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8-6-74



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

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The Honorable Alan Cranston
United States Senate



Dear Senator Cranston:

On May 14, 1974, you asked us to review the grant by the Urban Mass Transportation Administration (UMTA) to the Long Beach Public Transportation Company, Long Beach, California, particularly that part concerning Long Beach's plan to buy new bus stop benches.

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You asked whether UMTA's grant for Long Beach to buy bus stop benches was proper under the standards of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601), whether the Administrator of UMTA could disapprove specific items in a proposed UMTA assistance grant, and whether the Administrator had fulfilled his responsibility in approving funding for Long Beach's plan to replace existing bus stop benches. We believe that UMTA acted properly in administering its responsibility under the act.

Under the original provisions of the Urban Mass Transportation Act, the Administrator of the Housing and Home Finance Agency was responsible for urban mass transportation functions. Later the Department of Housing and Urban Development Act of 1965 (Public Law 89-174, 79 Stat. 667) transferred this responsibility to the Secretary of Housing and Urban Development. Under Reorganization Plan No. 2 of 1968, this responsibility was transferred to the Secretary of Transportation. UMTA was established by section 3 of this plan.

Pursuant to his authority under the Department of Transportation Act (49 U.S.C. 1657(e)(1)), the Secretary of Transportation delegated responsibility for carrying out the provisions of the Urban Mass Transportation Act to the Administrator of UMTA.

Section 3 of the Urban Mass Transportation Act authorizes the Federal Government to help States and local public bodies improve their mass transportation services.

"(a) The Secretary is authorized, in accordance with the provisions of this chapter and on such terms and conditions as he may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust

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certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in urban areas and in coordinating such service with highway and other transportation in such areas.

Eligible facilities and equipment may include land (but not public highways), buses and other rolling stock, and other real and personal property needed for an efficient and coordinated mass transportation system. No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have--

- (1) the legal, financial, and technical capacity to carry out the proposed project; and
- (2) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and equipment." (Underscoring supplied.)

In addition, the act directs that the environmental impact of a proposed urban mass transportation project be considered before any grant is made. The national policy underlying this requirement is expressed in 49 U.S.C. 1610(a).

"It is hereby declared to be the national policy that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets, in the planning, designing, and construction of urban mass transportation projects for which Federal assistance is provided pursuant to section 1602 of this title."

Long Beach and UMTA entered into a contract, dated March 3, 1972, under which UMTA was to provide two-thirds (\$2,114,175) of the costs (\$3,171,263) for Long Beach's proposed urban mass transportation capital improvement project. Although this initial contract was later modified by agreement dated April 24, 1973, the Federal share of the project remained unchanged. The items included in the project were:

"a. construction of maintenance facilities, including equipment, furnishing and 5 1/2 acres land;

"b. purchase of:

1. 5 45-passenger buses
2. 3 17-24 passenger electric buses
3. 2 supervisor automobiles
4. radio equipment for 12 buses
5. 6 passenger shelters
6. 1,000 passenger benches
7. 500 target and destination signs" (Underscoring supplied.)

When Long Beach applied for the grant, it included, as part of its application for financial assistance, a justification for the proposed acquisition of bus stop benches.

"The City of Long Beach now has advertising benches at its bus stops. Most of them are old and are owned by companies that place the benches by permit at the bus stops, paying a small fee for the privilege. The bench companies sell advertising which is placed on the back of the benches as small billboards. Principal advertisers have been mortuaries, appliance stores, etc. There has been an increasing amount of concern from the public to eliminate the advertising benches for aesthetic reasons, as the public has become more sensitive about the environment. City officials have, upon several occasions, considered replacing the advertising benches with durable aesthetically pleasing benches, but the lack of funds has prevented a replacement program. Benches used at bus stops must be constructed to be relatively vandal-proof and easily maintained. Replacing the present advertising benches with well-designed benches will make a major contribution toward improving the aesthetic environment of the City." (Underscoring supplied.)

As the act required, notice was given of the proposed grant, and a public hearing was held on August 9, 1971. The transcript of that hearing discusses that part of the grant application relative to the bus stop benches. The main points developed in the discussion were that (1) revenues the city received from advertising on the benches declined in recent years, (2) the advertising on the benches was aesthetically displeasing,

(3) replacement of the advertising benches had long been considered but had been financially infeasible, (4) the benches could not be replaced without Federal help, and (5) the new benches would be esthetically pleasing, vandalproof, and maintenance free.

The Long Beach Public Transportation Company is an instrumentality of the city of Long Beach, and Long Beach is its sole stockholder. Under the act, financial assistance may be provided to "local public bodies and agencies thereof * * *." As defined in the act, the term "local public bodies" includes "public agencies and instrumentalities of * * * political subdivisions of States; and public corporations * * * established under the laws of any State * * *." Thus the company, a public corporation, properly can receive a UMTA grant.

The act also specifies the types of urban mass transportation activities and procurements for which Federal financial assistance is available. Section 1602(a) of title 49 of the United States Code states, in part, that:

"Eligible facilities and equipment may include * * * buses and other rolling stock, and other real and personal property needed for an efficient and coordinated mass transportation system."
(Underscoring supplied.)

Bus stop benches may reasonably be considered to be "personal property needed for an efficient and coordinated mass transportation system," since facilities necessary to the comfort and convenience of mass transportation users may be considered an integral part of an urban mass transportation system. Therefore the act is broad enough to permit UMTA to subsidize bus stop benches.

The act also stated (49 U.S.C. 1603(a)) that:

"(a) * * * no Federal financial assistance shall be provided pursuant to subsection (a) of section 1602 of this title unless the Secretary [the Administrator, UMTA] determines that the facilities and equipment for which the assistance is sought are needed for carrying out a program, meeting criteria established by him, for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area and are necessary for the sound, economic, and desirable development of such area."

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This condition precedent to Federal financial assistance seems to imply that the Administrator may determine that certain facilities and equipment are not needed. Thus the Administrator may determine that all or only part of the facilities and equipment included in an application are needed. He would then authorize the grant or loan according to his determination.

We think that the Administrator of UMTA has authority to disapprove Federal financial assistance under the act for those facilities and equipment included in an application that he determines are not needed to carry out a particular urban mass transportation program.

Section 1 of Public Law 91-453, the Urban Mass Transportation Assistance Act of 1970 (49 U.S.C. 1601a), states, in part:

"It is the purpose of this Act to create a partnership which permits the local community, through Federal financial assistance, to exercise the initiative necessary to satisfy its urban transportation requirements." (Underscoring supplied.)

The record shows that Long Beach determined a need to upgrade both the quality and esthetics of its bus stop benches for use in its urban mass transportation system. UMTA's approval of buying these benches was consistent with the philosophy underlying the act--that the Federal Government provide necessary financial support to improve local mass transportation systems when the proposed improvements are the result of local planning and decisionmaking. Also, the act directs that the environmental impact (which includes esthetics) of a proposed mass transportation system be considered.

In approving the bus stop benches, UMTA acted in harmony with the legislative intent of the act by considering the esthetics of, and local initiative and decisionmaking concerning, urban mass transportation needs. Accordingly, we think it was proper for the Administrator to have approved Federal financial assistance to help Long Beach buy new bus stop benches.

Sincerely yours,



Deputy Comptroller General
of the United States