The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Authority of the Legal Services Corporation to Engage Outside Counsel to Lobby Congress

File: B-231210

Date: June 4, 1990

DIGEST

Upon reconsideration, we reaffirm our decision B-231210, June 7, 1988, that construed 42 U.S.C. § 2996e(c)(2) (1982) as prohibiting the Legal Services Corporation (LSC) from engaging outside counsel to lobby the Congress to pass legislation of interest to LSC.

DECISION

The Legal Services Corporation (LSC) has asked us to reconsider our decision B-231210, June 7, 1988. That decision held that section 1006(c)(2) of the Legal Services Corporation Act, 42 U.S.C. § 2996e(c)(2) (1982), prohibits the Corporation from retaining private law firms to influence the Congress to reduce LSC's appropriations. LSC, however, has presented no new arguments for our consideration, and we see no reason to disturb our decision.

In the spring of 1988, LSC retained three private law firms for the purpose of influencing the Congress concerning its appropriations for fiscal year 1989. Two of these firms provided advice to LSC regarding legislative and appropriation measures pending before the Congress. Representatives of the third firm immediately registered as lobbyists with the Secretary of the Senate and the Clerk of the House of Representatives under the provisions of 2 U.S.C. § 267 (1982), governing the registration of lobbyists, and began to initiate communications with members of Congress and their staffs on behalf of LSC with regard to LSC's appropriations.

As a general matter, section 1006(c)(2) prohibits LSC from attempting to influence legislation and appropriations under consideration by the Congress. It does provide, however, that "personnel of the Corporation may testify or make other appropriate communication" when formally requested to do so by the Congress, its members and committees, or on its own

initiative concerning legislation or appropriations directly affecting LSC activities.

The issue addressed in our June 1988 decision was whether the law's exception for "personnel of the Corporation" encompasses the private law firms engaged by LSC to present and defend its budget proposal before the Congress. We concluded that it did not. We interpreted the phrase, consistent with the common usage of the word "personnel," to include only members of the LSC's Board of Directors, its officers and employees. We found no indication that the law included hired agents within the scope of the exception. To the contrary, we concluded that to interpret the phrase "personnel of the corporation" to include hired agents would render meaningless distinctions drawn by the Congress in the Act between "personnel" and "officers, agents, and employees."

LSC contends now, as it did in 1988, that we should construe the phrase "personnel of the Corporation" to include agents of the Corporation. However, in its request that we reconsider our 1988 decision, LSC restates arguments submitted to us in connection with that decision, and which we addressed adequately during the course of our deliberations. Accordingly, it has provided no basis to overrule or modify the holding of our 1988 decision.

Apart from LSC's disagreement with our construction of "personnel of the Corporation," LSC argues that our decision "in dicta, seems to narrow the type of testimony or communication that [LSC personnel] can make to Congress." LSC reads our decision as implying that consistent with section 1006(c)(2), LSC personnel can provide neutral comments to Congress on matters of mutual interest, but not attempt to influence Congress.

As LSC suggests, such an interpretation is not sustainable. We think it clear that LSC personnel can present LSC's position pro or con on appropriation requests or other legislation directly affecting the Corporation's activities as well as in response to requests from Congress. Any implication that such a presentation of LSC's position is inappropriate communication is not supported by the language and structure of the lobbying restriction or by our prior decisions. Interpreting the antilobbying provision of section 1006(c)(2) in 1981, we said: "Congress did not intend the statutory provision against lobbying to preclude [LSC] personnel . . . from providing to the Congress the kind of data that Executive agencies and Departments normally supply when requested to do so or when they desire to express their views on legislative proposals" affecting

their policies and activities. 60 Comp. Gen. 423, 428-29 (1981).

Milton J. Socolar

Acting Comptroller General
of the United States