



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

Lupton

1999/

B-202975

November 3, 1981



088281

The Honorable Bobbi Fiedler  
House of Representatives

~~Do not write anything on these envelopes~~

Dear Ms. Fiedler:

We refer to your letters of April 15, and May 19, 1981, requesting this Office to determine whether the Los Angeles Community Redevelopment Agency (CRA) and the Los Angeles Downtown People Mover Authority (DPMA), which are recipients of Federal grant funds, have expended any of these funds in violation of an appropriation restriction prohibiting their use for lobbying activities. You also asked us to investigate whether CRA or DPMA had used Federal funds to retain the services of law firms for the purpose of engaging in efforts to influence appropriation measures and other legislation pending before the Congress.

Our review of the accounts of these recipients disclosed no violation of Federal statutes in the retaining of the law firms. However, DPMA apparently used Federal grant funds in violation of an appropriation act restriction to prepare and disseminate a newsletter encouraging readers to write their Congressmen and Senators in support of a continuation of Federal funding for the Los Angeles People Mover project.

Community Redevelopment Agency

The CRA was established by the City of Los Angeles to revitalize parts of the city. It is governed by a Board of Commissioners appointed by the Mayor and confirmed by the City Council. Its primary source of funding stems from a real property tax increment that represents the difference between current property taxes and the property taxes that were in effect when parcels were designated for redevelopment several years ago. Other funding comes from grants from local, state and Federal governments. Federal funding is derived from grants from the Department of Housing and Urban Development and the Urban Mass Transit Administration of the Department of Transportation.

Shortly after the Reagan Administration came to power, it became apparent from media reports that continued Federal funding for the downtown people mover was in jeopardy. CRA's plan to rebuild the downtown portion of the City was in part based on DPMA completing the people mover as originally scheduled. Fearing that the program might be canceled, CRA officials, with its Board's approval, decided to retain the services of a law firm. On April 23, 1981, a contract in the amount of \$18,000 was let with the firm of Manatt, Phelps, Rothenberg and Tunney for "General Financial Planning" with the purpose of determining alternative financing arrangements for the people mover if the Federal Government ceased to fund the project.

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for

An examination of CRA accounting records and the contract document substantiate the claim of CRA officials that the source of the entire \$18,000 contract amount was derived from the local real property tax increment. Since no Federal funds were involved, we have no reason to question the propriety of the expenditure.

#### Downtown People Mover Authority

The DPMA was established by the City of Los Angeles around May 1980 and given the mission of constructing a downtown transportation system. It is governed by a Board of Commissioners appointed by the Mayor and confirmed by the City Council. The Federal Government funds about eighty percent of DPMA's budget primarily through Urban Mass Transportation Administration (UMTA) grants, which are channeled through the City of Los Angeles. No Federal funds are given directly to the agency. The remaining twenty percent comes from state and local governments.

Not long after DPMA was established, it let a contract with the law firm of Lawler, Felix and Hall for general legal services for the Authority. This firm has served as DPMA's general counsel until the present date. In April 1981, at about the same time CRA let its contract with the Manatt law firm, DPMA extended its contract with the Lawler law firm for the period April 30 to June 30, 1981 at the cost of \$79,000. The Authority states that these funds probably were derived from Federal sources.

Our review of the contract performance reveals that the Lawler firm has performed such tasks as the preparation of procurement regulations for the Authority and regulations establishing a code of ethics for DPMA Board members. The record of billings under the contract did not disclose any entries that could be construed as lobbying activities. The contract and its amendments contained no provisions that would suggest the Lawler firm was obligated to perform lobbying or similar duties. Under provisions of Federal Procurement Regulations governing grants to state and local government agencies contained in 41 CFR § 1-15.711-16, legal expenses required for the administration of the grant program are allowable as one of the grant's costs. Accordingly, we found no evidence that DPMA had improperly expended Federal funds for lobbying in connection with the Lawler law firm contract. (A summary of our investigation into the propriety of the two contracts with law firms, prepared by the GAO Los Angeles Regional Office, is enclosed for your information.)

We found, however, that DPMA's use of Federal funds to prepare and disseminate a newsletter in April and May 1981, a copy of which you forwarded to us, was improper. DPMA began its newsletter with headlines warning that Congress was about to act on People Mover funding. The

article pointed out that the Administration had recommended to Congress that Federal transit grants to local communities be reduced as a part of its program to trim the Federal budget. It also stated that planning of the People Mover Project had been predicated on the Federal Government's long term funding commitment. While the Federal Government had invested billions of dollars for transit systems in other cities to which Los Angeles taxpayers had contributed, the article asserted that the People Mover would represent the first time tax dollars would return to Los Angeles for a transit project. The newsletters' implication is that the readers should support full Federal funding of the People Mover Project:

"LOCAL COMMUNITY SUPPORT FOR PEOPLE MOVER REMAINS STRONG"

"Responding to recommendations of OMB that federal funds be eliminated for downtown people movers, a broad cross section of community leaders are sending letters and telegrams to President Reagan, Transportation Secretary Lewis, and Congress urging that the federal government not renege on previous commitments of the Ford and Carter Administrations to provide federal funds for the People Mover. Joining members of the business community was the Los Angeles County Transportation Commission which said in its message to the President:

"The Downtown People Mover is an integral part of a Transportation Program for all of Los Angeles County involving a variety of transportation modes (auto, car pool, bus and train), each serving the needs for which it is best suited. Downtown Los Angeles is experiencing a building boom which makes high capacity circulation with minimal operating costs essential. In fact, many of the buildings currently being constructed were designed with the People Mover in mind.

"Los Angeles was first selected as a People Mover site by the Ford Administration in 1976 and Federal, State and local agencies have cooperated over the last four years to bring the project to the point of construction. The local business community has agreed to contribute to the cost of the People Mover operations through benefit assessments, a major breakthrough in transit financing and a tangible demonstration of their commitment to the project.

"We urge continuation of the Federal government's support for this project so that it can move ahead in a timely fashion."

The newsletter went on to urge readers to communicate with their elected representatives in Congress and express their views:

"Pending Congressional action on transit funding has prompted numerous individuals and interest groups to express their views. Should readers wish to communicate with their elected representatives in Congress on federal funding for the People Mover they should write to their own representative and/or the following: California Senators: S. I. Hayakawa, and Alan Cranston; California Congressmen: Edward R. Royball, Julian Dixon, Vic Fazio, Barry Goldwater, Jr.; Chairman of Key Committees: Senate Appropriations: Mark O. Hatfield (R-OR); Transportation Subcommittee: Mark Andrews (R-ND); House Appropriations: Jamie L. Whitten (D-MS); Transportation Subcommittee: Adam Benjamin (D-IN). Letters, mailgrams and telegrams should be addressed:

Honorable \_\_\_\_\_  
United States Senate  
Washington, D.C. 20510

Honorable \_\_\_\_\_  
U.S. House of Representatives  
Washington, D.C. 20515"

"Final Congressional action is expected within 45 days."

The above-quoted newsletter passages clearly evidence an attempt on the part of the DPMA to urge the public to contact members of Congress in an effort to influence Federal appropriations legislation in support of the People Mover.

#### Anti-lobbying Statutes

You have cited two anti-lobbying statutes that you believe may be relevant in this situation. The first is 18 U.S.C. § 1913 (1976) and the second is section 607(a) of the Treasury, Postal Service and General Government Appropriations Bill of 1981 as incorporated by reference in the law continuing appropriations for fiscal year 1981, Pub. L. No. 96-536, December 16, 1980, 94 Stat. 3166.

The provisions of 18 U.S.C. § 1913 read as follows:

"No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business."

"Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than \$500 or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment." (Emphasis supplied.)

This section by its terms is applicable only to officers and employees of the United States Government and therefore does not cover employees of Federal grant recipients such as CRA and DPMA. Moreover, the enforcement of this section is primarily the responsibility of the Department of Justice, since it contains fine and imprisonment provisions.

Since the early 1970's each of the annual Treasury, Postal Service, and General Government Appropriations Acts have contained a general provision prohibiting the use of appropriated funds to influence legislation, usually designated as section 607(a). For fiscal year 1981, that section was incorporated by reference in the law continuing appropriations, Pub. L. No. 96-536, cited above, because no Treasury, Postal Service and General Government Appropriation Act was enacted in 1981. This section provides as follows:

"No part of any appropriation contained in this or any other Act, or of the funds available for expenditure by any corporation or agency, shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress." (Emphasis supplied.)

This prohibition applies to the use of any appropriation "contained in this or any other Act." Thus, it is applicable to the use of appropriated funds by any Federal agency or department. Federal agencies and departments are responsible for insuring that Federal funds made available to grantees are not used contrary to this restriction. This is generally accomplished by provisions in grant documents and by regulations promulgated by the granting agency governing the use of appropriated funds by grant recipients which specifically reference applicable restrictions.

We have long held that the prohibition of this section applies primarily to expenditures of appropriated funds involving appeals addressed to members of the public suggesting that they contact members of Congress to indicate support of or opposition to pending legislation, or to urge members of Congress to vote in a particular manner. See, e.g., B-128938, July 12, 1976. The material contained in the DPMA newsletter quoted above contained all the essential elements of a violation. By means of the newsletter, DPMA was engaging in lobbying by requesting members of the public to communicate with members of the California congressional delegation and certain congressional leaders and to urge support for a continuation of Federal funding for the People Mover project, which was scheduled to be acted on by the Congress. While the newsletter exhorts the reader to communicate his or her "views" regarding People Mover funding, it is abundantly clear that the Authority supports continuation of Federal funding and that view is the one it hopes will be expressed. Indeed, alternative views are neither mentioned nor discussed in the newsletter. Such neutral wording as "views" or "feelings" will not exculpate material that would otherwise constitute a violation. See B-128938, supra.

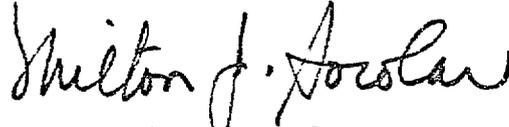
The Federal Government provides DPMA with approximately eighty percent of its funding requirements. These funds are provided as grants by the Urban Mass Transportation Administration (UMTA) for planning and construction of the People Mover and are channeled through the City of Los Angeles. The General Manager of the Authority acknowledged to CAO auditors that Federal funds were probably involved in the publication and dissemination of the newsletter. He defended this action on the basis that UMTA requires that grantees keep the public informed concerning matters affecting the project. Moreover, the General Manager states that he believed the newsletter was worded so that it would not be considered as lobbying. As explained above, we have concluded that the newsletter material did indeed constitute lobbying, which apparently was paid for in part by Federal funds derived from an UMTA grant. Accordingly, section 607(a), restricting the use of appropriations for lobbying, appears to have been violated.

UMTA is responsible for insuring that funds it provides to grant recipients are expended in accordance with law. In this connection, Federal Procurement Regulations governing administration of grants and

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contracts with state and local government agencies provide in 41 CFR 1-15.701-1 and 41 CFR 1-15.703-1(c) that grantee expenditures prohibited by Federal laws, such as section 607(a), are not allowable program costs. Accordingly, we are by separate letter advising the Administrator of UMTA of this apparent illegal expenditure. While appropriated funds were apparently expended by DPMA on the preparation and dissemination of the newsletter, the amount involved in the violation would appear to have been relatively small and to have been commingled with proper expenditures. In view of the small amount apparently involved and the difficulty in determining the exact amount expended illegally, we are not insisting that the Administrator recover the funds if he determines that it would not be cost effective to do so. However, we are requesting the Administrator to take appropriate action to insure that future violations of the lobbying restriction do not occur.

Sincerely yours,

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

Acting Comptroller General  
of the United States

Enclosure



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

B-202975

November 3, 1981

The Honorable Arthur E. Teele, Jr.  
Administrator  
Urban Mass Transportation Administration  
Department of Transportation

Dear Mr. Teele:

Enclosed is a copy of our opinion of today to Representative Fiedler, B-202975, in which we conclude that the publication of a particular newsletter by the Los Angeles Downtown People Mover Authority, (DPMA) a subgrantee of UMTA, constituted lobbying in violation of a restriction on the use of UMTA appropriations contained in section 607(a) of the annual Treasury, Postal Service and General Government Appropriation Act.

While appropriated funds were apparently expended by DPMA on the newsletter, the amount involved in the violation is relatively small and is commingled with proper expenditures. However, if the amount attributable to the violation can be determined and if you determine that it would be cost effective, recovery should be attempted. Also, we recommend that you take appropriate action to prevent a recurrence of this violation. This might include promulgating regulations applicable to grantees and subgrantees and/or including specific provisions in grant documents prohibiting lobbying by grant recipients and subrecipients with the use of Federal funds.

Finally, we request that you provide us with a report concerning the actions taken by the Administration to implement our recommendation.

Sincerely yours,

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

Acting Comptroller General  
of the United States

Enclosure

November 3, 1981

## DIGEST

1. Representative Bobbi Fiedler requested GAO to determine if two Los Angeles based Federal grant fund recipients, the Los Angeles Downtown People Mover Authority (DPMA) and the Los Angeles Community Redevelopment Agency (CRA), had used their Federal funds to hire law firms to lobby for a continuation of Federal funding for their programs in violation of anti-lobbying statutory restrictions. GAO examination revealed that CRA used non-Federal funds to hire a law firm for its program while DPMA used Federal funds to hire a law firm that did not engage in lobbying. Hence, no violation of the anti-lobbying appropriation restriction occurred incident to the law firms' contracts.
2. Representative Bobbi Fiedler requested GAO to rule on whether a newsletter prepared and disseminated by the Los Angeles Downtown People Mover Authority (DPMA), a subgrantee of the Urban Mass Transportation Administration, violated the section 607(a) appropriation restriction in the Treasury, Postal Service and General Government Appropriation Act that restricts the use of Federal funds for lobbying. We concluded that Federal funds had apparently been used in violation of section 607(a), since the newsletter constituted lobbying by encouraging members of the public to contact members of Congress and urge support for a continuation of Federal funding for the People Mover Program.

SUMMARY

~~1-9-92~~

DOWNTOWN PEOPLE MOVER

Possible Misuse Of

Federal Funds

CODE 990516

FOR CONGRESSWOMAN BOBBI FIEDLER

July 1981

Submitted By  
U.S. GENERAL ACCOUNTING OFFICE  
Los Angeles Regional Office

## INTRODUCTION

At the request of Representative Bobbi Fiedler of California, GAO (LARO) reviewed the situation surrounding the expenditure of \$94,000 in connection with the Los Angeles Downtown People Mover. Allegations had been made that the \$94,000 had been improperly or illegally spent for lobbying purposes with the intention of continuing program funding. Representative Fiedler had the impression that the Los Angeles Community Redevelopment Agency (CRA) and the Los Angeles Downtown People Mover Authority (DPMA) had hired a Los Angeles law firm to perform funding lobby duties.

The CRA received Federal appropriations as a grantee or derivative grantee from the Department of Transportation's Urban Mass Transit Administration and the Department of Housing and Urban Development. These grants were subject to the Office of Management and Budget Order 74-4 (A-A87).

Representative Fiedler maintained that Section 16 of that order prohibits the use of any Federally appropriated monies for improper lobbying such as were allegedly involved.

## SCOPE

In order to be in a position to determine the validity of the improper expenditure claims, LARO visited the offices of the Community Redevelopment Agency, the Downtown People Mover Authority, and the law firm of Lawler, Felix, and Hall. We interviewed officials at each site and examined pertinent documents and records. At the CRA we reviewed the accounting system used and ran a limited sample test to satisfy ourselves as to its accuracy. Since \$15,000 of the \$94,000 involved was spent by the CRA and the remainder by the DPMA, we divided our review into two separate parts. CRA contracted with the firm of Manatt, Phelps, Rothenberg and Tunney, and DPMA contracted

with the firm of Lawler, Felix and Hall.

#### COMMUNITY REDEVELOPMENT AGENCY

The CRA is a quasi-city agency established by the City of Los Angeles to revitalize Los Angeles to meet the needs of future generations. It is governed by a seven member citizen Board of Commissioners appointed by the Mayor and confirmed by the City Council. The responsibilities of the governing Board are to make policy decisions, oversee finances, award contracts, authorize financial assistance, and approve selection of developers and architects.

#### Sources of and Accounting for Funding

The CRA derives its funding from several sources. Its primary source is a property tax increment. The CRA receives the difference between current property taxes and what property taxes were when a parcel was designated as a redevelopment area. They also receive funding from the County, City, State, and Federal governments. A manual accounting system is used in which a card file is maintained with a separate card for each expenditure classification. Every debit and credit to each account is entered on each card and coded to show where the money came from and where it went.

#### Reasons for \$15,000 Expenditure

Shortly after the Reagan Administration came into power, it became apparent from media reports that the downtown people mover funding may be in jeopardy. CRA officials, fearing serious repercussions from downtown private investors and a damaging setback to the Los Angeles revitalization program, became very concerned that the program might be cancelled. With Board approval, they decided to contract with a prominent law firm with a strong lobbying reputation. A contract was let on April 23, 1981 with Manatt, Phelps, Rothenberg and Tunney for "General Financial Planning". The purpose of this \$15,000 contract was to procure the services of

this law firm which was charged with determining alternative financing arrangements for the people mover, including lobbying of State and Federal officials to obtain public appropriations to replace the funds that would be lost if the Federal government pulled out of its original obligations through the Urban Mass Transit Administration.

#### Validity of the Expenditure

We found that the \$15,000 expended by CRA was based on our limited review, a legitimate transaction with respect to Federal guidelines, because it came entirely from sources other than the Federal government. We examined the card files and verified the source of the \$15,000 credit to be out of the property tax increment monies. This was further substantiated by examination of the actual contract with Manatt, Phelps, Rothenberg and Tunney. Such contract indicates on the first page that the funds come from the tax increment.

#### DOWNTOWN PEOPLE MOVER AUTHORITY

The DPMA is a quasi-city agency established by the City of Los Angeles in May or June of 1980 with the objective of building a downtown transportation system. It is governed by a seven member Board of Commissioners appointed by the Mayor and approved by the City Council. The Board rules on all major decisions including primary contracts and architectural planning.

#### Sources of Funding

The DPMA receives about eighty percent of its funds from the Federal government. However, no monies are paid directly to the DPMA. Instead, all Federal funds are channeled through the city of Los Angeles to the DPMA. In fact, the DPMA receives all of its funds through the City. The remaining approximate twenty percent funding comes from the City and State governments. We did not examine the DPMA accounting systems since the DPMA officials did not deny that the expenditure in question could and probably was out of the Federal subsidy.

### Reasons for the \$79,000 Expenditure

Shortly after the DPMA came into being, a contract was let to the law firm of Lawler, Felix and Hall to perform "general legal services" on behalf of the DPMA. This law firm has acted as DPMA's general counsel during DPMA's entire existence, performing numerous varied legal tasks and advisories. At about the same time (April, 1981) the contract between CRA and Manatt was let, a \$79,000 extension was made by DPMA of its contract with Lawler for general legal services. This extension was for the period April 30 to June 30, 1981. We examined several of the transactions and activities of Lawler and found them to be of a general nature and not related to lobbying. Lawler has been involved in such things as preparation of procurement manual, formulation of a code of ethics for DPMA Board Members, and numerous other general functions. We reviewed the record of billings and found no entries that could be construed to include lobbying.

### Validity of the Expenditure

We found the \$79,000 expenditure for procurement of a general counsel to be proper with respect to Federal guidelines. Although the funds were probably to a great extent of Federal origin, none appeared to have been spent for lobbying purposes. DPMA officials theorized that the coincidence of time involved with the letting of the two separate contracts (one for lobbying and one not) could have led to possible confusion over the intended use of funds and the source of those funds. In addition, we examined the actual Lawler contract plus amendments and found no inference of lobbying duties.

CONCLUSION

The allegations about the DPMA and the CRA using federal funds for lobbying are to the best of our knowledge, unfounded. Lobbying was done by the CRA, but no Federal money was involved. The money to hire Manatt, Phelps, Rothenburg, and Tunney was generated from property tax increments. The DPMA has not been involved in any lobbying. The retaining of Lawler, Felix, and Hall was for general legal services only.