



League of Women Voters of Minnesota Records

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LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

March 2, 1983

Financial Management Division
Office of Management and Budget
Washington, D.C. 20503

To whom it may concern:

Enclosed are two copies of Comments Concerning Proposed Revisions to Circular A-122 Submitted to the Financial Management Division of the U.S. Office of Management and Budget by the League of Women Voters of Minnesota as requested in the Federal Register, Vol 48, No. 16, Monday, January 24, 1983.

Further information may be obtained from our office at the above address and phone number.

Sincerely,

Jean Tews

Jean Tews
President

Ellen Mork

Ellen Mork
Government Co-Chair

T:M:s
enc.



LEAGUE OF WOMEN VOTERS OF MINNESOTA

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Comments Concerning Proposed Revisions to Circular A-122
Submitted to the Financial Management Division
of the U.S. Office of Management and Budget
by the League of Women Voters of Minnesota
March 2, 1983

The following comments are offered on the proposed revisions to OMB Circular A-122, "Cost Principles for Nonprofit Organizations". Comment was requested in the Federal Register, Vol. 48, No. 16, Monday, January 24, 1983. Unless otherwise stated, all quotations in this document are taken from the notice in the above publication (pp. 3348-3351). These comments are offered by the League of Women Voters of Minnesota (LWVMN) and were prepared by Ellen E. Mork, Government Co-Chair.

Effects on LWVMN

The League of Women Voters strongly opposes the proposed additions to OMB Circular A-122. The LWVMN is a nonprofit, nonpartisan organization which promotes citizen participation in government at all levels. We present nonpartisan information on candidates and issues to the public, but we also lobby both the public and the government on those particular issues on which consensus of the membership has been reached.

The League of Women Voters of Minnesota carefully separates the functions of impartial voter/citizen education from legislative action on issues that the members decide to support. Grants from government agencies, in addition to other citizen education projects, are carried out through the League of Women Voters Education Fund (LWVEF), which is a public education and charitable trust under (501(c)(3) of the Internal Revenue Code. However, both the League of Women Voters of Minnesota and the League of Women Voters Education Fund activities make use of the same office facilities (space, phones, equipment, supplies) and staff. Because of the structure of our organization the proposed revisions would directly affect our ability to function as an effective, efficient organization.

While LWVMN is not currently a recipient of a federal grant, we have been in the past. In 1977, 1978 and 1979 the League of Women Voters carried out several energy education projects in Minnesota through grants from the Energy Research and Development Administration (\$1800) and the U.S. Department of Energy (\$3650, \$1163). Those funds enabled the League to purchase and circulate educational resources on energy and energy alternatives throughout the state and to produce an energy newsletter. The Environmental Protection Agency, in 1980 and 1981, granted the League of Women Voters two \$5000 grants. The first enabled the League of Women Voters to hold a two-day Waste Alert seminar which addressed the problems and issues of solid and hazardous waste disposal. The second grant focused on the problems of hazardous waste disposal; the League of Women Voters developed a presentation and materials on the subject and held a series of citizen forums around the state. The U.S. Department of Energy gave the League of Women Voters a \$2000 grant in 1981 to produce a pamphlet entitled A Minnesota Citizen's Guide to Nuclear Energy, which was widely circulated and reproduced in Minnesota. It is a carefully researched and balanced document which presents factual, technical information about nuclear power and summarizes both pro and con arguments.

We would be unable to accept such grants in the future, if the proposed additions were adopted; we would not be able to carry them out with existing office facilities as we would certainly not wish to relinquish our advocacy role as the League of Women Voters of Minnesota.

Should the LWVMN decide to accept a federal grant and separate our grant-funded activities from our normal operations in the fashion mandated by the OMB revisions, this total separation of two functions would have the following effects; increased costs for the grant-funded project; less efficient management of the project; increased difficulty in locating willing volunteers to work on the project.

Increased costs would result because grant supplies would no longer be purchased as a part of our bulk orders: separate typing paper, pens, paper clips, typewriter ribbons, envelopes, etc. would have to be purchased out of grant funds. The LWVMN would no longer be able to offer the government our services at the current reduced rate. Federal funds would not be defraying LWVMN overhead; but neither would LWVMN be defraying costs to the government.

As does any large volunteer organization, LWVMN has an executive director and a small paid staff. These regulations would make it impossible for our executive director and staff to assist in the execution of the federally funded project. Additional cost would result from the employment of a trained manager to supervise the project, unless we were to opt for the decreased efficiency of using an inexperienced manager. We understand that federal grants often require that the executive director be involved in the project. Either these requirements would have to be changed or the grants open to nonprofit groups would be severely limited.

Decreased efficiency would also result from the fact that staff could not do any typing. Volunteers, many of whom work full-time, would have to do the typing on their own time, therefore requiring increased lead-time on the project. Would the government be interested in purchasing a typewriter for all grant recipients, since it would be an indispensable part of most projects? Current procedure involves an informal rental of equipment, staff services and office space. It works to the mutual advantage of grantee and grantor. There appears to be no benefit to changing this arrangement substantially.

Volunteers to implement the project would be harder to find if told they must supply their own typewriters, supplies and workspace. Total separation of project function from advocacy function would forbid the use of the office machinery or even the premises by volunteers working on the project. Is it really desirable for federally funded grants to be conducted in kitchens and basements? How could we avoid the appearance of government support for the normal activities of such a household?

Reasons for Opposition

The LWVMN opposes the proposed additions to Circular A-122 for at least five reasons. We believe they are unnecessary, unwise, unfair, costly and probably illegal.

The stated purpose of the revisions is "to ensure that federal contracts and grants are not used to support political advocacy either directly or indirectly." While this purpose is admirable, we cannot agree with the implementation of these new regulations. They are not needed because the use of federal funds for political purposes is already prohibited. Nonprofit organizations must follow strict accounting procedures to ensure that public funds are spent only for the purpose

of the grant. These procedures already do an adequate job of protecting the taxpayer from abuse of the tax dollar by nonprofit agencies and organizations.

The LWVMN believes the adoption of these revisions to be both unwise and unfair. The poor and powerless band together to pool meager resources and power in order to become an effective voice in Washington. Organizations, such as LWVMN, support their right to band together not only for advocacy purposes but also for purposes of service to themselves and others. This action by the OMB looks like an attempt to make the uninitiated choose between service and advocacy in hopes that they will choose service as being the most vital to the poor and powerless. An agency of the federal government should not be making it more difficult for citizens to communicate with that government. It is the citizen's duty to do so. The LWVMN continually urges the public to contact governmental officials with their views in opposition to or support for various projects, bills or regulations.

As written the additions labeled B-33, "Political Advocacy," will, in reality, force some nonprofit groups to choose between two worthwhile endeavors. Should Catholic Charities in St. Cloud, Minnesota, be forced to operate a refugee resettlement program without federal monies simply because they wish to lobby on behalf of related or even unrelated legislation? No! Organizations that offer services to the disadvantaged are often the very groups who can offer the best advice to the government on the best way to provide assistance. Restricting the constitutional right of these groups to communicate with the federal government would silence some of the best sources of information - information valuable to the conduct of public business. The government has often encouraged and even instructed such groups to be advocates for those they serve! Their advice has improved deficient federal programs and corrected or implemented federal laws and regulations. Many such organizations, operating on a financial shoestring, will find total separation of service and advocacy functions to be a practical impossibility and thus feel constrained to make such a choice.

There is a great cost savings for the federal government when grants are received by nonprofit organizations to provide services to groups of citizens. The additions to Circular A-122 will not only wipe out many of those savings but may also create new costs. The LWVMN and many other organizations will no doubt choose to relinquish the service role rather than to abandon the vital First Amendment right to "freedom of speech" and "to petition the government for a redress of grievances." While realizing that the government could also choose to abandon the service role in order to save these increased costs, we point out that such a choice would not be at all necessary - all that is necessary is that the OMB withdraw these additions to Circular A-122. Then nonprofit organizations can get on with the business of saving money for the government.

The legality of these revisions is open to question. The OMB does not appear to have the statutory authority for promulgating restrictions on lobbying that are far greater than those imposed by Congress. Since these regulations would seem, in reality, to prohibit the use of private funds for advocacy purposes also, the OMB oversteps its authority considerably.

Comment on "Comments" - Philosophical Rebuttal

We believe comment is appropriate on some of the reasons enumerated in the Federal Register for adoption of these revisions to Circular A-122. The LWVMN shares the concern that recipients of federal grants and contracts may divert federal funds to political advocacy. However, we do not believe it is right to prohibit the free speech of all organizations because of abuses by a few. We believe appropriate channels exist for the prosecution of the guilty parties.

The OMB decries the creation of "the appearance of federal support for particular positions in public debate". However, there seems to be a lack of concern that these regulations create the appearance of governmental stifling of nonprofit groups which may disagree with governmental decisions. How can we tell which group supports which group when both are in agreement? Mutual agreement on one position does not imply agreement on all positions. Is the OMB suggesting that groups which sometimes agree with government policies cannot at other times disagree? These revisions to Circular A-122 would seem to demand that if once we agree, never again could we agree or even disagree publically.

The comments in the Federal Register also point out that the use of federal funds to help defray the overhead costs of organizations can free up the organization's other funds for political advocacy. This is only one way of looking at what we prefer to consider a sharing of necessary expenses. We fail to see the harm done to the taxpayer by this very indirect connection between public and private projects. The American public wants gross abuses of federal spending corrected; the OMB is straining at gnats.

The LWVMN employs no lawyers on our staff, therefore, we find ourselves unable to comment on the merits of the many federal court cases listed in the Federal Register. We would like to make an observation on the comment that these regulations "will ensure...that taxpayers are not required, directly or indirectly, 'to contribute to the support of an ideological cause (they) may oppose'." (Aboud v. Detroit Board of Education, 431 U.S. 209, 235-236 (1977).) This same comment is frequently used by taxpayers to defend the nonpayment of taxes to a government which engages directly in an ideological cause (nuclear war) opposed by a majority of its citizens. The government does not appreciate the use of this type of logic when it is applied to them. Likewise, nonprofit organizations find it equally ridiculous when the OMB applies it to them!

The OMB states that the revisions are necessary to protect a balance of First Amendment rights. Concern is expressed for the protection of "free and robust exchange of ideas". The claim is made that First Amendment rights are not abridged because choice remains. This is a grossly hypocritical claim. Nonprofit agencies serving the handicapped can choose either to accept a grant which would enable them to better serve their clients or to not accept it - true. The choice to accept the grant, however, is inversely linked to the choice to relinquish an advocacy stance for their clients. Making a choice in one area (service) directly affects a lack of choice in the second area (advocacy) because of this linkage.

In summary, the LWVMN believes that the proposed revision to OMB Circular A-122, paragraph B33, should not be adopted. We believe these revisions are unnecessary, unwise, unfair, costly and probably illegal. We seriously question whether the OMB has the statutory authority to promulgate restrictions on advocacy.



LEAGUE OF WOMEN VOTERS OF MINNESOTA

555 WABASHA • ST. PAUL, MINNESOTA 55102 • TELEPHONE (612) 224-5445

March 2, 1983

The Honorable David Durenberger
353 Russell Senate Office Building
Washington, D.C. 20510

Dear Dave,

The attached comments were prepared in response to the request by the OMB for comments on the proposed revisions to Circular A-122.

We understand you have cancelled the committee hearing on these regulations originally planned for March 7, 1983. Because of your interest and the concern you have shown for the difficulty these revisions will cause for nonprofit organizations, we thought you would appreciate a copy of our comments.

If you decide to reschedule the hearing, please inform us if we should resubmit our comments for inclusion in the written record.

Sincerely,

Jean Tews

Jean Tews
President

JT/rk
enc.

A-122
file

United States Senate

WASHINGTON, D.C. 20510

March 17, 1983

MAR 24 1983

Dear Friend:

You probably have heard or read about the proposed federal regulations to restrict lobbying and other political activities by organizations that receive federal grants or contracts. As one who has been very closely involved in the controversy over these regulations, I am happy to say that they have now been withdrawn by the Administration.

These regulations -- amendments to OMB Circular A-122 -- were highly controversial because they would so tightly restrict advocacy and would affect such a broad range of organizations, from senior citizens' groups to social service agencies. Many of the groups that would have been silenced by the restrictions are those that have been most effective in advocating the rights of the handicapped, the poor and other disadvantaged groups.

Such restrictions call for very close examination of their public purpose and of their possible effects. But the Office of Management and Budget, which proposed the regulations in January, was not allowing enough time to do that. I met with the chief counsel of the OMB to strongly urge that revisions be considered and more time given for comment. Not long after, I received the attached letter from OMB Director David Stockman, informing me that the agency would, indeed, revise the regulations and extend the amount of time for public comment. This was followed by an announcement that the first set of regulations is being withdrawn entirely.

I am glad my intervention helped OMB realize it should not rush into such broad and controversial restrictions. But more than that, I am impressed and gratified at the response from the American people themselves. OMB reportedly received more than 6,000 letters opposing the rules, from such diverse groups as the Girl Scouts of America and the American Civil Liberties Union. One OMB spokesman was quoted as calling the response "the largest and most organized political outcry in years." The letter from David Stockman states that the volume of comments helped convince OMB to rethink its regulations, and adds that "the comments indicate that the original purpose has gone further than we intended."

March 17, 1983

I do believe that OMB has an obligation to see that our tax dollars are not misused, and to recommend steps it feels necessary to guard against that misuse. But the only way to make such decisions is for the Administration to make well-considered, reasonable proposals, and provide a reasonable amount of time for the public and the Congress to study and react to them. In this case the Administration failed, and the people let them know it. What better evidence of the power of the American people in influencing their government's policies?

I intend to remain involved in this issue, and will give close consideration to the new regulations when they are issued. In the meantime, as always, I welcome your thoughts and comments.

Sincerely,



Dave Durenberger
United States Senator

DD:kdj



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Honorable David Durenberger
United States Senate
Washington, D.C. 20510

Dear Dave:

On February 25, 1983, we announced that our proposed amendments to OMB Circular A-122 would not be made final and that a new proposal would be published for public comments for 45 days. We also announced that any revisions to A-122 would not apply to grants or contracts entered into during this fiscal year. We had intended to publish the revised amendments for public comment in two weeks from the date of the announcement--March 11. Because of the large number of comments received on our original proposals and the requests of several Members of Congress, including yourself, that we fully brief the concerned Committees on any revision, we plan to take more time to ensure that the necessary consultation process is followed prior to the publication of a new proposal. This will permit full consideration of the many comments received as well as needed coordination with Congress and the Comptroller General.

I am confident that a new proposal can meaningfully address our objective that appropriated funds should not be used, directly or indirectly, to pay the expenses of those who lobby on government matters, while meeting the criticisms of the initial proposal. This new proposal will be designed to implement the many statutory restrictions on the use of appropriated funds to pay for lobbying that Congress has enacted over the past several years. Although the comments indicate that the original proposal has gone further than we intended, the comments, including those of the Comptroller General, also support our view that more can be done to ensure that taxpayer dollars are not used to pay for lobbying activities.

I expect that we will publish, within the next few months, a new proposal that more closely conforms to the comments of interested parties.

Sincerely,

David A. Stockman
Director