

# REPORT TO THE CONGRESS



BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES

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## Is The Administrative Flexibility Originally Provided To The U.S. Railway Association Still Needed?

GAO was asked to look at the manner in which the U.S. Railway Association exercised its discretion in making certain administrative expenditures.

GAO compared the Association's administrative policies and practices with four similar corporations established under Federal law. The other corporations' policies and practices are largely the same as the Association's and, as far as GAO can tell, they are all operating within their legal boundaries.

The Association no longer operates under the tight time constraints that existed in its original mandate and no longer must employ staff for a specific short-term project with a known termination. The flexibility originally provided the Association may no longer be needed and should be reexamined by the Congress.



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

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To the President of the Senate and the  
Speaker of the House of Representatives

This report describes the administrative policies and practices of the United States Railway Association and compares the Association's policies and practices with those of other similar corporations established under Federal law.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Acting Director, Office of Management and Budget; the Secretary of Transportation; the Secretary of the Treasury; and the Acting Chairman, Board of Directors, United States Railway Association.

A handwritten signature in dark ink, reading "Luther B. Stacks", is positioned above the title of the signatory.

Comptroller General  
of the United States

COMPTROLLER GENERAL'S  
REPORT TO THE CONGRESS

IS THE ADMINISTRATIVE  
FLEXIBILITY ORIGINALLY  
PROVIDED TO THE U.S. RAIL-  
WAY ASSOCIATION STILL NEEDED?

D I G E S T

This report examines certain questions concerning the U.S. Railway Association's use of the administrative flexibility it was given in its enabling legislation. The Association was created under the Regional Rail Reorganization Act of 1973 to develop and carry out a plan to reorganize bankrupt railroads in the Midwest and Northeast.

The Association is defined as a "mixed-ownership" Government corporation, and has broad discretion in the use of its administrative expense appropriations. For example, Association employees are not employees of the Federal Government, and statutes and regulations governing Government employees, for the most part, do not apply. (See p. 7.)

The grant of broad discretion to the Association is not unique. Similar flexibility has been given to a number of other corporations established under Federal law. In reviewing the Association's use of appropriated funds, GAO recognized that many statutes and practices required or appropriate for traditional departments and agencies did not necessarily apply. A Board of Directors made up of 3 ex officio Government members: the Secretaries of Transportation and the Treasury and the Chairman of the Interstate Commerce Commission; and 8 other members including a Chairman appointed from the private sector, oversees the Association's policies and operations. (See p. 2.)

In May 1976, the Under Secretary of the Treasury, who represented the Secretary of the Treasury on the Board, directed the Treasury Department Office of Audit to undertake a review of some of the Association's administrative practices. Their report, which questioned many of the Association's practices, was made public on July 20, 1976. Following its release, several committees and members of the Congress asked GAO to examine the Treasury audit and the Associa-

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tion's administrative activities, and report its findings to the Congress. (See p. 1.) This report is responsive to those requests.

As part of this review, GAO compared the Association's administrative policies and practices with four similar corporations: Amtrak (the National Railroad Passenger Corporation), Conrail (Consolidated Rail Corporation), the Corporation for Public Broadcasting, and the Legal Services Corporation. These corporations' policies and practices are largely the same as the Association's and, as far as GAO can tell, all are operating within their legal boundaries. (See p. 33.)

The Association has revised many of the policies and practices discussed in the Treasury audit report. For example,

- policies for controlling and accounting for reception and representation were strengthened and expenditures were reduced. (See p. 12.)
- consulting contracts with former officers are now on a daily-rate basis for time actually worked. (See p. 13.)
- the Association no longer pays for parking or traffic fines incurred by its employees. (See p. 16.)
- the Board has taken a more active role in reviewing and approving administrative policies. (See p. 17.)

The Association sent its Final System Plan for consolidating bankrupt railroads in the Midwest and Northeast to Congress on July 26, 1975. The Association's role now is to control Conrail's financing, keep an eye on its operations, and participate in litigation related to reorganizing bankrupt railroads. It no longer operates under the tight time constraints that existed in its original mandate and no longer must employ staff for a specific short-term project with a known termination. Therefore, the flexibility originally provided the Association may no longer be needed. (See p. 34.)

## CONCLUSIONS AND RECOMMENDATIONS

In recent reports, GAO has made a number of recommendations to the Chairman of the Board to strengthen internal controls over administrative expenses and, as noted above, the Association has taken a number of actions to eliminate or limit certain practices it previously followed.

While the Association has strengthened its internal controls over certain administrative expenses, the broader problem of controlling the overall administrative flexibility remains an open question. The issue, as GAO sees it, is whether the Association's operational requirements at this time still warrant the broad flexibility which was granted initially.

GAO recommends that the Congress reconsider the Association's enabling legislation to decide whether the administrative flexibility originally granted is still required, and whether limitations on expenditures for certain kinds of administrative activities should be established as a part of the Association's basic statute or in appropriation acts. (See p. 35.)

## AGENCY COMMENTS

The Association disagreed with the GAO recommendation and stated its belief that the Association should have the flexibility associated with its status as an independent Government corporation. (See app. II.) It stated this flexibility is essential to the completion of its mission.

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### ABBREVIATIONS

Amtrak	National Railroad Passenger Corporation
Conrail	Consolidated Rail Corporation
CPB	Corporation for Public Broadcasting
GAO	General Accounting Office
LSC	Legal Services Corporation
3R Act	Regional Rail Reorganization Act of 1973
USRA	United States Railway Association



## CHAPTER 1

### INTRODUCTION

On July 20, 1976, the Treasury Department's Office of Audit issued a report on the United States Railway Association's (USRA's) administrative policies and practices at the request of the Under Secretary of the Treasury, who was then representing the Secretary of the Treasury on USRA's Board of Directors. The Under Secretary asked for the review after a cursory examination of USRA's travel and expense records by his assistant identified what the Under Secretary considered to be questionable expenditures. We received inquiries relating to various issues raised in the Treasury audit report from the

Chairman, USRA Board of Directors;

Chairman, Senate Committee on Commerce;

Chairman, Senate Subcommittee on Surface Transportation,  
Committee on Commerce;

Chairman, Senate Subcommittee on Transportation, Com-  
mittee on Appropriations;

Chairman, House Subcommittee on Government Activities  
and Transportation, Committee on Government Operations;  
and

Congressman Lester Wolff.

We agreed to respond jointly to these inquiries by re-  
viewing

1. the legislation under which the Association operates, including the Government Corporation Control Act, to determine the legal boundaries, apparent congressional intent, and other factors that bear on how the Association operates;
2. the audit made by the Department of the Treasury to determine whether the findings were adequately supported and whether coverage of additional time periods or types of expenditures would be appropriate;
3. the Association's policies and practices for comparison with other Government organizations, particularly any other mixed-ownership Government corporations; and

4. the questions that have been raised as to legality, accounting, and authorization for the Association's expenditures.

The matters in item 4 were initially addressed in our report entitled "Examination of the United States Railway Association's Financial Statements and Other Matters Concerning its Operations," CED-77-64, July 8, 1977.

The United States Railway Association (USRA) is a non-profit, mixed-ownership Government corporation created by the Regional Rail Reorganization Act of 1973 (Public Law 93-236) and incorporated on February 1, 1974, in the District of Columbia. USRA was created to develop and implement a plan to reorganize bankrupt railroads in the Midwest and Northeast region. On July 26, 1975, USRA sent to the Congress its Final System Plan for reorganizing the bankrupt railroads. USRA's plan provided for operation and modernization of all or parts of the bankrupt railroads under a for-profit corporation, the Consolidated Rail Corporation (Conrail).

USRA's principal role now is to (1) control the flow of Government investment and loan funds to Conrail, (2) monitor Conrail's performance, and (3) participate in litigation relating to the allocation of Conrail securities among the bankrupt railroads and to the fairness and equity of the compensation provided them for the property which was transferred under the Final System Plan.

USRA is managed by an 11-member board of directors consisting of 3 ex officio Government members and 8 other members, including a chairman appointed from the private sector. The ex officio Government members are the Secretaries of Transportation and the Treasury and the Chairman of the Interstate Commerce Commission. The non-Government members are appointed by the President and confirmed by the Senate. The original non-Government members serve from 2- to 6-year terms and their successors serve 6-year terms.

USRA operations are financed entirely from appropriated funds. Appropriations provided since its inception through fiscal year 1978 for administrative expenses totaled \$74.3 million. USRA was also appropriated an additional \$2.026 billion for the purchase of Conrail securities over a 4-year period.

## CHAPTER 2

### CORPORATIONS UNDER FEDERAL LAW

There are three general classes of corporations established under Federal law: (1) Government corporations subject to the Government Corporation Control Act, (2) Government corporations not subject to the act, and (3) non-Government corporations and other entities established under Federal law with a degree of Government control or support. (These are usually referred to as Government-sponsored enterprises.) As the chart on the next page shows, there are many variations within these general classes. Each corporation's authorizing legislation determines the extent of administrative flexibility to be applied.

#### GOVERNMENT CORPORATION CONTROL ACT

The Government Corporation Control Act (31 U.S.C. 841) is designed to bring the transactions and operations of some Government corporations under annual congressional oversight. The act categorizes Government corporations as either "wholly owned" or "mixed ownership." Wholly owned corporations are required to prepare and submit annual budgets to the Congress. Both types are subject to periodic audits of financial transactions by the General Accounting Office (GAO).

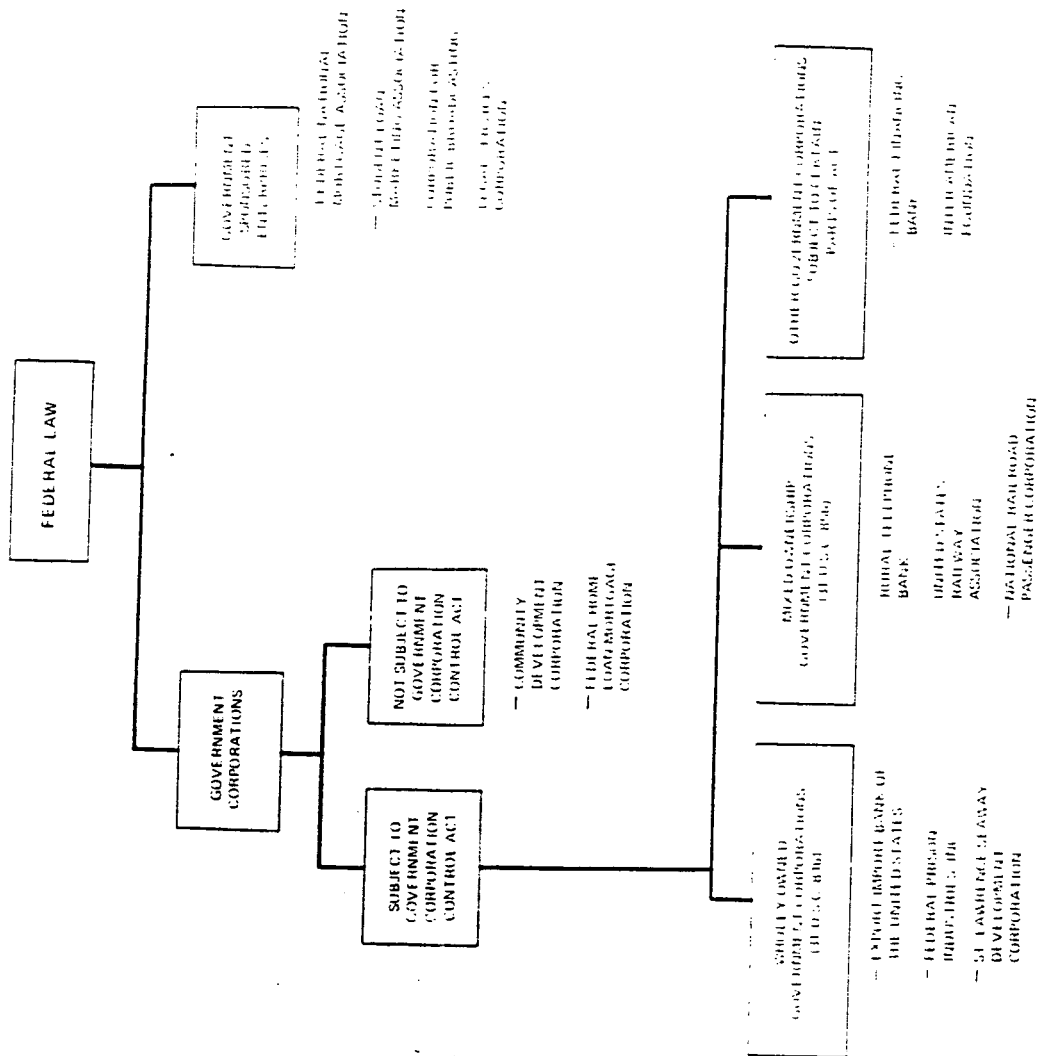
The act was designed primarily as a control device in recognition of the growth of Government corporations since enactment of the Budget and Accounting Act of 1921. The House Committee on Expenditures in the Executive Departments, in its report on H.R. 3660, which became the Government Corporation Control Act, stated the purpose of the bill as follows:

"The power of the purse is one of the most important powers reserved to the Congress in the Constitution. In the case of many Government corporations the Congress has not adequately exercised its power to control public expenditures. This bill is designed to bring Government corporations and their transactions and operations under annual scrutiny by the Congress and provide current financial control thereof through the regular fiscal agencies of the Government." H.R. Rep. No. 856, 79th Cong., 1st sess. 4 (1945).

In House debate on the bill, Representative Whittington, one of the bill's sponsors, stated:

"Congress owes it to the taxpayers to safeguard the public funds invested in Government

# EXAMPLES OF CORPORATIONS AUTHORIZED UNDER FEDERAL LAW



corporations. Control and examination are essential to protect the integrity of the corporations. Efficient Government corporations should welcome examination and inefficient corporations should be subjected to audit and scrutiny. The bill will not destroy corporations, but it will enable the Congress, as the stockholders of the people, to follow up, examine, scrutinize, and protect the investments of the taxpayers. The bill is the most forward step toward promoting the sound financial structure of the Government that could be taken by the Congress. It marks an advance in the right direction that has been too long delayed. It provides for coordination and for control by providing budgets and audits that are sound and in the public interest." 91 Cong. Rec. 8553-54 (1945).

Thus, in enacting the Government Corporation Control Act, the Congress certainly recognized the additional freedom of a Government corporation as contrasted with traditional departments and agencies, but did not lose sight of the fact that the corporations were operating largely with appropriated funds. In our view, the Government Corporation Control Act was intended neither to enhance nor diminish the authority of any given corporation with respect to administrative flexibility, as set forth in its enabling legislation.

Wholly owned Government corporations are generally subject to many of the same restrictions that apply to traditional departments and agencies, such as Federal personnel travel, procurement, and property management policies. However, in some cases, their enabling legislation specifically allows them to establish or follow other policies. For example:

- The Overseas Private Investment Corporation was given authority to negotiate its own leases and to hire directly certain administrative employees.
- The Panama Canal Company has the authority to appoint and fix the compensation of its officers and employees at a rate not in excess of grade 18 of the Civil Service General Schedule. Compensation may be made in excess of this rate with approval of the Company's Board of Directors.

Mixed corporations are generally not subject to these restrictions.

#### OTHER CONTROLS

Although some Government corporations and Government-sponsored enterprises are not subject to the Government

Corporation Control Act, the Federal Government does maintain a degree of control over most of these corporations through one or more of the following devices: (1) restrictions applied through the corporation's use of appropriated funds, (2) appointment or approval of members of the corporation's board of directors, (3) pay ceilings for corporate officers and employees, and (4) GAO audit authority.

Following are specific examples illustrating Federal controls applied to corporations.

- Legal Services Corporation employees are considered Federal Government employees for the purpose of compensation for work injuries, civil service retirement, and life and health insurance.
- Members of the Corporation for Public Broadcasting's Board of Directors, although not considered Federal employees, are authorized travel expenses only to the extent authorized by law for intermittent Federal employees.
- A provision in the Corporation for Public Broadcasting's fiscal year 1977 appropriation states that no Federal funds are to be used to pay for receptions, parties, or other entertainment of Government officials or employees.

#### STANDARDS APPLIED TO USRA

As previously indicated, there are no generally applicable administration and operation standards for Government corporations. Therefore, it is necessary to look to each corporation's authorizing legislation to determine the standards that should be applied. USRA was created by the Regional Rail Reorganization Act of 1973 (3R Act) and charged with planning the reorganization of the bankrupt railroads in the midwestern and northeastern United States.

There is little legislative history to illuminate the scope of USRA's administrative flexibility. The House bill would have established a Federal National Railway Association. The Senate bill proposed a Government National Railway Association. Under the Senate bill, the receipts and disbursements of the Association would have been wholly excluded from the Government's budget totals. Section 202 (a)(9) of the Senate bill (S. 2767, 93d Cong.), as reported

by the Senate Committee on Commerce, would have empowered the Association to

"\* \* \* enter into contracts, execute instruments, incur liabilities, and do all things necessary, appropriate, or incidental to the proper management of its affairs and the prudent exercise of its responsibilities, including protecting the interests of the United States." S. Rept. 93-601, 93d Cong., 1st sess. 61 (1973).

The conference bill, which became Public Law 93-236, essentially followed the Senate version, with certain changes. The Association's name was changed to United States Railway Association (201(a)). The budget exemption was retained except that administrative expenses were required to be included in the budget (202(f)). Section 202(a)(9) of the Senate bill was deleted and replaced with section 202(a)(10). The conference committee's explanation was brief:

"The general power to execute contracts and do all things necessary to the management of Association affairs is not included. The substitute inserts in lieu thereof a provision permitting it to enter into contracts and other transactions necessary to the conduct of its functions and duties without regard to section 3709 of the Revised Statutes (i.e., competitive bidding)."

Pursuant to section 202(g)(1) of the 3R Act, USRA was established as a "mixed-ownership Government corporation" for purposes of the Government Corporation Control Act.

By virtue of its authorizing legislation, USRA has broad discretion in the use of its administrative expense appropriations. Also, since by statute USRA employees are not employees of the Federal Government, statutes and regulations governing Federal employees are for the most part not applicable. Thus, it would be clearly unwarranted to view USRA's flexibility solely in terms of what is proper for traditional departments and agencies.

However, it would be equally unwarranted to view this discretion as unlimited; it implies choice within a range. Thus, there may be a point beyond which expenditures from appropriated funds are improper. Limits on USRA's flexibility are of two types:

(1) Statutory restrictions applicable to mixed-ownership corporations. It is not necessary that such restrictions be expressly applicable to USRA or to mixed-ownership corporations generally. An example of such a restriction is the provision in some appropriation acts prohibiting the use of appropriated funds or funds made available for expenditure by corporations for "publicity or propaganda purposes" designed to support or defeat legislation pending before the Congress.

(2) Limitations found in USRA's enacting legislation, the 3R Act, section 201(c) of which incorporates consistent provisions of the District of Columbia Non-profit Corporation Act, Public Law 87-569, 29 D.C. Code 1001 et seq. Examples of limitations in the 3R Act are:

(a) Section 202(a)(5), which sets level 1 of the executive schedule as the compensation ceiling for USRA officers.

(b) Section 202(g)(2), which gives USRA "maximum feasible and prudent budgetary flexibility" with respect to its administrative expenditures.

Section 202(g)(2) is in part a grant of authority, but by incorporating the concept of the prudent use of appropriated funds--in the context of USRA's mission and responsibilities--it is also a limitation, albeit a difficult one to articulate with precision. That is, an activity may be "feasible" from the corporate standpoint but exceed the bounds of prudence if funded not from corporate profits but from appropriated funds. Broad though this may be, it is significant that the conference committee rejected the language of the Senate bill, which we perceive as somewhat broader. ("Do all things necessary, appropriate, or incidental to the proper management of its affairs and the prudent exercise of its responsibilities.")

In sum, it is clear that the Congress gave USRA considerable flexibility in the use of its appropriations to accomplish its mission.



### CHAPTER 3

#### REVIEW OF TREASURY DEPARTMENT'S AUDIT REPORT

##### ON USRA ADMINISTRATIVE ACTIVITIES

##### TREASURY AUDIT REPORT HAD ADEQUATE BASIS FOR CONCLUSIONS AND RECOMMENDATIONS

We reviewed the Treasury Department's audit to determine whether the findings were adequately supported and whether coverage of additional time periods or types of expenditures would be appropriate. We believe:

- The findings in the report based on the audit of USRA financial records are adequately documented and supported.
- References to Federal regulations applicable to other agencies or business entities are adequately documented and supported.

We noted that the Treasury auditors gave USRA an opportunity to comment on the report, made some changes to the report based on USRA comments, and included USRA's position on certain areas in the report. The report, in the statement of its scope, pointed out that it was limited to several areas of administrative policies and procedures and that the review was initiated after a cursory examination disclosed what were considered to be questionable expenditures.

On the basis of these factors, we believe that the final Treasury audit report adequately defined its purpose and that USRA's position on various aspects of the report was adequately considered and presented.

##### Selection of audit areas

The areas selected for examination by the Treasury auditors followed closely the areas identified in the earlier cursory examination conducted by the Treasury Under Secretary's staff. Among the areas selected were relocation, representation, and travel expenses; severance pay; and membership in private clubs.

Treasury's final audit report stated that its review was limited to (1) examining USRA's internal compliance with its administrative policies and procedures and (2) comparing USRA policies with Federal regulations and other criteria of good business practice. We found that the audit work was carried out along the basic lines of the audit work steps and that

the statement in the report was an accurate description of the scope. The "criteria of good business practice" referred to generally were related to business procedures required for income tax purposes. As pointed out on page 31, however, we feel that these criteria do not necessarily apply to USRA.

#### Selection of time period

The audit did not focus on one specific time period because of the way the financial records were maintained for the administrative areas being examined. We found no indication that Treasury selected time periods which would have made the report findings unbalanced or biased.

#### USRA comments on final Treasury audit report

The final Treasury audit report incorporated USRA comments and corrections suggested after its review of the preliminary report. USRA also completed an analysis of the final report and identified 43 points where it had some comment or disagreement with the final Treasury report. We examined the 43 points listed by USRA and found them primarily to be

- disagreements arising from comparing USRA policies and practices with those applying to Government agencies,
- disagreements with Treasury's interpretations or conclusions based on audit findings,
- points where USRA has or is planning to take action to change policies and practices,
- points where USRA provided additional information or clarification, and
- points where USRA does not dispute audit findings but feels justified in its actions.

There were only two points where USRA disagreed with facts or figures in Treasury's audit report.

- (1) USRA disagreed with the \$35,000 representation figure shown as spent in the first 9 months of fiscal year 1976. USRA claimed that after it analyzed the changes, the correct figure should have been \$30,744 for the first 10 months of fiscal year 1976.

- (2) USRA also disagreed with a computation made by Treasury on relocation allowances for the former USRA General Counsel. Treasury's computations of the maximum relocation allowances permitted under USRA policy resulted in what Treasury felt was an \$800 overpayment to the former General Counsel.

#### Cost of Treasury audit

According to the Director of Treasury's Office of Audit, the total cost to Treasury for the USRA audit was \$12,994. The bulk of this cost was composed of the direct time of three auditors as follows.

	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Direct time:			
Audit Manager	\$13.34	304	\$ 4,055
Senior Auditors(2)	11.66	440	<u>5,130</u>
			<u>9,185</u>
Indirect time:			
Director	18.17	90	1,635
Staff	16.06	112	<u>1,799</u>
			<u>3,434</u>
Other costs:			
Typing			300
Reproduction			<u>75</u>
Total			<u>\$12,994</u>

A total of 118 staff days were spent completing the audit report. Reproduction costs were for 30 copies.

#### Content of audit report

The main subjects discussed in the Treasury audit report were (1) reception and representation expenses, (2) consulting contracts with former officers, (3) payments in lieu of relocation, (4) payment of club membership fees, (5) payment of traffic fines, and (6) approval of administrative policy by USRA's Board of Directors. The remainder of this chapter presents Treasury's findings in each area and USRA's responses.

## RECEPTION AND REPRESENTATION

Treasury found that reimbursements for representation expenses were not documented sufficiently to determine whether payments should have been made. Representation expenses under USRA policy included meal and reception costs incurred while conducting official USRA business with business guests. Some representation expenses found by Treasury were incurred for luncheons and other functions where there was not evidence of other than USRA employees being present. Funds were also used on occasion to entertain Federal employees and Members of Congress and their staffs. Treasury identified \$35,000 spent by USRA for reception and representation in the first 9 months of fiscal year 1976 and contrasted this amount to the \$10,000 budgeted for the Department of the Treasury in fiscal year 1976.

Treasury recommended that the USRA Board consider whether use of Government funds for representation expenses was still necessary in light of USRA's changing functions and responsibilities. If the Board concluded that representation was still necessary, Treasury recommended that it consider whether the present USRA policy provided sufficient guidance on allowable expenditures and the extent to which expenditures should be documented.

### USRA response

USRA's Board of Directors resolved at its July 29, 1976, meeting that USRA prepare and circulate to the Board a comprehensive policy governing expenses for entertainment or representation. The expenses were to be documented so as to permit audit of the propriety, need, and purpose of the expense.

USRA prepared a revised policy which the Board reviewed and approved, with minor revision, at its September 28, 1976, meeting. The approved policy provided for more guidance and listed specific procedures for use of reception and representation funds. It required documentation on the report of expenses for the nature and purpose of the expenditure along with the date, place, and number of people involved. The policy also stated that dollar limitations on funds available for that purpose would be established in fiscal programs approved by the Board and expenditures would be regularly reported to the Chief Executive Officer.

USRA has stated that its need for reception and representation funds should decrease substantially now that the Final System Plan has been issued. USRA reduced its representation expenses to \$3,842 in fiscal year 1977, the period following acceptance of the Final System Plan.

### CONSULTING CONTRACTS WITH FORMER OFFICERS

Treasury found that USRA entered into contracts for consulting services with five former USRA officers. Each former officer was paid a fixed fee regardless of whether services were rendered. Treasury found that the former officers were not providing services commensurate with payments made to them.

#### USRA response

In commenting on Treasury's report, USRA stated that it was already considering discontinuing the award of future consulting contracts to former officers on the basis of a revised fringe benefit package distributed to the Board in April 1976. No action had been taken on the proposal pending resolution of certain issues raised by the Department of Transportation.

Treasury recommended that (1) USRA follow through with its plans to discontinue the method of awarding consulting contracts to former officers and (2) future consulting contracts with former officers should provide compensation only for duties actually performed or for a specific end product. Treasury also recommended that the Board consider whether USRA should enter into consulting contracts with its current officers upon their separation.

At the July 29, 1976, Board meeting, the Board passed a resolution which provided that any contract for personal consulting services, whether with former USRA officers or employees, would be presented to the Board for approval with a recommendation from the staff for appropriate compensation. At the September 28, 1976, meeting, the Board adopted a recommendation by the Chairman that the policy providing officers with postservice contracts on a retainer basis be terminated and instead that officers be provided with severance pay as are all other USRA employees.

According to USRA, the cost of the consulting contracts was approximately the same as if it had originally provided severance pay and then compensated officers at a daily rate for actual postemployment service. Current contracts with former officers, USRA notes, are on a daily-rate basis for time actually spent on USRA work, and these are individually approved by the Board of Directors.

### PAYMENTS IN LIEU OF RELOCATION

Treasury found that USRA paid employees who did not choose to relocate in Washington travel and subsistence costs incurred in commuting between USRA and their preemployment residences. The ceilings for the amounts paid were based on the cost which would have been incurred had the employees actually relocated. Treasury also found that there were no dollar limits on the amounts reimbursed a relocating employee for expenses associated with the sale of a former residence. These USRA policies were not approved by the Board of Directors.

Treasury noted that Federal travel regulations would not allow payment of commuting costs in lieu of relocation, and Treasury was aware of no other instance where Federal funds have been used to reimburse employees for commuting costs based on the cost of relocating.

Treasury recommended that USRA's Board review and approve the USRA policy on travel and relocation allowances and consider imposing a dollar limit on reimbursements for real estate costs incurred by relocating employees.

Treasury also examined USRA's handling of the commuting payments for income tax purposes. It recommended that USRA review and confirm the amounts paid to employees in lieu of relocation and report to Federal and State tax authorities and to the individual employees any past payments which were reported incorrectly for income tax purposes. In addition, Treasury recommended that USRA withhold amounts for income taxes from commuting payments.

### USRA response

USRA considered its policy of providing payments in lieu of relocation an innovative approach that helped it attract and retain qualified personnel who otherwise would not have been willing to relocate with USRA. According to USRA the payments in lieu of relocation also saved approximately \$48,640 through September 30, 1977, over the actual cost of relocating employees. The policy was presented to the Board of Directors on June 26, 1974, but the Board never acted to approve or disapprove the policy.

The Board resolved at its July 29, 1976, meeting that it had to approve any payment for relocation expenses or payments in lieu of relocation for USRA officers and employees. The Board later reviewed and approved a revised

policy on relocation which eliminated the further need for Board approval of individual relocation payments.

USRA reviewed the amounts of all commuting payments reported for income tax purposes, and in those instances where errors were found, USRA notified the individual employees and the tax authorities of the correct amounts. USRA decided to study further whether amounts should be withheld from commuting payments for income taxes and subsequently agreed to institute withholding. The number of individuals now being paid in lieu of relocation has declined to two.

#### PAYMENT OF CLUB MEMBERSHIP FEES

Treasury found that USRA policy permitted membership at USRA expense in private dining clubs in the Washington area. Treasury felt one membership in the Burning Tree Country Club did not fall under the prescribed USRA policy and stated that it found no indication that the Burning Tree membership was used for official receptions or representation. The USRA Board of Directors rescinded all club memberships on May 6, 1976, but Treasury found some prepayments of dues which extended beyond that date.

Although USRA's Board rescinded club memberships for USRA officers at its May 6, 1976, meeting, Treasury recommended that the Board consider whether any further action was warranted concerning advance payments of dues extending beyond May 6 and the membership in the Burning Tree Country Club.

#### USRA response

At both the July 29 and September 28, 1976, Board meetings the Under Secretary of the Treasury proposed resolutions that (1) USRA recoup the prorated amount of any club initiation or membership fees paid by USRA before May 6, 1976, which was attributable to any period after May 6, 1976, and (2) initiation fees and dues paid to the Burning Tree Country Club and the American Airlines Admiral's Club were beyond the scope and intent of USRA's original policy on private dining clubs and that USRA should recoup the amounts paid. The first attempt to pass the resolutions failed; in the second attempt the Board tabled the resolutions pending completion of our report.

USRA's Chairman later reimbursed USRA the amounts it paid for his membership in the Burning Tree Country Club. USRA has paid no additional club membership fees or dues.

#### PAYMENT OF TRAFFIC FINES

Treasury found payments for traffic fines while examining USRA's petty cash vouchers. It noted that Federal tax law does not allow a business deduction for payment of traffic fines and that in the Federal Government there is no authority for payment of fines from appropriated funds. Treasury felt that USRA should not pay fines from appropriated moneys and recommended that USRA advise its chauffeurs and other personnel that it would not pay future fines.

#### USRA response

In a July 23, 1976, letter to the USRA directors, the Board Chairman justified USRA's informal policy of paying parking violations for its employees as being a proper exercise of its administrative discretion. According to the Chairman

"The modest amount paid for traffic violations, namely \$130 during the three months period audited, is substantially less than the costs which would have been incurred if additional personnel had been used to accompany drivers on official business in order to reduce the number of violations."

The Board addressed the payment of traffic violations at its July 29, 1976, meeting when a motion proposing that USRA stop paying traffic or parking fines failed to pass.

In November 1977 USRA informed us that it decided, as a matter of policy, to discontinue the practices of paying parking or traffic fines incurred by USRA employees traveling on official business. USRA continues to believe that its past policy was an appropriate exercise of its corporate authority.

#### BOARD APPROVAL OF ADMINISTRATIVE POLICY

The general conclusion of Treasury's final report was that USRA's Board of Directors should become more actively involved in the review and approval of USRA administrative policies, especially those concerning compensation and fringe benefits.

#### USRA response

The Board considered the Treasury report at its July 29 and September 28, 1976, meetings and passed several resolu-



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tions as a result of Treasury's recommendations. However, the Board resolved that USRA's programs

"\* \* \* were generally appropriate to the conduct of the Association's mission and contributed to the successful conclusions of the earlier phase of this Association's work \* \* \*."

According to USRA, the Board of Directors has now taken a more active role in administrative areas. In the past year the Board's oversight of administrative policies included approval of such areas as procurement, salary programs, fringe benefits, representation expenses, and travel and relocation expenses.

## CHAPTER 4

### SIMILAR POLICIES AND PRACTICES BEING FOLLOWED BY USRA AND OTHER CORPORATIONS

The Treasury audit compared USRA's administrative policies and practices with those used by Federal agencies and with other criteria of good business practice. But USRA is neither a traditional Federal agency nor a business. To provide a better comparison of how USRA's administration compares with similar corporations, we reviewed administrative policies and practices at the Consolidated Rail Corporation (Conrail) National Railroad Passenger Corporation (Amtrak), Legal Service Corporation (LSC), and the Corporation for Public Broadcasting (CPB). These four corporations are identified in their authorizing legislation as private, non-Government entities governed by boards of directors. They operate with varying Federal support, are subject to GAO audit, and have the flexibility to establish their own administrative policies and practices. We found that, with the exception of payments to employees in lieu of relocating and consulting contracts with former officers, USRA's administrative policies and practices were similar to the other corporations.

Conrail and Amtrak are for-profit, revenue-generating corporations. Amtrak is a mixed-ownership corporation that receives Federal grants through the Department of Transportation. Conrail receives Federal investment and loan funds through USRA. The loans will be repaid by Conrail when it earns a profit, and Conrail investment securities will eventually be held privately.

CPB and LSC are nonprofit corporations which receive Federal funds directly from the Congress. These funds are the main support for both CPB and LSC, with some contributions provided by private individuals and organizations.

As private corporations, all four are exempt from most of the regulations applicable to Government agencies. Amtrak, CPB, and LSC are subject to the maximum compensation ceilings contained in their individual authorizing legislation, as is USRA.

USRA's POLICIES AND PRACTICES  
COMPARED WITH OTHER CORPORATIONS

Reception and representation

USRA officers were authorized to host dinners and receptions to promote USRA business. Allowed expenses included food, beverages, gratuities, and other costs incidental to the activity. At the time of the Treasury audit, expense reports were to include the nature of the expense and the business purpose for incurring the expense. Dollar limitations on funds available were to be established in approved fiscal programs.

In our examination of USRA's financial statements, we reviewed 502 representation charges totaling \$17,894, or about 50 percent of a total of about \$36,000, expended during fiscal year 1976. We found many instances where representation expenses were not supported by an explanation of business purpose or information concerning where the expenditures were incurred.

According to USRA the expenses incurred for reception and representation were in the pursuit of official business and involved providing meals for persons working with USRA "in the interest of advancing the statutory mission of USRA and extending the work day."

We found that Conrail and CPB had similar overall policies on representation, but that LSC limited authorization for representation expenditures to its two top officers. Amtrak's policy on representation in effect during the period for which we examined expenses provided little guidance as to the types of representation expenses allowed. However, Amtrak's revised policy, issued in July 1977, provides detailed guidance similar to the policies at Conrail and CPB. Documentation requirements for Conrail were about the same as USRA's. While CPB's policy for the time periods examined was not specific on documentation requirements, CPB revised its representation policy in February 1977 with documentation requirements similar to Conrail's. With the exception of LSC, the corporations did not have specific amounts budgeted for representation but included these amounts in the total budget for travel and business expense.

As mentioned on page 19 of this report, we found in examining fiscal year 1976 expenses that USRA did not fully document all representation expenses. In examining representation expenses incurred by officers at Conrail, CPB, Amtrak, and LSC, we noted similar circumstances. Documentation at all five corporations generally included receipts supporting the cost, date, and place where the activity occurred, but did not relate the expenditures to business purposes. Details for the individual corporations follow:

#### Conrail

We reviewed 33 of Conrail's representation charges totaling \$5,023.86 for a 9-month period, April through December 1976. We were not able to identify the total amount Conrail spent for representation because it was not maintained as a separate expense item. Representation is included in an account with other travel and business expenses. Of the 33 charges we reviewed, 27, totaling \$3,693.99, were not supported by an explanation of business purpose.

#### Amtrak

Amtrak does not maintain a separate account for representation expenditures reimbursed but includes the charges in an account with other travel and business expenses. Therefore, we were unable to determine the total number or amounts of representation charges. We reviewed 524 of Amtrak's representation charges totaling \$12,679.06 incurred during calendar year 1976. We found 237 charges totaling \$4,775.67 were not supported by an explanation of business purpose.

#### Legal Services Corporation

We reviewed 16 LSC representation charges totaling \$466.01 that occurred during fiscal year 1976, the transition quarter, and the first quarter of fiscal year 1977. We found 8 charges totaling \$243.99 were not supported by an explanation of business purpose.

#### Corporation for Public Broadcasting

CPB does not maintain a separate account for representation expenses. Since the charges are included in the account for staff travel, we were not able to identify a separate total amount for representation.

We reviewed 237 CPB representation charges totaling \$6,541.33 incurred during fiscal year 1976, the transition quarter, and the first quarter of fiscal year 1977. Our review showed that 181 charges totaling \$5,180.82 were not supported by an explanation of business purpose.

#### Consulting contracts with former officers

USRA awarded consulting contracts to its officers after they ended their full-time employment. The contracts were generally for 3-month periods and did not call for a specific end product. Each officer was paid a fixed fee regardless of whether any work was done. The contracts were designed to assure that former officers would be available if needed, and the commitments to provide the contracts were part of the officers' employment agreements.

Amtrak, Conrail, CPB, and LCS do not have policies addressing consulting contracts with former officers. We were informed that none of the four have hired former officers as consultants. Amtrak has held some former employees, usually mid-level personnel, on retainer as consultants. CPB has also hired former employees below the officer level as consultants for short durations when their expertise was required for a specific task. At LSC we found payments made for the services of four officers before they began full-time LSC employment. Payments to three officers totaling \$4,648.50 were identified as consulting fees. The other officer's former employer was paid by LSC for the time the officer spent on LSC matters while still on salary to his former employer. Payments were based on the number of days actually worked by the individuals on LSC matters.

#### Payments in lieu of relocation

USRA's relocation policy allowed officers or employees who chose to travel between their USRA place of employment and their preemployment residence to be paid for their travel and living expenses instead of relocating. The maximum amounts paid under this policy were predetermined at the time of employment on the basis of the estimated cost of actually relocating the individual.

None of the four other corporations we examined had any provision in their relocation policies for payments in lieu of relocation, and we found no evidence of such payments in our reviews of financial records.

Payment of club membership fees

USRA determined that it was advantageous in the conduct of official business for each of its officers to have a membership in a private dining club and for its chairman and president to be a member of a country club. A listing of the clubs and related initiation fees and dues paid by USRA follows.

Burning Tree Country Club	\$ 6,400
University Club	4,115
Capital Hill Club	1,300
International Club	915
National Lawyers Club	192
Metropolitan Club	400
Democratic Club	190
National Press Club	144
National Aviation Club	92
Admiral's Club	25
	<u>\$13,773</u>

As stated on page 15, the amounts paid to the Burning Tree Country Club were reimbursed to USRA.

Amtrak's procedures manual does not discuss club memberships and dues expenses incurred by officers and employees, but the corporation maintains a current listing of approved organizations. Amtrak only pays memberships and dues for organizations on the list.

Amtrak paid \$121,255.94 in memberships and dues during calendar year 1976. It pays memberships not only in professional organizations but some social and private clubs as well.

LSC's written policy on club memberships covers only professional organizations. LSC also pays membership fees and dues for its President and the Executive Vice President in one social club. We found three payments for officers' membership fees. Two payments totaling \$200 were for two officers' dues in the American Bar Association. The third payment of \$760 was to the Federal City Club for membership fees and dues.

Conrail did not have a written policy for payment of club memberships and dues during the period of our audit. Its practice was to pay club memberships when deemed relative to the performance of a particular job. It

restricted payments for regular employees solely to professional organizations. Officers received the above benefit and were paid for their memberships and dues in social clubs as well.

On July 26, 1977, Conrail issued a formal policy on "Company Sponsored Business or Professional Memberships" which now provides specific instructions on the payment of club membership fees and dues.

During our review of expense reports at Conrail, we found \$1,446.68 in reimbursements for club memberships including

--membership dues and fees for social clubs, such as the Philadelphia Country Club, the Congressional Country Club, the Sunday Breakfast Club, and the Racquet Club in Philadelphia; and

--memberships in professional organizations, such as the National Association of Accountants, Financial Executive Institute, and National Freight Traffic Association.

We were informed that CPB does not ordinarily pay for memberships in private clubs for officers or employees. Its practice is to pay for the memberships of select department heads and officers in certain trade organizations on an individual basis.

We examined the payments CPB made for memberships, and while we found no payments for private social clubs, we did find three payments totaling \$85 for clubs which were not trade or professional organizations. These were reimbursements paid to officers for memberships in:

Capital Hill Club	\$35.00
Admirals Club	25.00
Ionosphere Club	<u>25.00</u>
	<u>\$85.00</u>
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Most of the membership fees we found were paid by CPB directly to the clubs and organizations. A separate account is maintained for membership payments and for subscriptions paid by CPB. During fiscal year 1976, the transition quarter 1976, and the first quarter of fiscal year 1977, the total charges to this account for memberships and subscrip-

tions was \$54,478. According to CPB, the great majority of these costs pertained to corporate memberships in broadcasting organizations (European Broadcasting Union, Asian Broadcasting Union, Public Service Satellite Consortium), reference publications, job opening advertisements in major broadcasting magazines, and a national clipping service.

#### Parking fines

USRA has no formal policy on paying parking or traffic fines incurred by employees on official business. USRA's practice, however, has been to pay such fines because it believes that is less costly than hiring additional personnel.

We found that Conrail was the only corporation we reviewed with a formal policy on the payment of traffic fines. Its policy was that all traffic fines and court costs were nonreimbursable. While LSC did not have a specific policy addressing traffic fines, we were informed by corporate officials that it does not reimburse or directly pay fines incurred by employees while conducting official business.

CPB and Amtrak do not have specific policies addressing the payment of traffic fines, but corporate officials told us that they have paid traffic fines in the past. The fines were paid for employees conducting official business while operating corporation vehicles. According to officials at both corporations, no such payments have been made recently. Amtrak's present informal policy, we were informed, is not to pay for traffic fines incurred by its employees.

#### OTHER ADMINISTRATIVE MATTERS CONSIDERED

In addition to the matters raised in the Treasury audit report, we compared the policies and practices of the four corporations for travel and employee relocation with USRA and found them to be similar with only minor variations. We also obtained information as to whether the corporations operated executive dining room facilities.

#### Travel and subsistence

USRA's policy on travel allowances provides that officers and employees are permitted the cost of lodging, meals, and miscellaneous expenses on official travel

--on an actual cost basis up to \$50 per day, with lodging expenses supported by receipted bills or

--on a fixed \$35 per day in lieu of itemized costs.



Expenses in excess of \$50 per day may be allowed with approval by the Vice-President for Administration. For each report of expenses, a supervisor approves the report as "official business expenditures."

Transportation on business travel is allowed at actual cost, with receipts required as documentation. Employees are instructed to use the most economical class of transportation available and "suitable in the light of the length of the trip and the work scheduled immediately before or after the actual travel." For travel charges in the time period we examined, USRA did not require justifications on the travel voucher for the purpose of the trip or for the use of higher class accommodations. USRA's present policy requires statement of travel purpose on expense reports.

In our review of USRA's financial statements, we examined about \$221,000 in travel expenses. We found that most reimbursements for subsistence were made at the \$35 per day rate, with no receipts required. For those reimbursements for actual expenses up to \$50 per day, we found that receipts were properly provided. Because USRA policy does not require travelers to indicate the purpose of trips on supporting documentation, we could not judge whether the trips were proper. Our examination of transportation charges showed general adherence to policy, including only limited use of first class air travel.

We found the overall travel policies for Conrail, Amtrak, CPB, and LSC to be similar. In examining expense reports for trips taken by corporate officers, we found that the majority of trips were supported by some indication of business purpose.

Even though support for travel purpose was better at the four corporations than at USRA, we still could not judge the propriety for a substantial number of trips at the four corporations. Business purpose was not shown at

--Conrail for 34 out of 79 trips,

--Amtrak for 84 out of 337 trips,

--CPB for 41 out of 131 trips, and

--LSC for 20 out of 110 trips.

All four corporations require that the most economical class of transportation available and suitable be used, and all four pay actual transportation costs. LSC's policy requires justification for use of first class air travel and

prior approval for such travel from the Executive Office of the Director of Administration. CPB's policy on travel in effect during the period we examined provided that first class travel could be used with no advance approval required whenever a flight was longer than 4 hours. The CPB policy has since been revised and now requires that any first class travel must be approved, in advance where possible, by the Office of the Vice President for Finance. We found on examining expense reports at the corporations that part of the trip included first class air travel at

--Conrail in 16 of 65 trips,

--CPB in 25 of 126 trips, and

--LSC in 5 of 110 trips.

Amtrak policy requires maximum use of rail travel but permits air travel when circumstances warrant it. First class air accommodations can be used only if coach is not available and the trip cannot be rescheduled. At Amtrak we examined airline billings, which included tickets for any officer or employee, since air ticket receipts were not maintained with the expense report. We found that of 1,052 tickets, only 40 were for first class air travel.

Justification for using first class accommodations was found on 5 of the 25 expense reports at CPB and 1 of the 5 at LSC. We found no justifications for the use of first class accommodations at Conrail or Amtrak.

Amtrak's and Conrail's policies on meals and lodging were quite similar. They reimbursed employees for reasonable and actual costs for subsistence while traveling. CPB reimburses employees for actual costs of lodging but has a \$20 per day limit on meals. LSC has a \$40 per day limit on subsistence but makes exceptions in designated high rate areas.

We also found that most charges for subsistence at the four corporations appeared reasonable. We noted that at Conrail subsistence varied greatly on different trips; some of the highest subsistence charges were incurred at conferences or national organization meetings. For example:

--At a fall meeting of the National Freight Traffic Association in Phoenix, Arizona, the daily charge for lodging with tax and service charge was \$108.30.

--At another meeting of the same organization in White Sulphur Springs, West Virginia, charge for room, board, and tips was \$128.55 per day.

Although company policy states that accommodations should be at the minimum rate possible, it was impractical to determine if it had been followed.

#### Relocation policies

USRA policy for relocation provides that employees are reimbursed for actual travel costs at the rates specified for regular business travel. Other charges that are reimbursable include moving and storage of household effects up to a 15,000-pound limit, two house-hunting trips for employee and spouse for up to 7 days, and temporary living quarters during relocation for up to 60 days.

USRA reimburses some costs incurred by the relocating employee on the sale or lease of his former residence, such as broker's fees, commissions, closing costs, or lease penalty payments. USRA does not reimburse employees for the costs incurred on the purchase of a new residence or for any income tax consequences as a result of relocation.

USRA paid relocation expenses totaling \$67,690 in fiscal year 1976. We reviewed about \$62,000 in relocation payments and found that only \$18,141 was for employees who actually relocated; the balance was for employees who chose payments in lieu of relocation. The payments made for actual relocations were in accordance with USRA's written policy on relocation.

Conrail, Amtrak, CPB, and LSC policies provide that they pay the travel costs of relocating the employee and the cost of moving the employee's household. Conrail, Amtrak, and CPB have no weight limitation on moving the employee's household effects. LSC has a 13,000-pound limit on moving and storage. Conrail makes available to its nonunion employees the services of a relocation management company to handle the sale of the relocating employee's former residence and moving of household effects. Conrail pays up to \$1,000 in incidental expenses and Amtrak provides a \$500 allowance for relocation expenses not otherwise reimbursed.

Conrail, Amtrak, and LSC pay for costs incidental to the sale of the employee's former residence, including legal fees, transfer or document taxes, real estate commissions, and reasonable mortgage prepayment penalties. Amtrak and LSC also reimburse an employee's costs incidental to the purchase of a new residence. CPB policy does not discuss payment of any costs related to the sale or purchase of a relocating employee's residence. We were informed, however, that it is CPB's practice not to pay such costs. Conrail and Amtrak policies provide for reimbursement of additional in-

come taxes incurred by an employee as a result of being reimbursed for moving expenses which are not deductible for income tax purposes.

LSC, like USRA, provides in its policy that the tax consequences of relocation are the responsibility of the employee. CPB does not discuss the area in its relocation policy, but we were informed that its practice is to not reimburse the income tax consequences of an employee's relocation.

In the records we examined at the four corporations we found only limited incidences of relocation payments at Amtrak and CPB. At Conrail and LSC, which are newer organizations, we noted more examples of relocation payments.

Relocation payments at all four corporations generally were adequately documented and the types of expenses paid were within stated corporate policies.

At Conrail we examined payments totaling \$204,697 for relocation as follows

--relocation management company	\$ 152,424
--moving and storage companies	44,942
--hotel, travel, misc. expenses	<u>7,331</u>
	<u>\$ 204,697</u>

The amounts paid to the relocation management company represented fees for appraisals, title searches, and selling costs of a relocating employee's former residence and a performance fee based on a percentage of the appraised value of the residence. There appeared to be no maximums for the total costs involved with either the sale of an employee's residence or the moving of his household effects. In addition, the relocation management company charged Conrail a \$300 fee for each employee it helped to relocate. We found billings of \$33,900 for 113 employees assisted by the company.

Conrail also reimbursed employees for other costs incurred on relocation, such as

--\$140 to install a new antenna and rotor and to check stereo equipment;

--\$109 for boarding, bathing, and transportation of pet;

--\$1,945 for additional income taxes resulting to three employees from their relocations.

At LSC we examined 27 payments totaling \$14,582 in relocation costs incurred by six corporate officers. These payments were primarily for moving household effects, temporary lodging and meals, and expenses of selling former residences. Also included were monthly consulting fees of \$45 for a property manager handling the rental of an officer's former residence. According to LSC, those payments were limited to a 12-month period as provided by the employee's contract.

#### Executive dining rooms

According to USRA officials, dining facilities with appropriate business privacy were not available in or near the Transpoint Building where USRA's offices are located. Therefore, in June 1974, USRA initiated a project to establish a meeting and dining facility for USRA executives. The purpose of the USRA executive dining facility was to provide a conference facility for large meetings called by key officials. The dining room was also envisioned as a meeting place for USRA officials and their guests which would be conducive to private, informal discussions and which offered easy accessibility so that business discussions could continue during intermissions for meals.

Although the financial records do not show that USRA provided funds to its executive dining room, our review indicates that USRA has provided about \$200,000 to support dining room operations from the earliest phases through June 15, 1977. The Association purchased the original furnishings, kitchen accessories, and appliances for the dining room with funds from its appropriation for administrative expenses. Salaries of the four dining room employees (two part-time, two full-time) continue to be paid out of USRA's administrative appropriations. In addition, certain services and fees incurred by the dining room have been paid by USRA with appropriated funds.

The executive dining room, which began operating in September 1974, generally is open from noon to 2 p.m. Monday through Friday. It offers a small selection of entrees; sandwiches; soups; salads; and beverages, including beer, wine, coffee, tea, milk, and soft drinks. The executive dining room staff, which consists of a manager, two part-time cooks, and a waitress, prepares an average of 25 lunches a day. The price for all lunches, regardless of the item(s) ordered, is \$3. The USRA Comptroller stated that although no formal analysis had

been done to support the \$3 price, the Vice President for Administration and the Director of Support Services agreed that \$3 would be sufficient to cover the cost of all consumable items.

The USRA executive dining room was originally opened to all members of the Board of Directors, the President, Vice President, General Counsel, and Office Directors. With the decrease in the number of employees at the Office Director level or above, membership is now open to USRA employees at the Division Chief level or above. As of November 3, 1977, 57 USRA employees were members of the executive dining room. Eligible USRA employees who desire membership in the dining room are assessed a fee of \$50 which is returned when the member leaves USRA. The \$50 fee provides working capital for the dining room to cover recurring food and beverage costs and service expenses.

USRA plans to discontinue the executive dining room service when the corporate offices move to a new location in 1978.

Conrail has been operating an executive dining facility at its Philadelphia, Pennsylvania, headquarters since November 1976. Membership in the dining facility is offered to selected Conrail employees after consideration has been given to (1) level of compensation, (2) level of responsibility (3) reporting level and (4) overall need to be there. Conrail does not require its members to pay any membership fee. About 100 Conrail employees were members of its executive dining room in June 1977.

The purpose of the Conrail dining room is to provide a communication center where employees can meet to exchange ideas, particularly since so many executives were new to one another and to Conrail. About 40 to 50 people dine there every day. Conrail charges \$4.20 for soup and sandwich or \$3 for a full meal. Food served in the Conrail dining room is prepared by a catering firm which employs a chef, a busboy, and two waitresses.

Billings from the catering firm separate the charges for the cost of food, salaries, and management fee. Financial information on the operation of the Conrail executive dining facility is an integral part of Conrail's accounting records. Unlike USRA, Conrail keeps no separate financial records for its dining room. However, Conrail does have a separate management center number in its accounting system for dining room expenses, which makes it possible to ascertain its expenses in detail.

We were informed by officials at Amtrak, CPB, and LSC that they do not operate executive dining rooms.

## CHAPTER 5

### CONCLUSIONS, RECOMMENDATIONS, AND AGENCY COMMENTS

#### CONCLUSIONS

There are no generally applicable standards for the administration and operation of Government corporations. It is necessary to look to each corporation's authorizing legislation to determine the standards to be applied. USRA's authorizing legislation permits broad discretionary use of appropriated funds, but we believe there are some limits to USRA's flexibility.

The Treasury Department's audit of USRA's administrative policies and practices generally was accurate and adequately supported. However, Treasury used the standards applicable to Federal agencies and other principles of good business practice as the criteria against which USRA's policies and practices were measured. These criteria do not necessarily apply to USRA. When measured against the broader legal standards that we believe apply, fewer of USRA's administrative policies and practices are questionable.

#### Reception and representation

In light of USRA's justification of the need for reception and representation expenses, a reasonable level of activity does not appear unwarranted. USRA also has specific statutory authority to consult with the private sector, and the Congress has recognized the need for reception and representation expenses at many other Federal entities. Therefore, we have no basis to object to USRA's reception and representation expenses.

In considering the relatively large amount of reception and representation expenditures at USRA, we noted that USRA receives a lump sum appropriation for administrative expenses. In the absence of limitations in the appropriation legislation, USRA may administratively allocate its appropriation among those items for which the funds are legally available. Since there is no limitation on reception and representation expenditures for USRA, we cannot object to the amount spent on those items.

Since completion of the Treasury audit, USRA has issued a revised policy on representation which appears to be responsive to many of the Treasury audit's objections by precluding many of the kinds of charges which USRA agrees were improperly classified as reception and representation.

#### Payments in lieu of relocation

We pointed out in a previous report on USRA's financial statements that the accounting records of employees who received payments instead of relocating to the Washington, D.C., area were not accurately maintained and did not contain enough documentation of the appraised value of the employees' preemployment residences.

USRA requested our opinion on the propriety of payments it made to employees for commuting in place of actually relocating to the Washington, D.C., area. Our letter to USRA (B-175155, July 1, 1976) included in app. I) concluded that the decision to authorize payments for commuting costs in place of relocating costs was, in USRA's situation, a matter for administrative determination. The value of relocating or commuting costs paid by USRA did not have to be considered as compensation in terms of the compensation ceiling in USRA's authorizing legislation.

#### Consulting contracts with former officers

There is some indication that USRA conceived these contracts, at least in part, as additional compensation. USRA officers at the time of the Treasury audit received no leave payments or severance pay and USRA has stated that the practice of awarding the contracts was "a special plan to compensate officers for a transition period" in the event USRA closed down after issuing the Final System Plan. Also, the number of days actually worked under the contracts, as shown in the Treasury report, indicates that the need for consulting services was doubtful in some cases. We agree with the Treasury report that any further consulting contracts with former officers should compensate only for duties actually performed or for a specific end product.

#### Payment of club membership fees

Although the USRA Board of Directors voted to cease payment of all club memberships and dues for USRA officers in May 1976, the Board expressly left open the possibility of authorizing similar memberships in the future.

If the Board approves any club memberships in the future, we believe that USRA should provide adequate documentation to establish the propriety and business necessity of the memberships.



#### Payment of traffic fines

We agree with the Treasury audit that payment of traffic fines is an unauthorized expenditure of appropriated funds, and recommended that USRA stop further payments in a letter dated July 11, 1977. The amounts involved were minor (\$190), and USRA has decided to discontinue paying such fines, even though they have not conceded that the payments are unauthorized.

#### Board approval of administrative policy

As a matter of general corporate law, the Board of Directors is responsible for corporate management. We recognize that the Board may delegate elements of this authority and that delegation may be implied from a course of conduct. The Board need not actively participate in the operation of business or even in every decision of policy. While lack of specific approval by the Board of Directors does not necessarily give rise to any legal impropriety, there is an implied public trust that the Board will exercise reasonable management supervision. USRA's Board of Directors is now taking a more active role in administrative areas.

#### Comparison with other similar corporations

Our comparison of USRA's administrative policies and practices with four similar corporations established under Federal law indicated that the other corporations' policies and practices, with a few exceptions, were largely the same as USRA's and, as far as we can tell, all are operating within their legal boundaries. As a result of the Treasury Department audit, however, the Congress was concerned that USRA may have gone beyond the flexibility and freedom originally intended for it. Whether or not every corporation established under Federal law still needs the flexibility provided by its enabling legislation would require an examination of its current objectives and mission--a task outside the scope of this review.

#### USRA's need for administrative flexibility

USRA justified many of the activities questioned in the Treasury audit report as necessary exercises of its administrative flexibility which helped it to complete its mandated task within the short time provided. According to USRA, its policies on compensation and benefits for officers and employees enabled it to attract and retain a high quality, dedicated staff. The policy on payments in lieu of relocation assisted in its recruiting efforts, and the postemployment consulting contracts with officers helped assure the availability of their expertise even after they left USRA.

USRA justified its representation activity as essential to keeping State governments, shippers, rail management, rail labor, and the Congress informed on the rail restructuring plan and the reasons for the choices USRA made in developing the plan. It considered club memberships useful because they provided a place where USRA could meet with Members of Congress and their staffs to discuss the rail restructuring plan.

According to USRA some of the practices discussed in the Treasury report have now changed. Some changes appear to be the result of Board action and some appear to be based on the change in USRA's role and responsibilities. USRA cited these examples:

- Representation activities have decreased to about one-tenth of their former level.
- The number of individuals being paid in lieu of relocation has declined to two.
- The Association pays no club membership dues or fees, and the amount paid for the membership in the Burning Tree Country Club was repaid to USRA.
- Revised policies have been issued for reception and representation expenses and travel and relocation allowances.

USRA's role changed with the approval of the Final System Plan and passage of the Railroad Revitalization and Regulatory Reform Act. It now has a longer planned existence to oversee the Federal investment in Conrail and pursue litigation resulting from the consolidation. The tight time constraints, short employment periods, and frequent, extensive contact with business and political leaders that characterized USRA's first years of operation are now much less important to its mission. The urgency and ad hoc nature of its mission, which may have necessitated the administrative flexibility originally granted, may no longer exist. We believe the time has come for the Congress to reexamine USRA's current role to decide whether the administrative flexibility originally granted is still needed or whether expenditures for certain kinds of expenditures should be limited.

USRA believes that it still needs administrative flexibility. It cites its financial functions and legal mission as factors requiring its continued corporate authorities. USRA's detailed discussion of this is continued in appendix II.

### Recommendations to the Congress

We recommend that the Congress reconsider USRA's current role to determine whether the administrative flexibility originally granted is still required and whether expenditures for certain kinds of administrative activities should be limited. If necessary, the Congress could

- revise USRA's enabling legislation to specifically limit its administrative flexibility,
- limit expenditures for administrative activities and specifically put a dollar limit on representation expenditures as part of USRA's appropriation. The Congress has already used this approach to control certain administrative expenditures at CPB.

### AGENCY COMMENTS AND OUR EVALUATION

USRA believed (see app. II) that our report gave more support for the concept that USRA's administrative flexibility is limited than is supported by law or legislative history. According to USRA, our report ignored the extensive indications emphasizing its flexibility in the legislative histories of the 3R Act and the Government Corporation Control Act.

In our opinion the report adequately recognizes USRA's administrative flexibility. Our purpose was to determine the legal limitations and other factors that USRA should have considered in carrying out its activities.

USRA agreed that it was appropriate for us to comment on the degree to which it has a continuing requirement for administrative flexibility. However, USRA believed that our report should have explained more fully and accurately the current and prospective demands of its mission. In USRA's judgment, continuation of its flexibility is essential for it to carry out its mission.

USRA's litigation and legal mission, which was a relatively minor aspect of its operations before completion of the Final System Plan, has placed deadlines on USRA which it believes can be met only if it has the authority and flexibility available to a Government corporation. USRA also believes that its responsibilities of administering financial assistance to Conrail and certain other railroads necessitate its corporate status and administrative flexibility.

We recognize that USRA faces certain deadlines and requirements resulting from its new responsibilities. We believe, however, that because of the changes in USRA's responsibilities it is appropriate for the Congress to reconsider what administrative flexibilities USRA requires to carry out its new mission.

Additional information and clarifications provided in the comments from USRA, Treasury, Transportation and the four corporations were considered in finalizing this report.

## CHAPTER 6

### SCOPE OF REVIEW

Our review was made at the Washington, D.C., headquarters of the United States Railway Association, the Corporation for Public Broadcasting, Amtrak, the Legal Services Corporation, and the Department of the Treasury. We also visited the headquarters office of Consolidated Rail Corporation in Philadelphia, Pennsylvania, and branches of the Accounting Operations Office located in Altoona, Pennsylvania, and Detroit, Michigan.

Our audit work at USRA involved an examination of administrative policies and practices, including subsequent policy changes since the audit made by Treasury. We met with officials of the Treasury Department's Office of Audit to discuss the scope and results of its audit of USRA. We reviewed the related workpapers to determine if they supported matters included in the report.

We had discussions with representatives of the Office of Management and Budget to obtain information concerning the number and types of Government corporations.

We compared USRA's policies and practices mentioned in the Treasury audit with those of the Corporation for Public Broadcasting, Amtrak, the Legal Services Corporation, and the Consolidated Rail Corporation to determine whether its policies and practices were similar to other organizations under Federal law.

APPENDIX I

APPENDIX I



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

B-175155

July 1, 1976

Mr. Arthur D. Lewis  
Chairman of the Board  
United States Railway Association  
2100 Second Street, S.W.  
Washington, D.C. 20595

Dear Mr. Lewis:

We refer to your letter of June 18, 1976, requesting our opinion as to whether, in view of the provisions of section 202(a)(5) of the Regional Rail Reorganization Act of 1973, fringe benefits administratively provided for officers and other employees of the United States Railway Association in the form of retirement benefits and reimbursement of commutation costs, would be accepted as a normal benefit of Executive Level I officials and, therefore, constitute legal payments.

The Regional Rail Reorganization Act of 1973, approved January 2, 1974, Pub. L. No. 93-236, which in major part appears at 45 U.S.C. § 701 et seq. (Supp. IV, 1974), established the United States Railway Association as an incorporated nonprofit association whose powers include the preparation and implementation of a final system plan for rail service in the midwest and northeast regions of the United States. Its employees are not employees of the Federal Government. 45 U.S.C. §§ 711, 712(a)(1).

Section 202(a)(5) of the Act, 45 U.S.C. § 712(a)(5), provides in pertinent part, as follows (quoting from the Code):

"(5) appoint, fix the compensation, and assign the duties of such attorneys, agents, consultants, and other full- and part-time employees as it deems necessary or appropriate; except that (1) no officer of the Association, including the Chairman, may receive compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5315 of title 5, U.S.C. (emphasis added.)"

B-175155

The compensation level cited is that provided by statute as the pay schedule for Cabinet members (currently \$63,000 per year).

Specifically, the Association proposes to establish a deferred compensation account for each employee effective July 1, 1976, with the Association contributing an amount equal to 9 percent of the employee's base compensation, probably utilizing the ICMA Retirement Corporation. Each employee would be given the opportunity to match all or part of the USRA contribution. These accounts would earn the interest or dividend paid by the trustee and this added amount would also be credited to the employee's fund. Arrangements would be made with the trustee to allow employees to withdraw the accumulated amount upon termination or to retain this amount in a deferred account which would be paid out at a later date as a retirement annuity. All regular full-time officers and employees would be covered by the plan. It is the stated purpose of this approach to establish a plan that could serve to facilitate savings or alternatively be retained for retirement purposes.

We note that this proposed plan differs materially from usual retirement plans in that it would allow those covered to withdraw the employer's contribution in addition to accrued interest or dividends (in addition to any contribution the employee might voluntarily elect to make) immediately at the time of termination of employment and does not require any minimum service for benefits to vest.

Therefore, this plan appears to be one of deferred compensation. To the extent that such payments exceed the statutory limitation, it is our opinion that they would be in violation of the statute.

On the question of the propriety of various relocation expenses, you state that:

"\* \* \* USRA has paid substantial relocation expenses for officers and employees on occasion and such payments, when added to salary, could exceed the Executive Level I salary limitation.

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We also have a policy in USRA of paying commutation costs of certain officers and employees who could have relocated to Washington but preferred to retain their out-of-town residence. In each case, we have limited commutation payments to the amount estimated as the cost of an actual relocation of the officer or employee. Our interpretation of GAO policy is that these types of payment for actual expenses incurred in relocating or in commuting from a residence are not additional compensation. \* \* \*

You have provided our Office with a copy of USRA Order 1974-1, Travel and Relocation Allowances, section 6(e) of which provides as follows:

- "e. Officers or employees who elect to travel back and forth between their USRA place of employment and their pre-employment residence may be paid for the travel and subsistence expenses incurred. Reimbursement for such travel will be in accordance with the business travel allowances set forth in paragraph 5 of this Order provided the total amount claimed for such travel and subsistence does not exceed the sum of the following:
- "(1) \$4,000 in lieu of miscellaneous relocation and subsistence expenses;
  - "(2) A pre-determined amount in lieu of cost of sale of residence; and
  - "(3) A pre-determined average cost of move in lieu of cost of shipment and storage of household goods. Average costs from representative areas are maintained in the Comptroller's Office.

"The maximum allowable reimbursement under the provisions of this paragraph will be pre-determined



APPENDIX I

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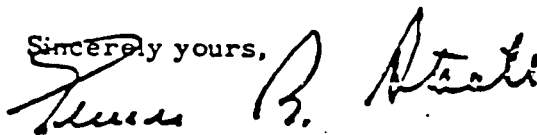
in each case at the time of employment. The pre-determined amount must be approved by the Vice President for Administration and will be shown in the 'Remarks' section of the Personnel Action form."

Our examination of the legislative history of Public Law 93-236 fails to disclose any discussion directly on point, but in view of the fact that the compensation level cited is that provided for cabinet members we note that cabinet members receive certain benefits in addition to the compensation provided by section 5312 of title 5, United States Code. We also note that relocation benefits are not considered to be compensation to Federal employees for purposes of the statutory ceiling on their compensation under title 5, United States Code.

It would appear, therefore, that the decision of whether to authorize commutation costs in lieu of relocation expenses within the framework set forth above is a matter for administrative determination.

For the reasons stated it is our view that the value of the relocation expenses or commutation expenses, as outlined above, need not be considered as "compensation" within the meaning of that term as used in the compensation limitation provision of the above-quoted provision of law.

Sincerely yours,



Comptroller General  
of the United States

APPENDIX II

APPENDIX II

**United States Railway Association**

2100 Second Street, S.W.  
Washington, D.C. 20595  
(202) 426-9315

Donald C. Cole  
Vice President for  
Government Affairs  
and Secretary

November 3, 1977

Mr. Henry Eschwege  
Director  
Community and Economic  
Development Division  
U. S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Eschwege:

This is in response to the GAO draft report of September 19, 1977, entitled "Is the Administrative Flexibility Originally Provided to the U. S. Railway Association Still Needed?" I wish to express my appreciation and that of USRA staff for the opportunity accorded us to meet with GAO's audit and legal staffs to discuss the principal findings and conclusions contained in the draft report prior to the preparation of our formal response. In these discussions, we were able to clarify our rationale for those policies and practices reviewed by GAO and to explain USRA's initial reaction to the draft report.

Before addressing specific points raised on the draft report, I offer some general observations which apply to many of the comments which follow. We at USRA understand the difficulty faced by the GAO auditors as the result of the paucity of meaningful standards to apply in the review of a mixed-ownership Government corporation such as this Association. In the absence of such standards, we have had to assure ourselves that our management policies and practices were responsive to perceived requirements arising out of our mission and constituted prudent use of the management flexibility provided to us under the Government Corporation Control Act (GCCA) and the Regional Rail Reorganization Act of 1973 (RRRA).

The legislative history of the GCCA supports the principle that a Section 201 Government corporation is vested with the full authority to determine its operating policies and practices subject only to specific restrictions in law. While the draft report acknowledges the legal latitude provided to Section 201 corporations, there remains a tendency to evaluate USRA practices against the standards applicable

## APPENDIX II

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to regular, non-corporate Government agencies. The draft's discussion of USRA's rationale for its policies is also incomplete, and the reader is occasionally presented with a misleading view of USRA's use of its corporate flexibility.

The legislative history of the RRRRA indicates that Congress intended not only that USRA be granted the management flexibility generally associated with Section 201 corporations, but did so in the belief that the tasks assigned to USRA could be accomplished only with the exercise of such management flexibility. In our judgment, the Congress was proved correct in its conviction by the operating experience of the Association.

It is this same conviction with regard to our current needs that lead us to object to the draft report's recommendations concerning legislative action to curtail the administrative flexibility of the Association. We see as a deficiency in the draft report the fact that these recommendations are being offered by the GAO auditors without sufficient appreciation of USRA's continuing roles of providing financial assistance to Conrail and other railroads, of monitoring Conrail's operations and of defending the Government's interests in the multi-billion dollar litigation arising from the adoption of the Final System Plan.

To assure an understanding of USRA's position on the various issues raised in the draft report, I request that this response be included in the final report to Congress.

Following are more detailed comments keyed to the subject areas identified in the draft report:

[See GAO note 1, p. 48.]

Government Corporations (pages 8-16) In the draft report's discussion of the flexibility and limitations applicable to Government corporations, there appears to be more argumentation supporting the concept that USRA's administrative flexibility is limited than is supported by law or legislative history. In so doing, the draft report ignored the extensive, contrary indications in the citations from the legislative history of the RRRRA and the GCCA contained in our letter of March 18, 1977 to the GAO's Office of General Counsel. We acknowledge that there are a number of constraints, both statutory and non-statutory which serve to set bounds to the exercise of USRA's flexibility; and we have recognized the existence of these constraints throughout the formulation of USRA management policies and practices.

[See GAO note 2, p. 48.]

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We must likewise restate our belief that Congress intended to afford and did afford the Association broad flexibility in its administrative practices, as shown in the language and legislative history of the RRRA as well as in its choice of the corporate form of organization. The decision to treat the Association as a mixed-ownership Government corporation organized under State (D.C.) law further underlines the Congressional desire that the Association's capacity to carry out an unprecedented mission under severe time constraints not be impeded by the rigidities applicable to regular Government agencies and even some wholly owned (Section 101) corporations.

Review of Treasury Audit (pages 17-22) We do not agree that Treasury "adequately considered" USRA's position on various aspects of the report. In many instances, while USRA's comments to the draft report were included in the final report, there was no indication that USRA's position was considered. For example, the report cites USRA's disagreement with the Treasury findings that \$35,000 had been spent on representation during the period examined and that there was an \$800 overpayment of relocation allowances. The report should have indicated also that USRA was right on both of those issues and that the Treasury audit findings were incorrect. We think it is erroneous to equate "a good business practice" exclusively with a tax deduction, as many business expenditures are valid and warranted even though not deductible for tax purposes.

Reception and Representation (pages 23-27) While the draft report fairly presents Treasury's findings and USRA's position on payments for representation purposes, it should include mention of the fact that representation expenses were drastically reduced to \$4,000 in fiscal year 1977, indicating a quick response to the diminished requirements of the period following the acceptance of the Final System Plan.

[See GAO note 1, p. 48.]

Moreover, we now have adequate controls over all representation expenses which are exercised by senior Association officials, and we systematically record the date, place, kind of event and number involved in each use of these funds.

Contracts with Former Officers (pages 28-30) The section on "USRA Response" appearing on page 28 should state clearly the basis for USRA's decision to contract for post-employment services of officers.

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At the time the first vice presidents of USRA were employed, USRA's President foresaw a need for occasional services from such officers after they departed from USRA employment. In addition, the employment terms for officers did not include the severance benefits and leave provided to other USRA employees. Thus the contracts substituted for these benefits while assuring the availability of post-employment services of former vice presidents as needed. Moreover, the cost incurred by USRA under this arrangement was not substantially different from what the cost would have been had we originally provided severance pay and then compensated separated officers at a daily rate for actual post-employment service.

[See GAO note 1, p. 48.]

You are aware that in the light of actual experience with post-service contracts and the difficulties encountered in explaining their utility, the Association's Board of Directors of September 28, 1976, decided to provide USRA officers with severance benefits comparable to other staff and discontinued the standard three-month contracts. Contracts with former officers are now on a daily rate basis for time actually spent on USRA work, and these are individually approved by the Board of Directors.

Payments in Lieu of Relocation (pages 30-33) The section on "USRA Response" which appears on page 31 should cite the fact that USRA saved money by adopting a policy of providing payments in lieu of relocation rather than requiring employees to move their households to the Washington area. We estimate the savings through June 30, 1977 was approximately \$50,000. This policy also permitted the recruitment of badly needed, specially skilled employees who would never have agreed to sell their homes and relocate for what was regarded as a short term project.

Club Membership Fees (pages 33-37) The first paragraph on page 33 states, "Treasury felt one membership in the Burning Tree Country Club did not fall under the prescribed USRA policy." This is not a correct statement. There were two separate memoranda concerning club memberships. A memorandum dated May 21, 1974, addressed to all officers of the Association, discussed only private dining clubs. A second memorandum dated May 22, 1974, discussed country club membership for the Chairman and President.

The report mentions the discussions of the July 29 and September 28, 1976 meetings of the USRA Board of Directors relating to country club and dining club initiation fees and dues. To be fair and complete, the report should mention that USRA received full reimbursement for fees and dues paid to the Burning Tree Country Club on behalf of the Chairman.

[See GAO note 1, p. 48.]

As outlined in a memorandum dated May 21, 1974, the Association determined that it would be advantageous in the conduct of official business for each of its officers to have a membership in a private dining club in the Washington area. At no time did the Association consider this to be a fringe benefit. In view of the complex tasks facing the officers in developing and explaining the Preliminary and Final System Plans and in view of the comparative isolation of USRA's (Buzzard Point) Anacostia River headquarters, the club memberships which assured availability of convenient meeting rooms and dining facilities were felt to be and proved to be, useful in getting the Association's job done.

Traffic Fines (pages 37-38) While we recently decided, as a matter of policy, to discontinue the practice of paying for traffic (parking) fines incurred by USRA employees traveling on official business, we continue to believe that the past policy was an appropriate exercise of the Association's authority as a corporation

[See GAO note 1, p. 49.] A legal analysis presenting the Association's position on this matter is being forwarded to the GAO General Counsel.

Board Approval of Administrative Policy (pages 38-39) The report should note here that the Board during the past year has substantially increased its oversight of administrative policies, including specific approval of policies and procedures in such areas as: procurement, salary programs, fringe benefits, representation expenses, and travel and relocation expenses.

USRA's Need for Flexibility (pages 40-41) We agree that it is appropriate for the General Accounting Office to comment on the degree to which the USRA has a continuing requirement for the administrative flexibility accorded it under the Government Corporation Control Act, the laws of the District of Columbia and the RRRA. We feel, however, that the discussion appearing in the draft report needs to explain more fully and accurately the current and prospective demands of the USRA mission. In our judgement, continuation of the Association as an independent Government corporation, with the flexibility associated with this status, is absolutely essential if we are to do our job in the years ahead.

It is true that the Final System Plan has been completed and that Conrail has been activated as the Nation's largest railroad. Clearly, we no longer are confronted with certain deadlines directly associated with the planning phase of USRA's history. On the other hand, the Association's litigation and legal mission, which was a relatively minor aspect of USRA operations prior to the completion of the Final System Plan, has now become extremely crucial. We must meet new deadlines imposed by the courts and the common desire to resolve as promptly as possible the legal issues in dispute. This can be done only if we have the authority and flexibility available to Government corporations.

As you know, regular departments and agencies do not ordinarily conduct proceedings in the courts, and most Government litigation is handled by the Department of Justice. USRA, as a corporation, is empowered to sue and be sued and to perform any other legal functions necessary to carry out its statutory responsibilities, including the utilization of contract counsel. Our authority to employ lawyers as needed, to compensate them in accordance with their skills and to enter into contracts for needed legal and technical support has been an important factor in the decision of the Department of Transportation and the Department of Justice to rely on USRA as the Government's agent in the defense of the Final System Plan in the courts. Billions of dollars are at stake in this litigation, and it is the strongly held view of the Association that any measures taken at this time [See GAO note 1, p. 48.]

to curtail our flexibility in personnel and procurement matters would have catastrophic effects upon our ability to attract and hold a first rate legal staff and to defend successfully the reorganization of the Northeastern railroads.

Our responsibilities with respect to the administration of financial assistance to Conrail and certain other railroads also calls for the continuation of corporate status with appropriate administrative flexibility. Our financial functions are, in fact, of a type which the Government Corporation Control Act contemplated be handled through agencies of a corporate character. We make loans, we set their terms, we work closely with the Federal Financing Bank and we collect repayments. In short, we have a large volume of financial transactions with entities external to the Executive Branch, and these are best handled by the Government corporation.

With respect to Conrail, the protection of the large public investment requires that we have a strong staff familiar with railroad operations. The recruitment and retention of this staff is greatly aided by our freedom from civil service restrictions and our ability to continue selected employees under the coverage of the Railroad Retirement Act.

## APPENDIX II

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The Association is not aware of any significant sentiment in the Office of Management and Budget, the Department of Transportation, the Department of the Treasury, the Justice Department or the Congress which favors disturbing, at this crucial time, the independent status or corporate authority of the United States Railway Association. We urge, therefore, that the General Accounting Office avoid in its report any inference or bias which might seem to favor the premature curtailment of the existing administrative flexibility of the Association.

Comparisons with Other Corporations (pages 42-61) Our general reaction to this analysis is that USRA's policies and practices are shown to be reasonably comparable (if not more conservative) to those of the corporations selected for review. We also reiterate our suggestion that care be exercised in the inclusion of the Consolidated Rail Corporation, a private corporation, in any comparative analysis of Government corporation practices.

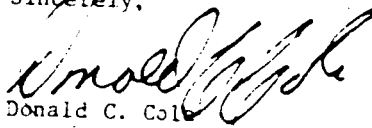
The section on "Travel and Subsistence" beginning on page 52 of the draft should be amended to include the following: (a) for each report of expenses, an employee's supervisor approves the report as "official business expenditures;" (b) USRA has amended its travel order to require travelers to state the business purpose of each trip; and (c) there are a number of Federal agencies where trips are covered by blanket travel orders and a business purpose is not stated for individual trips.

The draft report on pages 59-61 should acknowledge the extent to which executive dining rooms and other employee dining facilities in regular Federal agencies are supported by appropriated funds. Also, it should be noted that currently membership in the executive dining room numbers 57 and that these facilities will be discontinued after USRA moves to a less isolated location at the end of the calendar year.

### Conclusions and Recommendations (pages 62-64)

Our specific responses to the report's summary conclusions are covered in the appropriate sections of this reply. As for the report's recommendations suggesting means of limiting the existing administrative flexibility granted to USRA by Congress, we must reiterate our conviction that the successful completion of our current mission is in large part dependent on the retention of the management flexibility which we believe we have exercised responsibly and prudently.

Sincerely,

  
Donald C. Cole  
President

- GAO note:
1. Deleted comments relate to matters discussed in our draft report but omitted from or modified in this final report.
  2. Page references in this appendix refer to our draft report and may not agree with page numbers in this final report.





DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

September 26, 1977

Dear Mr. Lowe:

I am responding on behalf of Secretary Blumenthal to your request for the Department of the Treasury's comments on your proposed report titled: "Is the Flexibility Originally Provided to the U.S. Railway Association Still Needed?" The proposed report states that the Treasury's audit of the United States Railway Association (USRA) was capably done and that the resulting report was accurate and adequately supported. While your report points out that standards applicable to Federal agencies and other criteria of good business practices used in the Treasury report do not necessarily apply, the conclusions in the draft report with respect to questioned USRA practices are substantially the same as Treasury's.

In preparing the final report we suggest that you comment on the Treasury Department's recommendations on pages 28 and 29 of its report that USRA examine whether payments made to USRA employees in lieu of relocating were properly treated as not subject to withholding for state and Federal income taxes.

We understand that the former chairman of USRA, Mr. Arthur D. Lewis, reimbursed USRA for the \$5,000 initiation fee and \$1,400 in dues paid by USRA to the Burning Tree Country Club on his behalf. We recommend that this fact be recognized in your final report.

Finally, page 63 of the proposed report states that, in comparing USRA's administrative policies and practices with four similar corporations, the GAO found that the other corporations' policies and practices were largely the same as USRA's. In our view the report should state here, as it does on page 42, that payments in lieu of relocating and consulting contracts with former officers are exceptions to that conclusion.

Sincerely yours,

*R. C. Altman*  
Roger C. Altman

Mr. Victor L. Lowe  
Director  
U.S. General Accounting Office  
Washington, D.C. 20548

GAO note: Page numbers in this appendix refer to our draft report and may not agree with page numbers in this final report.

PRINCIPAL OFFICIALS RESPONSIBLE FOR  
MATTERS DISCUSSED IN THIS REPORT

		<u>Tenure of office</u>	
		<u>From</u>	<u>To</u>
<u>UNITED STATES RAILWAY ASSOCIATION</u>			
CHAIRMAN AND CHIEF EXECUTIVE OFFICER:			
William K. Smith (acting)	July 1977	Present	
(note a)			
Arthur D. Lewis (note b)	July 1974	June 1977	
PRESIDENT AND CHIEF OPERATING OFFICER:			
Donald C. Cole	Nov. 1977	Present	
Donald C. Cole (acting)	July 1977	Nov. 1977	
James A. Hagen (note c)	July 1975	May 1976	
Edward G. Jordan	Mar. 1974	July 1975	
GENERAL COUNSEL:			
Cary W. Dickieson	June 1976	Present	
Jordan J. Hillman	Feb. 1975	May 1976	
VICE PRESIDENT FOR ADMINISTRATION:			
Alan L. Dean	Mar. 1974	Present	
COMPTROLLER:			
William H. Bozman	June 1974	Present	
<u>NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)</u>			
PRESIDENT:			
Paul H. Reistrup	Mar. 1975	Present	
VICE PRESIDENT, PERSONNEL AND ADMINISTRATION:			
Kenneth A. Housman	May 1971	Present	
<u>CORPORATION FOR PUBLIC BROADCASTING</u>			
PRESIDENT:			
Henry Loomis	Oct. 1972	Present	

## APPENDIX IV

## APPENDIX IV

Tenure of office	
From	To

CORPORATION FOR PUBLIC BROADCASTINGVICE PRESIDENT-FINANCE,  
ADMINISTRATION AND TREASURER:

Ben Posner	Sept. 1973	Present
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LEGAL SERVICES CORPORATION

## PRESIDENT:

Thomas Ehrlich	Jan. 1976	Present
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## DIRECTOR OF ADMINISTRATION:

Nelson R. Rios	Apr. 1976	Present
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CONSOLIDATED RAIL CORPORATIONCHAIRMAN AND CHIEF EXECUTIVE  
OFFICER:

Edward G. Jordan	Apr. 1976	Present
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## CHIEF FINANCIAL OFFICER:

Robert Platt	July 1977	Present
R. V. Wadden (acting)	Apr. 1976	July 1977

DIRECTOR, CORPORATE  
ADMINISTRATIVE SERVICES:

Tobias V. Welo	Apr. 1976	Present
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DEPARTMENT OF THE TREASURY

## SECRETARY OF THE TREASURY:

W. Michael Blumenthal	Jan. 1977	Present
William E. Simon	May 1974	Jan. 1977

## UNDER SECRETARY:

Bette B. Anderson	Mar. 1977	Present
Jerry Thomas	Apr. 1976	Jan. 1977

## ASSISTANT SECRETARY

## (ADMINISTRATION):

William J. Beckham, Jr.	Apr. 1977	Present
Warren J. Brecht	Apr. 1972	Apr. 1977

APPENDIX IV

APPENDIX IV

<u>Tenure of office</u>	
<u>From</u>	<u>To</u>

DEPARTMENT OF THE TREASURY

DIRECTOR, OFFICE OF AUDIT:

Wilbur R. DeZerne

Aug. 1971 Present

a/Mr. Cole assumed the functions of the Chief Executive Officer on the resignation of Arthur D. Lewis in June 1977.

b/Before this confirmation date, Mr. Lewis served USRA as a consultant.

c/Mr. Lewis assumed the functions of the office of the President on the resignation of James A. Hagen in May 1976.

(34344)