



507428

11723

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

B-195269

OCT 15 1979

The Honorable Robert McClory, not make available to public reading  
House of Representatives

Dear Mr. McClory:

This is in response to your request that we determine whether, in funding its Urban Crime Prevention Program, the Law Enforcement Assistance Administration (LEAA) acted improperly. We find no irregularity in LEAA's funding of the program.

The Urban Crime Prevention Program was announced by President Carter in a March 27, 1978, message to the Congress on urban policy. The President said he proposed to

"\* \* \* add \$10 million in new resources to existing efforts in the Law Enforcement Assistance Administration for a program operated jointly by ACTION and LEAA. Under this program, mayors and local neighborhood groups [ would] develop community crime prevention programs \* \* \*"

Examples of the types of programs envisioned were escort services for the elderly, centers to assist crime victims, and neighborhood watch groups. 14 Weekly Comp. Pres. Doc. 592 (1978).

On May 31, 1978, LEAA transmitted to the cognizant congressional committees an amendment to its FY 1979 budget request, asking for the appropriation of an additional \$10 million for the Urban Crime Prevention Program. The amendment apparently arrived too late to be considered by the House committee. However, the Senate committee considered the amendment and added the requested \$10 million to its version of the bill. S. Rep. No. 95-1043, 33-34 (1978). In conference, the additional \$10 million was removed from the bill. The Conference Report (H.R. Rep. No. 95-1565 (1978)), recited:

"Funds requested for an urban crime prevention program are not within the amount recommended by the conferees. The conferees feel this item needs further review and would suggest consideration of the request in conjunction with other programs in the President's urban proposal."  
At 14.

LEAA's FY 1979 appropriation reads as follows:

"For grants, contracts, loans, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, \* \* \* including salaries and other expenses in connection therewith, \$646,488,000, to remain available until expended."  
92 Stat. 1029-30.

LEAA and ACTION then drafted an agreement under which the agencies would put the program into effect using currently available funds. The funds were expected to come from two sources. First, \$4.5 million was to come from funds allocated to another program, called the Comprehensive Crime Prevention Program. These funds were available for discretionary grants for purposes closely allied to those of the proposed urban crime prevention initiative. 42 U.S.C. § 3796(a)(2) (1976). An additional \$5.5 million was to come from a proposed reprogramming action. The subject funds for reprogramming had been part of formula block grants to the States in prior fiscal years (42 U.S.C. § 3796 (a)(1)) which reverted to LEAA under the terms of the grants because they remained unused by the States after the expiration of a three-year grant period.

The interagency agreement between ACTION and LEAA provided that the specific implementation of the Urban Crime Prevention Program was contingent on congressional approval of the reprogramming request. The agreement further contained two options for ACTION's participation in the program.

"If ACTION agrees to join the [ Comprehensive Crime Prevention P]rogram already announced by LEAA, the entire \$10 million will be jointly administered. If, however, ACTION decides to develop with LEAA a new program, the model dictates a \$5.5 million jointly administered activity and the remaining \$4.5 million commitment will support the urban initiative through the commitment of the Comprehensive Crime Prevention Program."

The reprogramming request was approved by the House and Senate Appropriations and Judiciary Committees and we are informed that ACTION accepted the second option in the agreement, to participate only in the development of a new program with the \$5.5 million.

Control of the funds under the agreement was to remain in LEAA. LEAA was to receive and "maintain the administrative and financial control over all aspects of all grants, including financial monitoring and

auditing." ACTION's participation was to be in the nature of policy-making, with some direct role in the review and processing of grant applications and in programmatic technical assistance to grantees. ACTION's administrative expenses in support of the program were to be paid by LEAA under the agreement. (Although the language of the agreement did not make clear that the transaction would be handled as reimbursement, LEAA informs us that the reimbursement mechanism is being used for ACTION administrative costs.)

Your first question raised by these facts concerns congressional intent. Did LEAA act contrary to the intent of Congress by implementing the Urban Crime Prevention Program when the Conference Committee concluded that consideration of the appropriation request to implement the program should be deferred and removed the \$10 million requested from from the LEAA appropriation?

The fact that the conferees removed from the appropriation the \$10 million previously added by the Senate to institute the program does not mean, however, that LEAA was legally precluded from implementing the urban crime program. It is not clear that the Congress, in refusing the additional \$10 million, meant to curtail the urban crime prevention initiative. It may only have been making a judgment that an additional appropriation for the program had not been adequately justified. In any event, LEAA's appropriations are lump-sums for salaries and expenses to remain available until expended, and accordingly, if the funds used for the program were otherwise available, no violation occurred in its implementation, despite the Conference Committee's action. The question, then, is whether the funds were otherwise available for this use.

The LEAA FY 1979 appropriation was generally available for salaries and expenses in connection with LEAA's responsibilities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3701, et seq., (1976). That Act has as its purpose the improvement of law enforcement activities by providing financial assistance to State and local governments and to others in the form of grants. According to 42 U.S.C. § 3736, 85 percent of each fiscal year's appropriation for law enforcement grants must be provided directly to the States in the form of block grants, allocated in proportion to population. The remaining funds, often referred to as Part C discretionary grants, may be made available directly to grantees which may be States, local governments or private nonprofit organizations. Among the enumerated purposes for which grants are available are the following: 1) development of improved methods of public protection; 2) recruitment and training of personnel and of community service officers to serve with and assist public safety forces; 3) public education on law enforcement; 4) programs to reduce crime against the elderly; and 5) development of community participation projects in crime prevention. 42 U.S.C. § 3731 (1976).

The objectives of the Urban Crime Prevention Program, as summarized in the agreement, are:

"(1) to involve citywide resources, including citizens community and neighborhood groups, public interest agencies, and governmental officials in a coordinated program development effort to develop a comprehensive urban crime prevention program; [ and]

"(2) to provide financial and technical assistance for the implementation of crime prevention programs by citywide coalitions which are comprised of neighborhood and community groups and which will work in partnership with locally elected officials."

These objectives are compatible with authorized functions under the Omnibus Crime Control Act, expressed in 42 U.S.C. § 3791 and, therefore, the LEAA lump-sum appropriation would be generally available to carry out the urban crime program.

We next consider the specific availability of the \$4.5 and \$5.5 million sources of funds for the urban crime program. LEAA has informed us that \$4.5 million is fiscal year 1979 money already appropriated to LEAA and allocated to Part C discretionary grants for the Comprehensive Crime Prevention Program. The \$4.5 million was not diverted from the Comprehensive Program. In fact, LEAA's agreement with ACTION specifically states that the Urban Crime Prevention Program would not conflict with the existing Comprehensive Crime Prevention Program, but that the programs' complementary aspects were to be emphasized to permit the Comprehensive Program to support the urban crime prevention initiative.

The jointly administered funds destined exclusively for urban crime prevention were the \$5.5 million for which reprogramming was requested. Reprogramming has been defined as

"changes in the application of financial resources from the purpose originally contemplated, budgeted for, testified to, and described in the justifications submitted to congressional committees \* \* \*."

A.R.F. Products, Inc., 56 Comp. Gen. 201, 206 (1976). Reprogramming is used because, even with the flexibility of a lump-sum appropriation, Congress sometimes wishes to oversee the shifting of funds within an appropriation account. LTV Aerospace Corporation, supra, at 327. In accordance with the Department of Justice's Authorization Act (92 Stat. 3459, 3463), written notice of intended changes in programs or any reprogramming of funds in excess of \$500,000 is required. A formal reprogramming notice was sent to the House and Senate Judiciary and Appropriations Committees on February 13, 1979, describing the new urban crime program and asking to

move the \$5.5 million, which represented a reversion to LEAA of prior year formula grants that the States were unable to use, to the Urban Crime Prevention Program, a discretionary grant program. The reprogramming action was subsequently approved.

The reprogramming did not change statutory allocations of funds from the block grant program. (42 U.S.C. § 3736 requires that 85 percent of each fiscal year's appropriation be made available to the States in the form of block grants.) All statutory allocation requirements were apparently complied with in the fiscal years in which the funds originated. There is no statutory requirement that unused funds which are returned to LEAA after the close of the fiscal year in which they were appropriated remain as block grant funds. This is distinguished from the situation where funds are returned before the close of the fiscal year, in which case they must be reallocated as block grants. 42 U.S.C. § 3736(b) (1976).

LEAA appropriations have uniformly been made available until expended, suggesting that the Congress must have anticipated that there might be a need for obligation of the funds later than in the first fiscal year of their availability. Under the circumstances and consistent with the reprogramming request and congressional approval thereof, we agree that the reverted funds may be used for discretionary grants in connection with the urban crime prevention program.

In this connection, the reprogramming was approved by the Appropriations Committees (as well as the Judiciary Committees). This would tend to support the conclusion that the conferees did not intend, in the Conference Report on LEAA's 1979 appropriation, supra, to preclude implementation of the Urban Crime Prevention Program altogether.

The final question is whether the joint program constitutes an impermissible transfer of LEAA functions or funds to ACTION. On the basis of available information, we do not see any improper transfer here. In general, agencies mutually interested in a program are permitted to act in concert, as long as the funds of each agency are demonstrably being used for its authorized purposes.

Moreover, in this case, the Congress obviously contemplated that LEAA would engage in programs with other agencies. While Congress provided that LEAA functions could not be transferred elsewhere within the Department of Justice without legislative action (42 U.S.C. § 3753 (1976)), it specifically provided authority to obtain services, equipment and personnel of other agencies on a reimbursable basis when appropriate. 42 U.S.C. § 3756 (1976). It is on this basis that LEAA is reimbursing ACTION's administrative expenses under the urban crime program.

Additionally, Congress must have contemplated that other agencies would be involved in LEAA programs at the policymaking and program

B-195269

management level, as it provided for LEAA reimbursement of agencies and departments "for the performance of any of its [LEAA's] functions under this title." 42 U.S.C. § 3762 (1976). Accordingly, the joint management of the program and reimbursement of administrative expenses were acceptable procedures under the existing law.

Similarly, no improper transfer of funds occurred in the grant administration plan authorized by the LEAA/ACTION agreement, as all grant applications were received by LEAA and financial control in the form of disbursement authority and audit responsibility was maintained by LEAA. ACTION's participation will be in terms of its contact with existing urban volunteer networks.

In conclusion, we find that LEAA and ACTION's activities in instituting the Urban Crime Prevention Program did not exceed LEAA's statutory authority, nor did they circumvent the appropriations process or violate any principle of appropriations law.

Sincerely yours,

MILTON BOCOLAR

For the Comptroller General  
of the United States