

~~027184~~  
122842

UNITED STATES GENERAL ACCOUNTING OFFICE

FOR RELEASE ON DELIVERY  
EXPECTED AT 9:30 A.M. EST  
THURSDAY, November 10, 1983

STATEMENT OF  
MILTON J. SOCOLAR, SPECIAL ASSISTANT TO THE  
COMPTROLLER GENERAL OF THE UNITED STATES  
BEFORE THE  
SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY  
COMMITTEE ON GOVERNMENT OPERATIONS  
HOUSE OF REPRESENTATIVES



122842

Mr. Chairman and Members of the Subcommittee:

Eight months ago, I accompanied the Comptroller General, who testified before your Subcommittee on OMB's initial version of the lobbying amendments to Circular A-122. Mr. Bowsher endorsed the general concept that Government contractors and federally funded non-profit organizations should not be permitted to lobby at the taxpayers' expense. That concept, it seems to me, is fundamental. As I recall, none of the witnesses who testified before you at that time questioned that basic principle. What they criticized was the way the January 24 proposed amendments translated the principle into regulatory guidance.

027184 /  
122842

We shared their reservations. The initial OMB Circular went too far. If any portion of an item was used for what was termed "political advocacy," or if an officer or employee engaged in any activity defined as political advocacy, the full cost of such items and of the full salary of such persons would have been disallowed. The intent, it was explained in that early Preamble, was, first, to discourage lobbying-oriented organizations from applying for Federal grants and contracts, and second, to disassociate the Federal Government from any possible connection with the cause for which the organization was lobbying.

We disagreed strongly with that approach. In our view, lobbying is not evil per se, nor is lobbying an activity that deserves punitive treatment. The issue relates, rather, to the exercise of that right at public expense. We thought it important that OMB treat lobbying costs the same as any other unallowable cost and separate them on the grantee's or contractor's books from properly reimbursable costs. At the conclusion of our testimony before you last March, we offered to work with OMB in developing revised cost principles which would be fair both to grantees and contractors and to the taxpaying public.

OMB was quick to respond. Even before the initial proposal was withdrawn, members of our respective staffs were meeting to discuss our mutual concerns. As I recall, from mid-February to mid-October, there were five meetings and many telephone calls to discuss the provisions of at least eight different drafts of the proposal. These drafts, of course, were OMB's, as is the final proposal which appeared

in the Federal Register on November 3. We did not have an opportunity to see the final proposal before publication but commend OMB for dropping what we consider was the last vestige of the "taint" theory--a provision in earlier versions that would have made all costs for meetings and conferences unallowable if a specified portion was characterized as lobbying.

There are several statements in OMB's Preamble which I understand have generated some confusion about the extent of GAO's responsibility for and endorsement of the current proposed Circular. Your staff asked that I comment on those statements.

It is correct to state that the GAO "supports this initiative." The "initiative" referred to is the establishment of uniform cost principles that would provide clear and unambiguous criteria for all agencies and their respective grantees or contractors in distinguishing legitimate, reimbursable costs from unallowable lobbying costs. As OMB points out in its Preamble, there is no doubt that the Congress intended to restrict the use of Federal funds for lobbying activities. However, there is little helpful guidance for those who must enforce legislative restrictions on where to draw the line. It is for this reason that the GAO has not been willing to take exceptions to expenditures of this type in any but the most egregious cases, and we have repeatedly urged that guidance be provided in the form of uniform cost principles.

The OMB Preamble also states that "this proposal satisfies the concerns which the GAO had expressed earlier." I approved that language as an accurate reflection of the fact that OMB, in the

course of our meetings, had made significant changes to accommodate our repeated concerns over assuring that costs be disallowed only on an allocated basis. It should be clear, though, and it was to OMB, that we were not binding ourselves to any specific provision, particularly in light of the desirability and need to assess the merit of whatever comments might be received on the regulation as proposed.

Nevertheless, the present proposal does indeed satisfy the major concerns we expressed at your hearing last March. First and foremost was the need to provide for a cost allocation system. As I mentioned earlier, OMB has reversed itself in this area, and we are satisfied from an accounting standpoint. We note with approval, also, that provision has been made for advance resolution of any questions which a grantee or contractor might have about the scope of prohibited activities. Once resolved in writing, an agency would be bound by its interpretation in performing audits of the grantee's or contractor's expenditures.

We also think that the range of unallowable activities has been narrowed appropriately. We were not in favor of restrictions placed on grantee or contractor communications with officials in the Executive Branch in connection with proposed regulations or other matters unrelated to the passage or veto of legislation. We were pleased to learn from the Federal Register version that the cost of this activity is no longer unallowable.

It is our view that OMB has been responsive to the many criticisms it received after publication of its January 24 proposal. While there may be further improvements that could be made before the present proposal becomes final, we support publication of the proposal for comment, and we expect that OMB will give serious consideration to the comments it receives.

I will be glad to answer any questions that you, Mr. Chairman, or other members of the Subcommittee may have.

26784