



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

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JUL 18 1975

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The Honorable William Proxmire, Chairman
Subcommittee on Priorities and Economy 7 709
in Government
Joint Economic Committee
Congress of the United States

Dear Mr. Chairman:

Your May 19, 1975, letter requested us to investigate an unsolicited mailing of certain material by the Treasury Department to members of the American Economic Association. Specifically, we were to determine (1) the cost to the Treasury of this mailing, (2) whether Treasury purchased the mailing list, and (3) whether sending the material violated any U.S. law (such as the Treasury, Postal Service and General Government Appropriation Act).

According to the Special Assistant to the Secretary for Public Affairs, Treasury sent to association members transcripts of four statements that Treasury Secretary Simon made before various committees of the Congress on the administration's general program, debt ceiling, energy proposals, and national economic priorities. The Special Assistant stated that the idea of sending these materials originated with Treasury officials who believed that it was important to keep the public thoroughly informed on the Nation's economic difficulties and the policy options available. He said Treasury contacted association officials who liked the idea and agreed to arrange for the materials to be sent to the association's members.

Treasury intended to send the four statements in one mailing but by mistake they were sent in two mailings and one statement was included in both. Initially, Treasury authorized the Government Printing Office to print one of the statements and send copies to a mailing firm in Beltsville, Maryland. According to a Treasury official, the mailing firm was orally instructed to hold the material until three additional statements and a transmittal letter could be combined in one envelope and mailed. However, on April 16, 1975, the firm sent out only the first statement.

The second mailing, made on May 7 and 8, 1975, consisted of (1) a transmittal letter dated April 30, 1975, from the Special Assistant to the Secretary for Public

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Affairs and (2) transcripts of the four statements, including a reprint of the first that was sent out by mistake. A Treasury official said the first statement was reprinted and included with the second mailing because the association's mailing list had been updated and Treasury wanted to be certain that the members received all four statements.

We estimate that Treasury incurred costs of \$34,765 for the two mailings, as shown in the following schedule.

| | Mailings | |
|----------------------------------|---------------|-----------------|
| | <u>First</u> | <u>Second</u> |
| Printing costs | \$ 4,358 | \$ 3,853 |
| Mailing list | 598 | 558 |
| Preparation costs (mailing firm) | 364 | - |
| Penalty covers (envelopes) | 419 | 391 |
| Postage | <u>10,380</u> | <u>13,844</u> |
| Total | \$16,119 | 18,646 |
| Total--both mailings | | <u>\$34,765</u> |

On January 27, 1975, Treasury requested the Government Printing Office to print, on a rush basis, 6,000 copies of the Secretary's January 22 statement before the House Ways and Means Committee. The Printing Office printed and delivered 5,800 copies of the statement to Treasury on January 27 for its regular distribution. On February 11 Treasury requested the Printing Office to deliver by February 19 the 200 copies previously ordered but not delivered plus an additional 15,800 copies to the mailing firm for mailing to the association members. Treasury officials advised us that 15,000 copies were mailed to association members and the remaining copies were returned to Treasury for their use. The Printing Office billed Treasury \$6,335 for the 21,800 copies, of which we estimate that \$4,358 was for the copies sent to the association members on the first mailing.

On the second mailing, Treasury requested the Printing Office to print 15,000 copies of all four statements and the transmittal letter and to ship the material to the mailing firm. Although Treasury has not received the bill for this printing, a Printing Office official told Treasury that the bill would be \$3,853, of which \$1,543 would be for the reprinting of the first statement sent out by mistake. A Treasury official attributed the difference in the cost of printing (\$4,358) and reprinting (\$1,543) the first statement to

the fact that the Printing Office did the printing under overtime rates and an outside contractor did the reprinting under a contract awarded after competitive bids.

Treasury did not purchase the mailing list as such but did pay more than the association's direct cost in connection with the two mailings. The mailing list is maintained for the association by a Chicago contractor that printed 14,829 address labels for the first mailing and 13,844 for the second mailing, at an estimated cost to the association of about \$200. The association billed Treasury \$597.78 for the address labels for the first mailing and \$558.38 for those for the second mailing. According to an association official, the charge to Treasury of about \$950 more than the direct cost of printing the address labels was to cover part of the \$2,000 monthly cost that the association pays the contractor for maintaining the mailing list.

The mailing firm billed Treasury \$364 for preparing the first mailing. According to a mailing firm official, Treasury was not billed for the second mailing because of the firm's mistake on the first mailing.

Treasury supplied the penalty covers (envelopes) at an estimated cost of \$419 for the first mailing and \$391 for the second mailing. The material was sent first class. Postal Service regulations require that such special mailings be reported to the Postal Service and that the postage charged be based on regular postal rates. However, as of June 6, 1975, Treasury had not reported these special mailings although it said it was planning to do so in the near future. Postal Service officials advised us that envelopes of the size and weight used in the two mailings would require postage of \$.70 per envelope for the first mailing and \$1.00 per envelope for the second mailing.

Regarding the mistake on the first mailing, a Treasury official said negotiations are being held with mailing firm officials to determine what compensation should be made to Treasury to cover the costs of that mailing. According to him, the firm has agreed to reimburse Treasury for the cost of the envelopes and the first mailing list by reducing its billings for future services; however, who should pay for the additional postage and reprinting costs incurred because of the mistake has not been decided.

You asked whether sending the material in question violated any U.S. law, such as the Treasury, Postal Service and General Government Appropriation Act. The act, Public Law 93-381, provides in section 607(a) that:

"No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress."

This section is identical to provisions of earlier appropriation acts. In construing these provisions, we have held that expending public funds for disseminating information on agency or administration policy, even though that policy may be embodied in pending legislation, does not alone violate the law. The Congress did not intend, by enacting these provisions, to preclude all expression of views on pending legislation by agency officials or to curtail the duty to keep the public informed on matters of public interest. Rather, the prohibition of section 607(a), in our view, applies only to expenditures for direct appeals to the public suggesting that they contact Members of Congress to urge them to vote in a particular manner on pending legislation.

The mailings you inquired about were sent to members of the American Economic Association without any suggestion that they should act upon them in any way. We recognize that executive officials have a duty to inform the public on Government policies and that Government resources have traditionally been used to disseminate information to explain and defend those policies. In view of the professional interest that association members would presumably have in the Secretary's statements, we believe that the mailing was a proper exercise of Treasury's public information function. Accordingly, we do not consider that the mailing violates the section 607(a) prohibition against using appropriated funds for publicity or propaganda purposes.

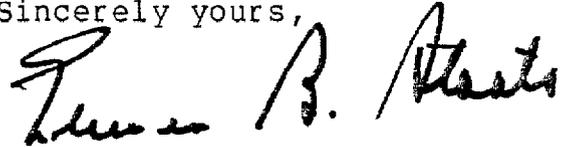
Concerning other potentially applicable laws, 18 U.S.C. 1913 prohibits expending appropriated funds in a manner designed to influence a Member of Congress to favor or oppose any legislation or appropriation. The Attorney General has consistently interpreted this section as relating only to activities specifically directed toward affecting legislation before the Congress at a particular time. It has never been

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considered that this provision was intended to impinge upon the executive branch's responsibilities for informing the public.

We are not aware of any other laws which would prohibit the mailing in question.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas B. Atkins". The signature is written in a cursive style with a large initial "T" and "A".

Comptroller General
of the United States