



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

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August 10, 1977

The Honorable Jesse Helms
United States Senate

Dear Senator Helms:

This is in response to your letter of July 21, 1977, requesting that the General Accounting Office (GAO) undertake an audit of the National Commission on the Observance of International Women's Year (IWY) to determine if it has complied with relevant Federal laws. You were particularly concerned with allegations that the Commission has violated the anti-lobbying provisions of Pub. L. No. 94-167, approved December 23, 1975, and Pub. L. No. 94-303, approved June 1, 1976, as well as the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I (1975, Supp. V)).

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The GAO has already conducted an extensive investigation of the use and expenditure of Federal funds for and by the National Commission last year in response to an inquiry from Representative Olin E. Teague and several other Congressmen. A copy of our January 13, 1977, report to Mr. Teague, which concluded that the activities of the IWY Commission did not violate the anti-lobbying provisions of any Federal statute, is enclosed. We explained that the term "lobbying" and the advocacy of a particular point of view are not necessarily synonymous, and that in our view, "lobbying" means "direct communication to a member or members of a legislative body, State and Federal, to influence the vote on legislation pending before or proposed to that body or the vote on the ratification of constitutional amendments."

We believe that many people who oppose ratification of the Equal Rights Amendment (ERA) believe--or have been led to believe--that Federal law prohibits a Federal agency, such as the IWY, from adopting an advocacy position on this issue. Thus they protest the composition of the Conference as not comprising a balance of points of view. However, we must point out that section 3(a) of Pub. L. No. 94-167 only requires a mix of representatives from local, State, regional, and national agencies, groups, etc. "which work to advance the rights of women," and of members of the public "with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages." Nowhere in any applicable statute is there a requirement that the Conference members must represent different points of view on ratification of the ERA.

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5 USC App. (Supp. II, 1972)
 While it is true, as you point out, that section 5b(2) of the Federal Advisory Committee Act of 1972, supra requires that the membership of an advisory committee must represent a fair balance of points of view, the IWY is not an "advisory committee" within the meaning of that Act. Section 3 of the Act defines an "advisory committee" as--

5 USC App. (Supp. II, 1972)
 "* * * any Commission * * * which is * * *

"(b) established or utilized by the President * * * in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government * * *."

Neither Executive Order No. 11832 (Jan. 9, 1975), which created the Commission, nor Pub. L. No. 94-167, supra, which continued and authorized Federal funding for the Commission, specified any advisory responsibilities for the Commission to assist the President or any other Federal officers or agencies. On the contrary, section 2 of the Executive Order indicates that the Commission's role is to promote actively the national observance of IWY in the United States and to encourage appropriate and relevant cooperative activity in the field of women's rights and responsibilities. In fact, subsection (e) specifically provides that the Commission is to be advised by governmental agencies and "their public advisory committees."

Those sections of Pub. L. No. 94-167 which refer to advisory committees also indicate that Congress intended to give the Commission power to utilize advisory committees but did not require it to provide any advice to the President or Federal governmental agencies except for the submission of a final report to the President, Congress and the general public with its findings and recommendations at the conclusion of the Conference. Section 2(b), which does not refer to governmental agencies, requires the Commission to-- E.O. 11832

"* * * consult with such National, State, and other organizations concerned with women's rights and related matters as the Commission considers necessary to carry out the purpose of the Act."

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 Section 4(7) gives the Commission the power to establish advisory and technical committees but these are "to assist and advise the conference" and not other agencies or offices of the Federal Government.

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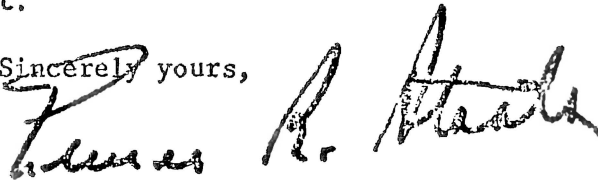
We have also been informally advised by the Office of General Counsel, Office of Management and Budget (OMB) (which is the agency charged with the responsibility of administering the Federal Advisory Committee Act), that OMB does not consider the Commission to be an advisory committee within the meaning of the Act because of the Commission's "operational" function.

In our view, the Commission has been specifically directed to play an active role in encouraging and promoting "women's rights," as it sees them, and there is nothing inconsistent with its advocacy position as long as it refrains from engaging in direct lobbying activities, as described on page 2 of our enclosed letter to Mr. Teague, with federally appropriated funds. Although one may disagree with the IWY view of what activity is appropriate for active promotion, it cannot be said that active espousal of the ERA cause at the State meetings is illegal.

In view of the above, of our limited manpower resources, and of the time already devoted to investigating these matters, we do not feel we can comply with your request that we undertake another audit of the IWY activities.

We hope this discussion has been of some assistance to you in preparing a reply for your constituent.

Sincerely yours,



Comptroller General
of the United States

Enclosure