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DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

Addressee - Letter Written by Community Services Administration Recipient

FILE: B-202787

DATE: MAY 1 1981

MATTER OF: Alleged grass roots lobbying by a CSA recipient

- DIGEST:
1. A letter written by a Community Services Administration (CSA) recipient to members of the public requesting they contact their congressional delegation and urge support for CSA constitutes grass roots lobbying and if paid for with Federal funds is a violation of applicable appropriation restrictions.
 2. Community Services Administration (CSA) promulgated an Interpretative Ruling and Waiver of Special Conditions in the Federal Register which exempted its recipients from the lobbying restrictions on CSA appropriations in Section 407 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act. We recommended that CSA rescind the ruling and waiver and promulgate a new ruling, making it clear that section 407 is applicable to its recipients.

The Honorable Vin Weber, House of Representatives, has provided us with a copy of a letter prepared by Region 5E, Community Action Staff, Community Action Agency, Willmar, Minnesota, a Federal fund recipient of the Community Services Administration (CSA). Mr. Weber states that this recipient made a mass mailing of the letter to members of the public in Minnesota. The letter indicates that the Reagan Administration is attempting to eliminate the CSA which would result in the crippling or death of program recipients, such as the originator of the letter, all across the nation. Readers are requested to write to their Congressmen and urge support for CSA in order to prevent its abolition.

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If Federal funds were used in the preparation or carrying out of the mass mailing, it constituted an illegal expenditure for what amounts to "grass roots" lobbying by the recipient. We define "grass roots" lobbying as an indirect attempt to influence pending legislation by urging members of the public to contact legislators to express support of, or opposition to the legislation or to request them to vote in a particular manner. 56 Comp. Gen. 889 (1977). 59 Comp. Gen. 115 (1979).

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There are two separate restrictions applicable to CSA appropriations that prohibit the use of Federal funds for lobbying activities. The law continuing appropriations for fiscal year 1981, Pub. L. 96-536, December 16, 1980, 94 Stat. 3166, provides appropriations for CSA and incorporates by reference section 407 of H.R. 4389, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations 1981, that passed the House of Representatives on August 2, 1980, but was not enacted into law. Section 407 is a lobbying restriction and provides as follows: ID

"No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress."

The first sentence in this restriction prohibits Federal agencies, Departments and Corporations from expending appropriated funds for publicity and propaganda aimed at the public and designed to support or defeat legislation pending before the Congress. However, Federal funds may be used by agencies and Departments for direct presentation of their views to the Congress on legislation that affects their activities and policies. The second sentence of this restriction prohibits grant or contract recipients from using Federal funds for salaries or expenses of employees or agents while they are engaging in any activity designed to influence legislation or appropriations pending before the Congress.

We have concluded that section 407 is applicable to CSA and its recipients, notwithstanding an Interpretative Ruling and Waiver of Special Conditions that CSA promulgated in 46 Fed. Reg. 4919, January 19, 1981, that purported to exempt CSA recipients from the effects of that section. Indeed, we find no evidence in the legislative history or in the restriction itself that Congress intended to exempt CSA from its coverage. Section 407 precludes the use of Federal funds by CSA and its recipients, which are funded from the appropriation Act of which the section is a part, for lobbying of the type exemplified by the letter described above.

In addition, the law continuing appropriations for fiscal year 1981, Pub. L. 96-536, supra, also incorporated by reference section 607(a) of the Treasury, Postal Service, and General Government Appropriations Act of 1981. Section 607(a) provides:

"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." (Emphasis added.)

The prohibition of 607(a) applies to the use of any appropriation "contained in this or any other Act." Thus, it is applicable to the use of appropriated funds by CSA. We have held that the prohibition in 607(a) applies primarily to expenditures involving "grass roots" lobbying, defined before.

The above described letter is a good example of the type of activities that section 607(a) was designed to preclude, if paid for in whole or in part with Federal funds.

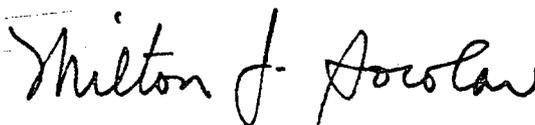
Accordingly, CSA should investigate this mass mailing of lobbying material and determine if any Federal funds were utilized either directly, for such items as postage, stationary or employee salaries, or indirectly, for such items as office machinery use, utilities, etc. If the recipient claims that Federal funds were not utilized, CSA should provide us with copies of accounting records that conclusively demonstrate that all costs associated with the mailing, including overhead, were paid from non-Federal funds. If Federal funds were utilized, CSA should take action to recover such illegal expenditures.

In view of widespread reports of lobbying activities by recipients, we recommend that CSA take immediate action to advise its recipients that appropriated funds may not be used for grass roots lobbying activities nor to pay the salary or expenses of recipient employees or agents while engaging in direct lobbying activities.

Finally, we recommend that the Interpretative Ruling and Waiver of Special Conditions promulgated by CSA in 46 Fed. Reg. 4919 be rescinded and a new ruling promulgated making it clear that the restriction set forth in section 407 is applicable to CSA recipients.

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Section 236 of the Legislative Reorganization Act of 1970 (31 U.S.C. § 1176) requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the House Committee on Government Operations and Senate Committee on Government Affairs not later than 60 days after the date of our decision and the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of our decision. CSA should also inform this Office and the Honorable Vin Weber, House of Representatives, of the action taken on the above recommendations.

A handwritten signature in cursive script that reads "Milton J. Rowland".

Acting Comptroller General
of the United States