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WASHINGTON

February 9, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM:

JOHN G. ROBERTS

SUBJECT:

Grantee Procurement Action in Regard to Attachment O, OMB Circular A-102

Minority Associates Contracting Organization, Inc. (MACO) was the second-lowest bidder for a contract with the Park Control Municipal Utility District. The District is a grantee of the Coastal Energy Impact Program (CEIP) of the National Oceanic and Atmospheric Administration in the Department of Commerce. Ann Malinowsky, President of MACO, wrote you on February 1, contending that the low bid accepted by the District did not comply with the guidelines in Attachment O of OMB Circular A-102, since it was not accompanied by a financial statement. She requests that OMB review CEIP grantee requirements with respect to Attachment O, and advise her on any administrative recourse available to her.

On February 8, Malinowsky telephoned your office, stating that she needed our reply for a meeting being held that day at MACO. Before returning her call I discussed the matter with John Cooney in the OMB General Counsel's office, who advised that MACO's recourse was through agency (i.e., Commerce) review processes. I called Malinowsky and advised her that our office did not handle procurement matters, and that OMB Counsel advised that she seek recourse through the agency review process. Malinowsky stated that she wanted to discuss the matter with OMB and was referred to our office, and that she still wanted to discuss with OMB how it enforces its Circular A-102. I told her that I would be happy to refer her correspondence to OMB; a memorandum accomplishing this is attached for your signature.

Attachment

WASHINGTON

February 9, 1984

MEMORANDUM FOR JOHN F. COONEY

ASSISTANT GENERAL COUNSEL

OFFICE OF MANAGEMENT AND BUDGET

FROM:

FRED F. FIELDING

COUNSEL TO THE PRESIDENT

SUBJECT:

Grantee Procurement Action in Regard to Attachment O, OMB Circular A-102

Orig. signed by FFF

The attached correspondence is referred to your office for such action and direct response as you consider appropriate. John Roberts of this office discussed the correspondence with Ms. Malinowsky on February 8, advising her, as he had discussed with you, that her recourse was through agency review procedures. Ms. Malinowsky persisted in her desire to have the matter of compliance with Attachment O of OMB Circular A-102 considered at OMB, and requested that the material be referred to OMB. We assured her that we would happily comply with her request.

Many thanks.

FFF:JGR:aea 2/9/84

cc: FFFielding JGRoberts

Subj Chron

WASHINGTON

February 9, 1984

MEMORANDUM FOR JOHN F. COONEY

ASSISTANT GENERAL COUNSEL

OFFICE OF MANAGEMENT AND BUDGET

FROM:

FRED F. FIELDING

COUNSEL TO THE PRESIDENT

SUBJECT:

Grantee Procurement Action in Regard to Attachment O, OMB Circular A-102

The attached correspondence is referred to your office for such action and direct response as you consider appropriate. John Roberts of this office discussed the correspondence with Ms. Malinowsky on February 8, advising her, as he had discussed with you, that her recourse was through agency review procedures. Ms. Malinowsky persisted in her desire to have the matter of compliance with Attachment O of OMB Circular A-102 considered at OMB, and requested that the material be referred to OMB. We assured her that we would happily comply with her request.

Many thanks.

FFF:JGR:aea 2/9/84

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JGRoberts

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WASHINGTON

March 8, 1984

MEMORANDUM FOR MICHAEL J. HOROWITZ

COUNSEL TO THE DIRECTOR

GENERAL COUNSEL

OFFICE OF MANAGEMENT AND BUDGET

FROM:

JOHN G. ROBERTS

ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT:

A-122 Material

I am returning, as you requested, copies of all the material you provided in response to Senator Leahy's question to Attorney General Designate Meese concerning OMB Circular A-122. Many thanks for the assistance in pulling this material together on such short notice.

INSIDE: OMB

Pro-regulation forces in town have been using an internal Office of Management and Budget memo to show how the agency would like to roll back the last 50 years of government regulation.

The Dec. 9 memo outlining the administration's options for expanding its control over regulations was certainly not a modest proposal. Among the policy options laid out by Christopher C. DeMuth, head of the Office of Information and Regulatory Affairs:

 Replacing the federal Clean Air and Clean Water acts, which prescribe pollution control limits for industry, with laws that give polluters private-market economic incentives not to pollute;

• Rewriting the Food, Drug and Cosmetic Act and "permit consideration of costs and health benefits in making cosmetic and food-additive decisions," a slightly roundabout way of saying eliminate the Delaney Clause, which bars food or cosmetic additives found to cause cancer in animals;

 Allowing private ownership of radio and television frequencies, leaving the Federal Communications Commission to regulate only long distance telephone lines;

 Restricting the authority of the Occupational Safety and Health Administration to only "serious occupational health hazards";

 Abolishing the Interstate Commerce Commission and the Federal Energy Regulatory Commission, "while reserving some standby regulatory authority for price regulation in true monopoly markets";

 Rewriting securities laws and eliminating "restrictions on insider trading";

• Eliminating the Postal Service's monopoly on first-class mail delivery.

In practice, according to De-Muth's No. 2 man, Robert P. Bedell, the memo—drafted at the request of Treasury Secretary Donald T. Regan and the Cabinet Council on Economic Affairs—was "the kind of thing you'd say at a cocktail party or a seminar if someone asked you what you wanted to do. When Chris presented this to the Cabinet Council, he made it clear that none of these things is going to happen."

None of those things, perhaps. But Bedell and other OMB officials added that one portion of the memo, discussing ways to promote OMB's early involvement in regulatory decisions, is now being fleshed out in working papers for the Cabinet.

Among the methods under study: making regulatory issues a bargaining chip in the annual negotiations over the president's budget proposals, and giving OMB authority to approve executive agencies' plans for new regulations, as well as the rules themselves.

As the memo described the latter option, "Each year, each of the major regulatory agencies would prepare a detailed regulatory policy agenda for the next 12 months for review and adoption at senior levels of the administration."

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WHO IS THIS GUY DeMUTH, ANYWAY?... That was what Rep. William B. Richardson (D-N.M.) wanted to know as the DeMuth memo was passed around a meeting of a House Energy and Commerce subcommittee on commerce, transportation and tourism last week, after it was unveiled in the newsletter "Inside the Administration." The question was posed to the nearest available witness, Environmental Protection Agency administrator William D. Ruckelshaus.

Keeping his tongue out of his cheek, Ruckelshaus dutifully began to describe DeMuth's job, but Richardson impatiently waved off the explanation after a few sentences.

What he wanted to know, Richardson said, was "Does he have any clout?"

"Sure he does," Ruckelshaus responded as titters in the hearing room grew to guffaws.

-Felicity Barringer and Cass Peterson



EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET

DATE:

TO: JOHN ROBFASS
FROM: MIKE H

PER OUR CONVSN.

OMB FORM 38 Rev. Aug 73



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

AUG 1 1985

OFFICE MEMORANDUM NO. 85-19

MEMORANDUM TO:

OFFICE OF MANAGEMENT AND BUDGET STAFF

FROM:

DON MORAN

SUBJECT:

ACTING DIRECTORSHIP OF OMB

In light of Dave Stockman's resignation, which is effective today, and pursuant to express provisions in OMB's governing statute, Joe Wright now serves as Acting Director of OMB. He will remain in that position until the new Director is confirmed by the Senate. I have been advised by the General Counsel that, in his capacity as Acting Director, Joe is empowered and obligated to carry out the full range of responsibilities and authorities of the Director of OMB.

The coming period will, as usual, be important and will often be filled with pressures for fast turn-arounds on a variety of important matters. I hope and believe that Joe can count on your professionalism and best efforts to assist him. I am confident that with such support we will continue to serve the President and to enhance the role and standing of our remarkable institution -- for which we all deeply care.

Thanks for all you have done and for what is to come.

WASHINGTON

October 22, 1985

MEMORANDUM FOR DAVID L. CHEW STAFF SECRETARY

FROM:

JOHN G. ROBERTS

ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT:

Omnibus Reconciliation Act of 1985 Letters

Counsel's Office has reviewed the proposed letters from Director Miller on H.R. 3500, and the accompanying Statement of Administration Policy. Assuming that revisions may be made in the Statement of Administration Policy, we recommend deleting the penultimate sentence in point four of the "Scoring Issues" section. That sentence criticizes certain action by the Government Operations Committee on the ground that it "undermines the existing pay comparability process which authorizes the President to propose comparability increases subject to Congressional review." The provision for Congressional review in the existing pay comparability process, however, is an unconstitutional legislative veto, which the Administration cannot appear to support. Deleting the offending sentence does not significantly detract from the paragraph.

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 10/22/85 ACTION/CONCURRENCE/COMMENT DUE BY: 9:00 a.m. TOMORROW

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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

Honorable William H. Gray, III Chairman, Committee on the Budget U. S. House of Representatives Washington, D. C. 20515

Dear Mr. Chairman:

As you prepare to take H. R. 3500, the Omnibus Budget Reconciliation Act of 1985 to the House floor, let me take this opportunity to express the Administration's concerns with the bill. The Administration is strongly opposed to H. R. 3500 in its present form. If it were presented to the President in this form, his senior advisors could not recommend approval.

Our principal concerns include provisions relating to the:

- Outer Continental Shelf Lands Act, Section 8 (g)
- o Highway and Airports Trust Funds
- o Housing Act of 1985 (H. R. 1)
- o Synthetic Fuels programs
- o Strategic Petroleum Reserve

I hope that we can work together in the next days and weeks to alleviate our concerns so that meaningful deficit reduction can be achieved. A Statement of Administration Policy is attached.

Sincerely yours,

James C. Miller III Director

IDENTICAL LETTER SENT TO HONORABLE DELBERT LATTA



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

Honorable Delbert Latta
Committee on the Budget
U. S. House of Representatives
Washington, D. C. 20515

Dear Del:

As you prepare to take H. R. 3500, the Omnibus Budget Reconciliation Act of 1985 to the House floor, let me take this opportunity to express the Administration's concerns with the bill. The Administration is strongly opposed to H. R. 3500 in its present form. If it were presented to the President in this form, his senior advisors could not recommend approval.

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- o Housing Act of 1985 (H. R. 1)
- o Synthetic Fuels programs
- o Strategic Petroleum Reserve

I hope that we can work together in the next days and weeks to alleviate our concerns so that meaningful deficit reduction can be achieved. A Statement of Administration Policy is attached.

Sincerely yours,

James C. Miller III Director

IDENTICAL LETTER SENT TO HONORABLE WILLIAM GRAY, III



House Floor

H. R. 3500, Omnibus Reconcilation Act of 1985 (Derrick, D-SC)

The Administration opposes H. R. 3500 in its present form. The President's senior advisors could not recommend that he sign the bill in this form. The Administration strongly objects to the use of the reconciliation bill as a vehicle for establishing new spending commitments rather than reducing federal spending and deficits. The most significant problems include:

- Outer Continental Shelf (OCS) Lands Act, Section 8 (g) -- windfall payments to States;
- o Highway and Airports Trust Funds -- moving Trust funds off budget;
- O Housing Act of 1985 -- including reauthorization (H. R. 1) in bill;
- Synthetic Fuels Programs -- creation of a new program and terminating current program; and,
- Strategic Petroleum Reserve -- establishing a mandatory fill rate and restricting Elk Hills

The Administration will strongly support those amendments permitted under the Rule which will delete some of these provisions. In particular, the Administration will support the Representative Latta amendment to strike those provisions that unnecessarily establish new programs and spending and the Representative Fazio amendment to delete the provsions which would take the Highway and Airports Trust Funds off budget.

OCS Lands Act, Section 8(g)

The Administration strongly opposes the provisions relating to the OCS Lands Act Section 8(g). The action is contrary to the assumptions contained in the Budget Resolution and will result in the loss of \$6-\$12 billion to the Federal treasury in the years ahead. The action would reward a handful of states with a massive windfall at the expense of the Federal taxpayer and the already depleted Federal treasury.

Highway and Airports Trust Funds

The Administration strongly opposes the provision of the Committee on Public Works and Transportation to move the Highway and Airport Trust Funds off-budget. Continuing on-budget status for these programs, which total \$18 billion for FY 1986 alone, provides the appropriate fiscal controls and oversight to ensure prudent program management. For both trust funds, collections from user fees and revenues are not estimated to be sufficient to support current spending through the end of this decade. The general fund is already heavily financing FAA operations. Movement of the trust funds off-budget would mask the fiscal impacts of these activities and hinder the Executive and Legislative branches efforts to make informed budget choices.

Housing Reauthorization

The Administration strongly objects to inclusion of 146 sections of the Housing Act of 1985. These reauthorizations and amendments to Federal housing programs represent an egregious step backward to more costly and ineffective housing programs.

Total cost for FY 1986 alone is \$20.9 billion. The Act is particularly objectionable because: it weakens existing targeting of subsidies to the most needy; it returns to inefficient project-based rather than tenant-based subsidies; it precludes the implementation of reasonable credit user fees; it fails to adopt needed program reforms and continues or creates unnecessary new construction programs.

Synthetic Fuels programs

The Administration is strongly opposed to the creation of a new synthetic fuels commercialization program at the Department of Energy. This provision would cost \$500 million. Until the central issue of Federal government involvement in synthetic fuels is thoroughly reviewed and resolved, creation of a new program is inappropriate and unwise.

Last year the Administration supported a rescission of \$5.4 billion for the Synthetic Fuels Corporation. The intent of this rescission, which did not eliminate all synfuels funds, was to strike a balance between avoiding wasteful expenditures and

preserving an appropriate national synfuels program. Since that time, circumstances have arisen that call into question whether the balance struck by this rescission remains appropriate or whether current conditions and projections for future synfuels development warrant complete abolition of the synfuels program. This issue is currently under review within the Administration.

Strategic Petroleum Reserve (SPR)

The Administration objects to the imposition of a mandatory fill rate (35,000 barrels per day) for the SPR and to the imposition of a requirement that the Elk Hills petroleum reserve be shut-in if the fill rate is not met. In the past, the SPR fill rate has been established annually in appropriations acts after careful review by the Administration and the Congress. The rigidity implied by the Energy and Commerce mandatory fill rate is neither necessary nor desirable in that it will preclude the Congress' discretion to determine SPR fill requirements on an annual basis.

Scoring Issues

In several cases, House Budget Committee (HBC) estimates of deficit reduction in H.R. 3500, based upon CBO cost estimates, differ from OMB's estimates of deficit reduction in the bill. The following items represent the most significant differences between HBC and OMB. A comparison of the estimates by committee are contained in the table at the end of this attachment.

1. General Revenue Sharing

The Budget Resolution included reconciliation instructions to terminate the General Revenue Sharing program effective in FY 1987. The House Government Operations Committee has taken no action to follow through on these instructions. The HBC credits Government Operations with \$8.5 billion in savings for terminating GRS. The Administration believes that unless positive action is taken to preclude the reauthorization of GRS for 1987 and 1988 -- as was done in the Senate Finance Committee reconciliation title -- the HBC claimed savings should not be counted as part of H.R. 3500.

2. FEHB

The Government Operations Committee has adopted a provision to require any Federal health insurance carrier holding excess special reserve funds to return these funds to the FEHB during 1986 and 1987. The Committee claims savings of \$1.4 billion over three years from this provision. In addition, the Committee has taken action to lift the 75 percent cap on Federal cost sharing for FEHB premiums. This action -- by the Committee's own scoring -- will increase Federal costs in the short term by \$300 million. Finally, the Committee claims additional savings of \$1.4 billion from an overall decrease in premium rates in response to lower FEHB usage. The Administration believes that the savings from the Committee's action will produce about \$800 million of true deficit reduction. First, the rebates cannot all be counted as deficit reduction since a substantial portion of them will go directly to employees and annuitants and will not offset Federal outlays. Second, the lifting of the 75 percent cap is objectionable on policy grounds and reconciliation should not be used as a vehicle for liberalizing employee subsidies. Finally, savings claimed from lower FEHB premium rates precludes policy consideration by OPM of the proper premium levels in future years. No savings should be allowed for such actions.

3. Guaranteed Student Loans (GSL)

The Eduction and Labor Committee claims \$800 million in savings for GSL reforms over three years. OMB estimates the savings from these provisions at about \$360 million over the same period because several of the Committee's "reforms" are not likely to substantially reduce costs. For example, the Committee establishes the number of days after delinquency which must elapse before guarantee agencies may file a claim. CBO estimates

a saving of \$190 million from this provision; OMB can credit no savings because no data on current guarantee agency practice exist. Therefore, the provision's effect cannot be accurately estimated. CBO estimates \$370 million in savings from changes in the needs analysis for GSL borrowers. OMB estimates substantially lower savings (\$145 million over three years) because of a lower estimate of the number of borrowers likely to be affected by the change.

4. Civilian Pay Freeze and Pay Comparability

The Government Operations Committee followed the reconciliation instructions in accepting a pay freeze in 1986 and a three month pay raise delay for future years. However, the Committee also authorized specific pay comparability increases of 5 percent in 1987 and 1988. The Committee also assumes that agencies will absorb 33 percent of the first year costs of such increases. This action undermines the existing pay comparability process which authorizes the President to propose comparability increases subject to Congressional review. OMB cannot credit savings to the Committee for such actions.

5. Defense Savings

A number of provisions -- Walsh-Healey overtime revision, civilian pay freeze, 2087 hour workyear, and third party reimbursement for persons treated in DOD health facilities -- are estimated by the HBC to produce savings in excess of \$5 billion over three years. The Administration accepted the lower Defense spending levels presumed in the Budget Resolution with the understanding that additional savings would not be taken against the Defense function through bookkeeping gimmicks involving pay, overtime, or employment levels. If the Congress abides by this understanding, these savings claimed by the HBC will never materialize.

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Committee	1986	1987	1988	1986-89
Armed Services HBC	(75) 0	(257) 0	• (281 ₉	(613) 0
Banking, Finance, and Urban Affairs: HBC	(3,124) (2,704)	(4,160) (3,889)	(5,326) (5,276)	(12,610) (11,869)
Education and Labor: HBC	(561) (149)	(817) (362)	(516)	(2,583) (1,027)
Energy and Commerce (excluding HBC		(1,986)		(5,863) (5,582)
Government Operations HBC OMB	0 0	(3,526) 0	(4,956) O	(8,482) 0
Interior and Insular Affairs HBC OMB	(4,107) (4,250)	1,716 1,685	1,026 428	(1,365) (2,137)
Merchant Marine and Fisherie HBC OMB	s (409) (235)	(44) (12)	(42) 7	(495) (240)
Fost Office and Civil Servic HBC	e: (3,641) (2,076)		(4,584) (2,578)	(12,659) (7,168)
Fublic Works and Transportation: HBC	(200) (200)	(850) (850)	(1,050) (1,050)	(2,100) (2,100)
Small Business: HBC	(494) (494)	(1,017) (1,015)	(1,079) (1,075)	(2,590) (2,584)

Committee	1986 1987	1988	1986-89
Veterans Affairs			
HBC			(1,277) (930)
TOTAL:			
HBC			

^{*} Excludes savings claimed for the Agriculture and Ways and Means Committees which have been reported in separate bills, and for the Judiciary Committee which had joint jurisdiction with Education and Labor on Walsh-Healey provision.