three tribes still willing to consider whatever program I came up with. There remained no viable non-tribal interests. I knew that to even enjoy the ''possibility'' of coming to an agreement and successfully siting a facility, perceptions had to change and the Office had to be essentially ''reinvented''.

I concluded that the reinvention needed to concentrate on two aspects of the mission, making sure that the potential hosts the Office worked with were inclusive of those that presented the best opportunities for siting, and developing a sufficiently defined presentation of facility and benefits to permit meaningful evaluation and consideration. Ultimate success would depend on whether the siting opportunity was considered by the localities where siting a temporary storage facility made practical sense, and whether the opportunity they considered was real and worthy of consideration.

NEW APPROACH TO POTENTIAL HOSTS

With respect to the potential hosts, I committed to continuing to work with the four tribes that were already in the program, while seeking to approach potential hosting opportunities that did not involve siting a facility on a ''green field'', green field being a site that had not previously experienced any environmental degradation. This resulted in efforts being directed at closed military bases and facilities and laboratories owned by the Department of Energy. I did not have the time to conduct a ''volunteer'' program. I do not think the voluntary approach to siting works for this type of an issue. I think you need to tell potential hosts that they are likely to be qualified, and ask for their consideration.

SEEKING TO CHANGE PERCEPTIONS

As to the presentation of facility and benefits, I knew that much work would need to be done, and I found that it wasn't until the fall of 1994 that I had a presentation with which I was comfortable.

In my confirmation I asserted my conclusion and firm belief that the transportation and storage of nuclear waste was safe. We have the technology and experience. This was a radical departure from my predecessor, who proposed to provide grant funding to potential hosts to allow them to determine for themselves whether transportation and storage was safe. I believed that as Negotiator, it was essential to take a clear stand in order to be able to interact with elected officials and the public with any credibility. Had I not been able to take that stand, I would not have taken the job.

Given that the handling and storage of spent fuel was safe, and recognizing that the perception of a storage facility as nothing more than a ''dump'' (to coin a popular media term), I wanted to know if it was possible for something to be done with the spent fuel as opposed to just storing it. For the next several months following my confirmation, I conducted an extensive evaluation of whether spent fuel had value. I held a roundtable discussion on February 10, 1994, with a dozen scientists who were working on projects utilizing spent fuel. The report that was issued after that roundtable documented that spent fuel has potential value that will almost certainly be realized at some time in the future. The projects that were perhaps the closest to being practical at this time were those involving food irradiation and ozone production, and of course this concept of value did not even consider the potential value associated with reprocessing.

My efforts to pursue this question were widely misinterpreted. This can best be summed up by my Deputy, Robert Mussler, being told by a utility executive upon hearing of this idea, ''Don't tell me spent fuel isn't waste!'' Rather than trying to somehow convert a temporary storage facility into an instant research park, I was trying to get others to think about spent fuel differently, by having the Office think about it differently. To my knowledge no one had ever proffered the idea that spent fuel might have value besides reprocessing, and I believe my willingness to address this possibility in a direct, public manner, changed the debate. I also believe that technology will advance and the day will come when the value of spent fuel is recognized.

DEVELOPING A CONCISE PRESENTATION

Having dealt in a fairly short period of time with the perception and approach to spent fuel, and its storage and management, I set out to put together a concise presentation that could be reasonably and fairly considered, evaluated, and pursued or rejected by elected officials.

This took more time than I had expected, but in the end it was worth it. Out of a facilitated workshop on March 23, 1994, came the idea that the Department of Energy's multipurpose canister (MPC) program may present an economic development opportunity that could be coupled with the temporary storage facility. We worked to develop the idea, and coordinated that development with the Director of the Office of Civilian Radioactive Waste Management at the Department of Energy. The MPC Program involves manufacturing and assembling Nuclear Regulatory Commission certified containers for the handling and dry storage of spent fuel. The program projects a need for 10,000 canisters, and is a 3 to 5 billion dollar project. By September 1994 we had focussed our efforts on refining the presentation of the economic development opportunities that the MPC program presented to a potential host. The overriding consideration in the development of this idea was that whatever part of the MPC program might go to a state, it must make sense. We were not proposing the creation of a heavy foundry industry in a state that did not already have one. In such states the focus would rather be on assembly and inspection.

Although the presentation contained a number of other elements to describe the facility and other associated benefits, I felt that the MPC element was the most important in conveying the message that this was a genuine opportunity worthy of consideration. As I noted earlier, this presentation was completed to my satisfaction in the fall of 1994.

CHANGING THE APPROACH TO FINANCIAL ASSISTANCE

Another aspect of the program that needed attention when I took Office was the way that financial assistance was provided to potential hosts to support their participation in the negotiated siting program. My predecessor has relied on grants administered by the Department of Energy, and at about the time I was confirmed, a major element of that grant program had been deleted by Congress. I decided that relying on the Department of Energy to provide financial assistance to potential hosts was not the best way to operate and concluded that what we really should do is to instead directly enter into cooperative agreements with those potential hosts. The cooperative agreement is a funding mechanism that anticipates interest and participation by both parties in the activities funded. This fit much better with the way I intended to interact with potential hosts. Since our budget did not provide for the funding of cooperative agreements, I approached the Director of the Office of Civilian Waste Management for help. The Director and I worked out the transfer of an initial $250,000 to the Office to fund cooperative agreements that I might enter into. This ended up working out very well, giving us the flexibility and responsiveness we needed to establish and maintain credible relationships.

With the cooperative agreement funding mechanism in place, and the development of the presentation that described the temporary storage facility and the associated economic development opportunities that the MPC program could bring with it, I had what I needed to begin direct discussions with those potential hosts where a temporary storage facility made practical sense. It was a presentation that used an overhead projector, and it was a very effective communication vehicle. Unfortunately, with the closing of the Office I was not able to give this presentation to all of those who I felt needed to hear it.

In this first part of the report I have discussed how I changed, or reinvented, the negotiated siting program. I am convinced that this was a viable program, open to consideration by many governors and state officials. In the second part of the report I will discuss the chronology of interactions with potential hosts. I will then conclude with a brief discussion of the circumstances of the closure of the Office.

PROGRESS WITH POTENTIAL HOSTS

As discussed earlier, I took over the Office with one frustrated tribe and three tribes that were at different points in the process of their consideration of hosting a storage facility. By the beginning of 1994, the Mescalero Apache tribe had redirected their efforts to working with a group of utilities to develop a private storage facility on their reservation. Adding to this tribe's concerns with the Federal negotiated siting program was the passage of a law that I discussed earlier that took away from the tribe the opportunity to receive 2.8 million dollars in grant monies to pursue the Federal project. My support for the deletion of this grant authority, based on concerns about the lack of specificity on how the funds were to be used, did not help my relations with the tribe. My Office had essentially no contact with the

tribe following their commitment to the private project. The private project was reject by the tribal membership in a referendum held last month.

The Tonkawa tribe in Oklahoma was in the process of concluding their initial consideration of the project when I took Office. Following one meeting with the tribal leadership, and prior to any opportunity to have any broader discussions with the tribal membership, the tribe rejected the project in a referendum on August 12, 1994.

The Fort McDermitt Paiute-Shoshone tribe in Oregon and Nevada decided in 1994 to defer active consideration of the project. Prior to this decision I was able to meet with the tribal leadership and visit the reservation. I was also able to meet with county officials in Humbolt County, Nevada, and Malheur County, Oregon, as well as participate in a community meeting in the town of McDermitt. Since the tribe's reservation straddled the state line, even though the site would be on the Oregon side of the reservation, the tribe was very active in including the two counties and the community in meetings, tours, and citizen advisory groups. The tribe's deferral in 1994 was due to the gubernatorial contest underway in Oregon. I should note that the tribe had their first meeting with a representative of the newly elected governor in January of 1995. Based on the meeting, the tribe is optimistic that the new governor will be receptive to discussing the merits of the project based on sound science, notwithstanding the closure of the Office.

The Skull Valley Goshute tribe in Utah continued to pursue the project aggressively right up to the closure of the Office. We completed a cooperative agreement with the tribe for $48,000 to support the development of a framework for negotiating an agreement for the tribe to host a storage facility on their reservation. The development of the framework was also to give each party an indication of whether we seemed to have the ability to work constructively together. Over the last half of 1994, in negotiating the cooperative agreement and the framework for future negotiations, I found that we indeed had the ability to communicate and work effectively together. I was optimistic about the prospects of entering into formal negotiations with the tribe.

At the time we began discussions to develop the cooperative agreement with the tribe, we notified the state and county that cooperative agreements were also to be made available to them if they wished to participate at this time. Within days of completing the cooperative agreement with the tribe, we signed cooperative agreements with Tooele County for $18,000, and the University of Utah for $25,000. The University was interested in conducting an analysis of the economic and transportation impacts of a storage facility on the reservation, and the County intended to use their money to have the University do the same type of analysis on a county basis.

In early December 1994, the Office sponsored a trip to the Idaho National Engineering Laboratory for all members of the tribe interested in seeing and learning about the storage of spent fuel. Approximately one-fifth of the tribal membership participated in the trip, and the response was very positive.

On the week the Office closed, I received a completed framework for negotiations signed by the tribal chairman. Had the Office not closed I would have signed the framework and the tribe and the Office would have then been in formal negotiations. I cannot say that this would have necessarily led to a completed agreement to be sent to Congress, but I do know that to have even reached this stage was unprecedented.

The work on the County analysis was stopped, but the University report, based on costs already incurred, is to be completed sometime later this month. I have directed that a copy of the report be sent to the Office of Civilian Radioactive Waste Management at the Department of Energy, with hopes that they may be able to use it in their future work.

In addition to working with the tribes that I inherited, I initiated contacts with the office in the Pentagon that manages base closures to determine if closed bases offered any siting opportunities. After providing them a list of criteria, we received a listing of possible base closures that might have the size and access needs of a storage facility. We pursued each of those leads and at the time of Office closure we were continuing to have discussions with the base closure committee for the Wurtsworth Air Force Base in Michigan. In the final analysis, much of the prior land use planning for the closed bases precluded consideration of the storage facility.

In pursuing the challenges of seeking to work directly with governors or their representatives, I employed what I would term quiet diplomacy. This is the way that I believe that Congress intended for the Negotiator to function and it is indeed the only way that meaningful communications outside of the public posturing imperatives can occur. It was very effective. A free flowing dialogue was, and I believe would have continued to be possible with many state executives. I can report that since the presentation discussed above was put together, I had established good lines of communications in three states, and I was in the process of working to expand that number. It is specifically this aspect of the program and my efforts in this area that leave me with the greatest sense of lost opportunity.

CONCLUSION

I have concluded that the management, storage, and disposal of nuclear waste presents one of the greatest challenges to the principles of federalism. I cannot say for certain that my efforts would have resulted in a state willingly accepting spent fuel storage, but I do know that the opportunity for meaningful discussions existed. What I can say for certain is that discussions I would have had with many governors would have resulted in a greater awareness and understanding of the controversial, emotional, and politically charged issues that surround spent fuel. This is a problem that is not going to go away. Unfortunately, this Office may have been the last chance to develop mutually agreeable solutions. With its demise we as a Nation are left with an unhealthy reliance on Federal supremacy at a time when mutual solutions to issues such as this are more important than ever.

TERMINATION OF MISSION-CLOSURE

The termination of the mission of the Office is occasioned by a legal cloud over our authority to continue operations. Congress had appropriated adequate funding for the full fiscal year, but there was a question raised in early January about the basis of authority for such continued operations. As part of my aggressive pursuit of the opportunity to complete my mission, I obtained the opinion of outside legal counsel on the question of the authority to continue operations of the Office until the end of this fiscal year. That outside legal opinion concluded that such authority existed.

This opinion was reviewed and concurred with by the General Counsel of the Office of Management and Budget. I am advised that the same conclusion was reached by the General Counsel of the General Services Administration. However, I was told that the Legal Counsel for the Department of Justice reached a contrary conclusion. Given the sensitive nature of the work underway, and the recognized urgency to make real progress this year, the resolution of these conflicting views would create significant obstacles and take time that I did not have. It thereby essentially negated any chance of my succeeding with the mission of the Office. As I said at the time I was confirmed by the Senate, I have no interest in keeping the Office open if there is little or no likelihood of success.

During the short period of orderly shutdown and closure of the Office I secured an audit of our financial records by an independent outside accounting firm. The report of that audit concluded that at closure all financial records and accounting practices were in order.

Over the past fifteen months I have had the good fortune of a dedicated, hard working, and highly competent staff. I'd like to take this opportunity to express my appreciation for the efforts of Michael Campilongo, Gary Catron, Maureen Conley, Henry Ebert, Martha Fitzsimmons, Brad Hoaglun, Tom Lien, Bob Liimatainen, Bob Mussler, Angie Neitzel, and Jennifer Stone.

I am very appreciative of having been asked by the President to serve in this Administration. It was an honor and a privilege to have had the opportunity to accept this challenging assignment.

Sincerely,

RICHARD H. STALLINGS,
Negotiator.

TRIBUTE TO MURIEL M. DOUGHERTY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 5, 1995

Mr. SAXTON. Mr. Speaker, Monday, April 3, 1995, marked the first official day of long-deserved retirement for my associate and friend for many memorable years, Muriel M. Dougherty. After having worked with me for almost 22 years, most of them as a public servant, Muriel will now blissfully enjoy the fruits of a leisurely life, including the company of her 5 children and 13 grandchildren.

Muriel first worked with me as secretary in the real estate firm of Saxton, Imlay and Falconer, earning her real estate license along the way. In 1975 when I began my political career as a New Jersey State Assemblyman, Muriel became my legislative assistant, working diligently in her new position, as always.

After 6 years, she moved with me to the New Jersey Senate. Because Muriel is a completely trustworthy, competent, and people-oriented individual, I was always able to concentrate on my legislative duties in Trenton, while leaving the administrative responsibilities to her.

In 1984, when the opportunity arose for me to run for a seat in the U.S. House of Representatives, Muriel was the first to say in her usual enthusiastic way, ''Go for it!'' During those hectic days, she would take care of just about anything that needed to be done, always competently and with a smile; and would often use her free time to help with campaign activities.

Upon taking my seat in the House on November 9, 1984, Muriel became office Manager for my Mount Holly district office, where