THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM TO: FAITH RYAN WHITTLESEY

FROM: MORTON C. BLACKWELL

SUBJECT: MEETING WITH CONSERVATIVES REGARDING OMB CIRCULAR A-122

The following people will be attending the October 6th, 11:00 a.m. meeting in ~~OEOB room 248~~: 2/ww - FRW office

Faith Ryan Whittlesey

Morton C. Blackwell

John Rousselot

Joe Wright - OMB

Mike Horowitz - OMB

Dr. Marshall Breger - Heritage Foundation (Mike Horowitz's invitee)

Greg Butler - (Paul Weyrich's designee)

Gary Curran - American Life Lobby

Richard Dingman - Moral Majority

William Olson, Esq. - (Howard Phillips' designee)

The meeting has been scheduled for one hour, however, Mr. Dingman will have to leave at 11:40.

REQUEST FOR APPOINTMENTS

To: Officer-in-charge
Appointments Center
Room 060, OEOB

Please admit the following appointments on THURSDAY, OCTOBER 6, , 19 83

for FAITH RYAN WHITTLESEY (NAME OF PERSON TO BE VISITED) of OPL (AGENCY):

BUTLER, Greg
CURRAN, Gary
DINGMAN, Richard
HOROWITZ, Michael
OLSON, William
WRIGHT, Joseph

MEETING LOCATION

Building WEST WING

Room No. FRW Office (2/WW)

Time of Meeting 11:00 a.m.

Requested by JOYCE THOMANN/SUSAN GRAF

Room No. 191 Telephone 2657/2270

Date of request 10/6/83

Additions and/or changes made by telephone should be limited to three (3) names or less.

APPOINTMENTS CENTER: SIG/OEOB – 395-6046 or WHITE HOUSE – 456-6742

UNITED STATES SECRET SERVICE

SSF 2037 (09-79)

THE WHITE HOUSE

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OPL
- Faith Ryan Whittlesey
- Morton C. Blackwell
- John Rousselot

arr NW gate

OMB
- Joe Wright - OMB → Deputy Director
- Doug Cannon - OMB →
- Mike Horowitz - OMB →

~~Dr. Marshall Breger - Heritage Foundation (Mike Horowitz's invitee)~~

Cons. orgs.
- Greg Butler - (Paul Weyrich's designee) ↑CSFC
- Gary Curran - American Life Lobby
- Richard Dingman - Moral Majority Legislative Director
- William Olson, Esq. - (Howard Phillips' designee)

Smith, Olson, Gilman, and Pangia

↳ former Presidential appointee: briefly acting Pres of LSC

The meeting has been scheduled for one hour, however, Mr. Dingman will have to leave at 11:40.

472

395-4852

call Doug Cannon

10:10

ACU 546-6555

THE WHITE HOUSE

WASHINGTON

October 6, 1983

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FROM: MORTON C. BLACKWELL

SUBJECT: MEETING WITH CONSERVATIVES REGARDING OMB CIRCULAR A-122

Revision in list of participants:

Doug Cannon, OMB will be attending.

Dr. Marshall Breger regrets that he will not be able to attend.

CONFIRMED FOR MEETING

Faith Ryan Whittlesey

Morton C. Blackwell

Joe Wright - OMB

Mike Horowitz - OMB

Gary Curran - American Life Lobby

Greg Butler - (Paul Weyrich's designee)

William Olson, Esq. - (Howard Phillips' designee)

Dr. Marshall Breger - Heritage Foundation (Mike Horowitz's invitee)

Richard Dingman - Moral Majority

REGRETS

Dave Denholm - Public Service Research Council

Dr. Ron Godwin - Moral Majority

Paul and Judy Brown - American Life Lobby

TIME: 11:00 a.m. Thursday October 6, 1983

LOCATION: OEOB rm 248

TOPIC: OMB Circular A-122, Defunding advocacy groups.

THE WHITE HOUSE

WASHINGTON

October 10, 1983

MEMORANDUM TO: FAITH WHITTLESEY

THROUGH: Jack C. Courtemanche

THROUGH: Mary Ann Meloy

FROM: Morton C. Blackwell MB

SUBJECT: Conservative Reaction to Proposed A-122 Revision

Per your request, I made a survey of a number of the conservative activist groups after our meeting of conservatives in your office last week with Joe Wright and Mike Horowitz.

In general, the conservative groups intend to be supportive or neutral respecting the A-122 proposal as they now understand it. Paul Weyrich will be supportive on A-122, as will Howard Ruff's group, Free the Eagle, which is leading a fight against the IMF funding.

Many groups decline to comment until they see the actual text.

There will be opposition from Howard Phillips' Conservative Caucus. Howie will accept nothing less than a regulation which would, for instance, cut off all grants to the American Cancer Society if they continue to lobby against smoking. This position is so impractical it severely limits the number of his potential allies in opposing our A-122 revision.

My suggestion is that, just as we release the A-122 revision for comment, I send a copy of it to conservative groups with a letter from me outlining its provisions and merits. This proposal is a step in the right direction, and I proved that to the satisfaction of most of the 40 conservative activists to whom I spoke last week at your request.

MCB:jet

THE WHITE HOUSE

WASHINGTON

October 7, 1983

MEMORANDUM FOR MORTON C. BLACKWELL

FROM: FAITH RYAN WHITTLESEY

SUBJECT: Circular A-122

As we discussed, may I please have for the Senior Staff Meeting on Tuesday morning (8:00 AM), October 11, a report on the Conservative position on the final disposition of A-122.

Volume V
Number IV
March 10, 1983

INDEPENDENT SECTOR

GOVERNMENT RELATIONS INFO AND ACTION

PHASE I VICTORY ON OMB CIRCULAR A-122

In a statement that signals a clear "phase one" victory for nonprofits, the Office of Management and Budget, today announced the following: "Last January, the Office of Management and Budget published a proposed revision to OMB Circular A-122 entitled 'Cost Principles for Nonprofit Organizations', designed to prevent the use of government funds for lobbying and other forms of political advocacy.

"Today OMB announced withdrawal of that proposal and said it intended to publish for comment a new set of revisions within the next several months, following further consultation with interested Members of Congress, the General Accounting Office and taking into account the several thousand comments on the proposal."

The announcement indicates a clear retreat by the Administration but we will have to remain vigilant. David A. Stockman, in a letter to Congressman Jack Brooks, Chairman of the House Government Operations Committee, said he is "confident that a new proposal can meaningfully address our objective..." IS previously and repeatedly indicated that we believe their basic proposal is so totally and fundamentally wrong that anything short of complete withdrawal is unlikely to be acceptable. We plan to watch the process very closely and will let you know immediately if OMB does move to issue new revisions to the Circular.

This step by the Administration followed a number of actions involving the grassroots and Washington-based efforts including:

1) a deluge of more than 5,000 comments to OMB protesting the revisions to A-122;

2) hearings by the House Government Operations Committee, on March 1;

3) a letter on March 4 to David Stockman from Congressmen Jack Brooks and Frank Horton, calling for withdrawal of revisions to A-122, which gained 170 cosigners in the House in two days;

4) visits to every House Member's office on March 4 by representatives of IS and the OMB Coalition on A-122, urging House Members to sign the Brooks-Horton letter;

(OVER)

5) telephone calls on March 7 to all House Members by the OMB Coalition and INDEPENDENT SECTOR, urging them to sign the Brooks-Horton letter;

6) an IS March 4 Capitol Hill breakfast briefing on the issue for 125 Congressional aides;

7) an IS February 23 Capitol Hill Day where more than 100 representatives of nonprofit organizations contacted several hundred Members of Congress on the issue;

8) hearings on March 9 of the House Judiciary Subcommittee on Civil and Constitutional Rights; and

9) thousands of letters, calls and visits from constituents, urging the President to drop the proposal.

Other important publications and presentations undoubtedly influenced OMB's decision to back off the issue. They include:

1) The testimony before the House Committee on Government Operations of Charles A. Bowsher, Comptroller General of the General Accounting Office (GAO), where he stated that "GAO had serious reservations concerning the legal enforceability of the provisions as well as their desirability from a policy standpoint." He further stated "...the penalty can be so great, it could have a 'chilling effect' on grantees and contractors in communicating with their program agencies concerning legitimate business." (The Bowsher testimony is available from IS.)

2) The report from the Congressional Research Service (CRS) which states, "There is no clear indication of an express statutory delegation of authority from Congress to the Office of Management and Budget to issue rules and regulations regarding political advocacy by nonprofit organizations which receive federal grants, nor to establish rules to effectuate a general governmental policy of non-involvement and non-subsidization of advocacy in the private sector." The report also states, "Thus, questions may be raised under a First Amendment analysis as to both the sufficiency of the governmental interest asserted by OMB in the restrictions, and as to the 'overbreadth' of the application of the restrictions." At another point, the report states, "Considering the broad policy nature of the proposed restrictions, the stated purpose of those restrictions, their effect on fundamental liberties, and the absence of express congressional delegation of authority or a specific executive order on this subject, questions may be raised under judicial precedents as to whether an agency such as OMB, rather than the Congress or the President, is the proper 'level' for promulgating such a policy decision." Copies of the report are available from Congressional Research Service, The Library of Congress, Washington, D.C. 20540.

A large number of groups and coalitions have come together to form the Coalition on A-122, to fight the revisions to A-122. INDEPENDENT SECTOR provides the "secretariat" for the A-122 Coalition. We will continue to watch closely what action OMB takes in coming weeks, and will keep you informed.

MEANWHILE, ENJOY THE PHASE ONE VICTORY!

THE WHITE HOUSE

WASHINGTON

October 6, 1983

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DEFINITION OF A-122

OMB'S CIRCULAR A-122, "COST PRINCIPLES FOR NONPROFIT ORGANIZATIONS", IS GOVERNMENT GUIDELINE USED TO DETERMINE COSTS CHARGED TO FEDERAL GRANTS AND CONTRACTS:

- Defines "allowable" costs and states how these costs are to be calculated.
- Covers all nonprofits except:
  - state and local governments,
  - hospitals, and
  - colleges and universities.

REASON FOR CHANGE IN A-122

NUMEROUS CASES OF FEDERAL FUNDS FOR LOBBYING POLITICAL ACTIVITY HAVE BEEN DOCUMENTED BY FEDERAL AGENCIES, THE COMPTROLLER GENERAL, AND THE GENERAL PUBLIC.

ALSO, MILITARY CONTRACTORS USED FEDERAL CONTRACT MONEY TO LOBBY MILITARY PERSONNEL AND GOVERNMENT OFFICIALS -- DOD, NASA AND GSA THEN ISSUED TOUGH LOBBYING REGULATIONS THAT APPLY TO ALL GOVERNMENT CONTRACTS.

HOWEVER, NO SUCH RULES EXIST FOR NONPROFIT ORGANIZATIONS -- (THE ONLY EXISTING PROVISIONS ARE AN ASSORTMENT OF PROVISIONS THAT ARE WEAK, VAGUE, LIMITED IN SCOPE, AND HARD TO ENFORCE OR AUDIT.)

DESCRIPTION OF PROPOSED REVISION IN A-122

THE PROPOSED A-122 LOBBYING REVISION WILL PROHIBIT FEDERAL GRANTEES AND CONTRACTORS FROM USING FEDERAL MONEY TO PAY FOR MOST KINDS OF LOBBYING AND POLITICAL ACTIVITIES.

IT WILL NOT RESTRICT ORGANIZATIONS FROM ENGAGING IN LOBBYING OR POLITICAL ADVOCACY WITH THEIR OWN FUNDS; IT SIMPLY STATES FEDERAL MONEY CANNOT BE USED TO PAY FOR THESE ACTIVITIES.

UNALLOWABLE ACTIVITIES WILL PRIMARILY CONSIST OF:

- Federal, state or local electioneering and support of campaign organizations, PACs, and the like;
- Direct lobbying of Congress and state legislatures;
- Grassroots lobbying concerning state or federal legislation or regulations; and
- Legislative liaison activities related to unallowable lobbying activities but not directly related to performance of grant or contract.
- The sponsorship of meetings and conferences will be entirely unallowable if held in "substantial part" to support, promote, or engage in lobbying or related activities.

To ensure compliance with and enforceability of this new rule the following administrative requirements have been added:

- Organizations will be required to include, as part of their annual indirect cost proposals, a detailed statement identifying unallowable lobbying cost, and state how they will be accounted for.
- Organizations, at the request of the agency, must provide materials concerning prior federal grants and contracts, including final reports and audits to support the above statement of lobbying cost.
- A certification is required that the requirements and standards of this revision have been complied with.

REVISIONS SO FAR - A ROCKY ROAD

IN JANUARY, OMB PUBLISHED A TOUGH PROPOSAL DESIGNED TO EFFECTIVELY DEAL WITH THE PROBLEM:

- Over 42,000 comments were received: 25,500 in favor, and 16,500 opposed.
- Many of those opposed stated support for the general principle but objected strongly to the proposed accounting treatment.
- Hearings were scheduled on Hill -- Brooks actually held a severely critical hearing -- riders prohibiting A-122 revisions would probably have been included in legislation.
- OMB withdrew proposal at the end of the 45-day public comment period and stated that:
    - Consultation with interested groups would occur.
    - Changes would be made.
    - A-122 revision would be reintroduced at end of July for 45 - 60 day comment period.

DRAFT

Office of Management and Budget) — file

Circular A-122

Cost Principles for Nonprofit Organizations

Circular A-122 is revised as follows:

1. Insert a new paragraph in Attachment B, as follows: "B21 Lobbying and Related Activities.

a. (1) Organizations shall include, as part of their annual indirect cost proposal, a statement identifying by category costs attributable in whole or in part to activities made unallowable by subparagraph b, and stating how they are accounted for.

Comment: The fact that a cost included in the proposal discussed in subparagraph a(1) (such as an employee's salary, an item of equipment, or the cost of a facility) may be used in part for lobbying or related activities, as defined by subparagraph B21 b, does not make the remainder unallowable.

(2) The certification required as a part of the Financial Status Report required under Attachment G of Circular A-110 shall be deemed to be a certification that the requirements and standards of this paragraph, and of other paragraphs of Circular A-122 respecting "lobbying and related activities," have been complied with.

(3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to subparagraph a(1) above complies with the requirements of this Circular.

Comment: As with other costs under this Circular, to the extent that such documentation is not provided by the organization, the amount that cannot reasonably be demonstrated to be allowable, up to the entire cost in question, shall be disallowed.

(4) For the purposes of complying with subparagraph a, there will be no requirement for time logs, calendars, or similar records documenting the activities of an employee whose salary is treated as an indirect cost, and the absence of time logs or comparable records for indirect cost employees not kept pursuant to the discretion of the grantee or contractor will not serve as a basis for contesting or disallowing claims, unless: (a) the employee engages in lobbying or related activities more than 25% of the time or (b) the organization has materially misstated allowable or unallowable costs within the preceding five year period. Agency guidance regarding the extent and nature of documentation required pursuant to subparagraph a(3) shall be reviewed under the criteria of the Paperwork Reduction Act, to ensure that requirements are the least burdensome necessary to satisfy the objectives of this subparagraph.

Comment: This provision is for the purpose of assuring that agencies and auditors must rely on the good faith estimates of time spent on lobbying by such employees, or upon outside evidence.

(5) Agencies shall establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of subparagraphs a or b. Any such advance resolution, if in writing, shall be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this Circular.

b. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:

(1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;

Comment: The Internal Revenue Code prohibits tax-exempt charitable organizations from "interven[ing] in (including the publishing or distributing

of statements), any political campaign on behalf of any candidate for public office." 26 U.S.C. Section 501(c)(3). In addition, for purposes of defining "influencing legislation," the Internal Revenue Code defines "legislation" to include "action with respect to Acts, bills, resolutions, or similar items... by the public in a referendum, initiative, constitutional amendment, or similar procedure." 26 U.S.C. Section 4911 (e)(2).

In one respect, this subparagraph is narrower than the Internal Revenue provisions, because it is confined to "contributions, endorsements, publicity, or similar activity," in contrast to the broader proscription of "participat[ion] or interven[tion], directly or indirectly..."

(2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

Comment: The Internal Revenue Service has included within the list of disqualifying activities under 26 U.S.C. Section 501 (c)(3) the following: "participa[tion] or interven[tion], directly or indirectly, in any political campaign on behalf of or in oppostion to any candidate for public office." 26 C.F.R. Section 1.501(c)(3) - (c)(3)(iii).

(3) Attempts to influence legislation pending before Congress or a State legislature by communicating with any member or employee of the Congress or legislature, (including efforts to influence state or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enacted legislation;

Comment: The Treasury, Postal Service, and General Government Appropriations Act traditionally contains a rider providing: "No part of any appropriation contained

in this or any other Act ... shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress." E.g., P.L. 96-74, Section 607, 93 Stat. 575. The Internal Revenue Code defines "influencing legislation" as including "any attempt to influence any [federal, state, or local] legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation." 26 U.S.C. Section 4911 (d)(1)(B). This provision is narrower than the Internal Revenue Code provisions because it does not apply to influencing legislation at the local level. Moreover, subparagraph c(5) excludes from the coverage of this provision any lobbying or related activity at the state level directly related to the ability of or cost to the organization of performing the grant or contract.

(4) Preparation, distribution, or use of publicity or propaganda designed to influence legislation pending before Congress or a State legislature by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, or fundraising drive, lobbying campaign, or letter-writing or telephone campaign, for the purpose of influencing such legislation; or

Comment: The Treasury, Postal Service, and General Government Appropriations Act traditionally contains a rider providing: "No part of any appropriation contained in this or any other Act ... shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before Congress." E.g., P.L. 96-74, Section 607, 93 Stat. 575. The Internal Revenue Code defines "influencing legislation" to include: "any attempt to influence any [federal, state, or local] legislation through an attempt to affect the opinions of the general public or any segment thereof." 26 U.S.C. Section 4911 (d)(1)(A). This

subparagraph is more narrowly tailored than these provisions, because it is limited to efforts to obtain concerted actions on the part of the public and does not, therefore, include mere attempts "to affect the opinions of the general public or any segment thereof," if such attempts do not lead to concerted action. This is consistent with the GAO's interpretation of the "publicity or propaganda" appropriations rider. See B-202975 (Nov. 3, 1981).

(5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding pending legislation, and analyzing the effect of pending legislation, except to the extent that such activities do not relate to lobbying or related activities as defined by paragraph 1.b. hereof.

Comment: The costs of all legislative liaison activities are made unallowable for contractors under the current Defense Acquisition Regulations (DAR), Section 15-205.51, but are allowable for civilian contractors under the current Federal Procurement Regulations (FPR), Section 1-15.205-52.

This subparagraph is narrower than the DAR provisions, because it only makes legislative liaision costs unallowable if they relate to otherwise unallowable lobbying activities.

c. Notwithstanding subparagraph b, costs associated with the following activities are not unallowable under this paragraph:

(1) Providing technical advice or assistance to the Congress or a State legislature or to a member, committee, or other subdivision thereof, in response to a specific written request by such member, legislative body, or subdivision;

Comment: This tracks the exception at 26 U.S.C. Section 4911 (d)(2)(B).

(2) Any communication with an executive branch official or employee, other than a communication made expressly unallowable by paragraph 1.b.(3) hereof.

Comment: This is identical in substance to the exception at 26 U.S.C. Section 4911 (d)(2)(E). Read in conjunction with subparagraph b(3), the effect is to make clear that the only contacts with executive branch officials made unallowable are those in connection with the signing or veto of enrolled bills, or attempts to use state and local officials as conduits for grantee and contractor lobbying of Congress or state legislatures.

(3) Any activity in connection with an employee's service as an elected or appointed official or member of a governmental advisory panel;

(4) Any lobbying or related activity at the state level for the purpose of influencing legislation directly affecting the ability of the organization or cost to the organization of performing the grant, contract, or other agreement; however, state governments acting as subgrantors may, through appropriate state processes, waive the current practice under OMB Circular A-102 making Circular A-122 applicable to nonprofit subgrantees with regard to such lobbying activities at the state level as are deemed appropriate.

Comment: The Internal Revenue Code provisions defining "influencing legislation" cover lobbying at the state and local level, as do the current Defense Acquistion Regulations (DAR), Section 15-205.51 and the current Federal Procurement Regulations (FPR), Section 1-15.205-52. This subparagraph is narrower than those provisions because (1) lobbying at the local level is not covered, and (2) lobbying at the state level is not covered if it (a) directly affects the ability of or cost to the grantee or contractor of performing the grant or contract; or (b) when states choose to adopt rules waiving such restrictions for their federal grant subgrantees.

(5) Any activity specifically authorized by statute to be undertaken pursuant to the federal grant, contract, or other agreement.

Comment: This Circular does not, nor could it, limit the ability of Congress, subject to constitutional constraints, to appropriate funds for the use by contractors or grantees for lobbying or related activities.

2. Renumber subsequent paragraphs of Attachment B

3. Insert language in subparagraph B.4.b of Attachment A, so that it reads as follows:

b. Promotion, lobbying or related activities (as defined by subparagraph B21(b) of Attachment B), and public relations.

Comment: This is a technical language change, which amends the former term "lobbying" to "lobbying and related activities." The added language is "or related activities (as defined by subparagraph B21(b) of Attachment B)."

tions from non-Federal third parties are set forth below:

a. *Valuation of volunteer services.*—Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteer services may be counted as cost sharing or matching if the service is an integral and necessary part of an approved program.

(1) *Rates for volunteer services.*—Rates for volunteers should be consistent with those paid for similar work in the recipient's organization. In those instances in which the required skills are not found in the recipient organization, rates should be consistent with those paid for similar work in the labor market in which the recipient competes for the kind of services involved.

(2) *Volunteers employed by other organizations.*—When an employer other than the recipient furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead costs) provided these services are in the same skill for which the employee is normally paid.

b. *Valuation of donated, expendable personal property.*—Donated, expendable personal property includes such items as expendable equipment, office supplies, laboratory supplies or workshop and classroom supplies. Value assessed to expendable personal property included in the cost or matching share should be reasonable and should not exceed the market value of the property at the time of the donation.

c. *Valuation of donated, nonexpendable personal property, buildings, and land or use thereof.*

(1) The method used for charging cost sharing or matching for donated nonexpendable personal property, buildings and land may differ according to the purpose of the grant or other agreement as follows:

(a) If the purpose of the grant or other agreement is to assist the recipient in the acquisition of equipment, buildings or land, the total value of the donated property may be claimed as cost sharing or matching.

(b) If the purpose of the agreement is to support activities that require the use of equipment, buildings or land, depreciation or use charges for equipment and buildings may be made. The full value of equipment or other capital assets and fair rental charges for land may be allowed provided that the Federal agency has approved the charges.

(2) The value of donated property will be determined in accordance with the usual accounting policies of the recipient with the following qualifications:

(a) *Land and buildings.*—The value of donated land and buildings may not exceed its fair market value, at the time of donation to the recipient as established by an independent appraiser (e.g., certified real property appraiser or GSA representatives) and certified by a responsible official of the recipient.

(b) *Nonexpendable personal property.*—The value of donated nonexpendable personal property shall not exceed the fair market value of equipment and property of the same age and condition at the time of donation.

(c) *Use of space.*—The value of donated space shall not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(d) *Loaned equipment.*—The value of loaned equipment shall not exceed its fair rental value.

6. The following requirements pertain to the recipient's supporting records for in-kind contributions from non-Federal third parties.

a. Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient for its employees.

b. The basis for determining the valuation for personal services, material, equipment, buildings and land must be documented.

ATTACHMENT F.—CIRCULAR No. A–110

STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS

1. This attachment prescribes standards for financial management systems of recipients. Federal sponsoring agencies shall not impose additional standards on recipients unless specifically provided for in the applicable statutes (e.g., the Joint Funding Simplification Act, P.L. 93–510) or other attachments to this circular. However, Federal sponsoring agencies are encouraged to make suggestions and assist recipients in estbalishing or improving financial management systems when such assistance is needed or requested.

2. Recipients' financial management systems shall provide for:

a. Accurate, current and complete disclosure of the financial results of each federally sponsored project or program in accordance with the reporting requirements set forth in Attachment G to this circular. When a Federal sponsoring agency requires reporting on an accrual basis, the recipient shall not be required to establish an accrual accounting system but shall develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

b. Records that identify adequately the source and application of funds for federally sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, and income.

c. Effective control over and accountability for all funds, property and other assets. Recipients shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

d. Comparison of actual outlays with budget amounts for each grant or other agreement. Whenever appropriate or required by the Federal sponsoring agency, financial information should be related to performance and unit cost data.

e. Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the recipient, whenever funds are advanced by the Federal Government. When advances are made by a letter-of-credit method, the recipient shall make drawdowns as close as possible to the time of making disbursements.

f. Procedures for determining the reasonableness, allowability and allocability of costs in accordance with the provisions of the applicable Federal cost principles and the terms of the grant or other agreement.

g. Accounting records that are supported by source documentation.

h. Examinations in the form of audits or internal audits. Such audits shall be made by qualified individuals who are sufficiently independent of those who authorize the expenditure of Federal funds, to produce unbiased opinions, conclusions or judgments. They shall meet the independence criteria along the lines of Chapter 3, Part 3 of the U.S. General Accounting Office publication, Standards for Audit of Governmental Organizations, Programs, Activities and Functions. These examinations are intended to ascertain the effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the agreements. It is not intended that each agreement awarded to the recipient be examined. Generally, examinations should be conducted on an organization-wide basis to test the fiscal integrity of financial transactions, as well as compliance with the terms and conditions of the Federal grants and other agreements. Such tests would include an appropriate sampling of Federal agreements. Examinations will be conducted with reasonable frequency, on a continuing basis or at scheduled intervals, usually annually, but not less frequently than every two years. The frequency of these examinations shall depend upon the nature, size and the complexity of the activity. These examinations do not relieve Federal agencies of their audit responsibilities, but may affect the frequency and scope of such audits.

i. A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

3. Primary recipients shall require subrecipients (as defined in paragraph 3 of the basic circular) to adopt the standards in paragraph 2, above except for the requirement in subparagraph 2e, regarding the use of the letter-of-credit method and that part of subparagraph 2a, regarding reporting forms and frequencies prescribed in Attachment G to this circular.

ATTACHMENT G.—CIRCULAR No. A–110

FINANCIAL REPORTING REQUIREMENTS

1. This attachment prescribes uniform reporting procedures for recipients to: summarize expenditures made and Federal funds unexpended for each award, report the status of Federal cash advanced, request advances and reimbursement when the letter-of-credit method is not used; and promulgates standard forms incident thereto.

2. The following definitions apply for purposes of this attachment:

a. *Accrued expenditures.*—Accrued expenditures are the charges incurred by the recipient during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by employees, contractors, subrecipients, and other payees, and (3) other amounts becoming owed under programs for which no current services or performance is required.

b. *Accrued income.*—Accrued income is the sum of (1) earnings during a given period from (i) services performed by the recipient; and (ii) goods and other tangible property delivered to purchasers; and (2) amounts becoming owed to the recipient for which no current services or performance is required by the recipient.

c. *Federal funds authorized.*—Federal funds authorized are the total amount of Federal funds obligated by the Federal Government for use by the recipient. This amount may include any authorized carryover of unobligated funds from prior fiscal years when permitted by law or agency regulation.

d. *In-kind contributions.*—In-kind contributions are defined in Attachment E to this circular.

e. *Obligations.*—Obligations are the amounts of orders placed, contracts and grants awarded, services received, and similar transactions during a given period that will require payment by the recipient during the same or a future period.

f. *Outlays.*—Outlays or expenditures represent charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-

quirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, the Federal agency may accept the bonding policy and requirements of the grantee provided the Federal agency has made a determination that the Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

a. *A bid guarantee from each bidder equivalent to five percent of the bid price.*—The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b. *A performance bond on the part of the contractor for 100 percent of the contract price.*—A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

c. *A payment bond on the part of the contractor for 100 percent of the contract price.*—A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

3. Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the Federal agency, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.

4. The Federal sponsoring agency may require adequate fidelity bond coverage where the recipient has no coverage and the bond is needed to protect the Government's interest.

5. Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR 223).

Attachment C.—Circular No. A-110

Retention and Custodial Requirements for Records

1. This attachment sets forth record retention requirements for grants and other agreements with recipients. Federal sponsoring agencies shall not impose any record retention requirements upon recipients other than those described below.

2. Except for paragraph 1, this attachment also applies to subrecipients as referred to in paragraph 5 of the basic circular.

3. Financial records, supporting documents, statistical records, and all other records pertinent to an agreement shall be retained for a period of three years, with the following qualifications:

a. If any litigation, claim or audit is started before the expiration of the 3-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved.

b. Records for nonexpendable property acquired with Federal funds shall be retained for 3 years after its final disposition.

c. When records are transferred to or maintained by the Federal sponsoring agency, the 3-year retention requirement is not applicable to the recipient.

4. The retention period starts from the date of the submission of the final expenditure report or, for grants and other agreements that are renewed annually, from the date of the submission of the annual financial status report.

5. Recipient organizations should be authorized by the Federal sponsoring agency, if they so desire, to substitute microfilm copies in lieu of original records.

6. The Federal sponsoring agency shall request transfer of certain records to its custody from recipient organizations when it determines that the records possess long-term retention value. However, in order to avoid duplicate record-keeping, a Federal sponsoring agency may make arrangements with recipient organizations to retain any records that are continuously needed for joint use.

7. The head of the Federal sponsoring agency and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the recipient organization and their subrecipients to make audits, examinations, excerpts and transcripts.

8. Unless otherwise required by law, no Federal sponsoring agency shall place restrictions on recipient organizations that will limit public access to the records of recipient organizations that are pertinent to a grant or agreement except when the agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the Federal sponsoring agency.

Attachment D.—Circular No. A-110

Program Income

1. Federal sponsoring agencies shall apply the standards set forth in this attachment in requiring recipient organizations to account for program income related to projects financed in whole or in part with Federal funds. Program income represents gross income earned by the recipient from the federally supported activities. Such earnings exclude interest earned on advances and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, and royalties on patents and copyrights.

2. Interest earned on advances of Federal funds shall be remitted to the Federal agency except for interest earned on advances to States or instrumentalities of a State as provided by the Intergovernmental Cooperation Act of 1968 (Public Law 90-577).

3. Proceeds from the sale of real and personal property either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with Attachment N to this circular pertaining to property management.

4. Unless the agreement provides otherwise, recipients shall have no obligation to the Federal Government with respect to royalties received as a result of copyrights or patents produced under the grant or other agreement (see paragraph 8, Attachment N).

5. All other program income earned during the project period shall be retained by the recipient and, in accordance with the grant or other agreement, shall be:

a. Added to funds committed to the project by the Federal sponsoring agency and recipient organization and be used to further eligible program objectives;

b. Used to finance the non-Federal share of the project when approved by the Federal sponsoring agency; or

c. Deducted from the total project costs in determining the net costs on which the Federal share of costs will be based.

Attachment E.—Circular No. A-110

Cost Sharing and Matching

1. This attachment sets forth criteria and procedures for the allowability of cash and in-kind contributions made by recipients or subrecipients (as referred to in paragraph 5 of the basic circular), or third parties in satisfying cost sharing and matching requirements of Federal sponsoring agencies. This attachment also establishes criteria for the evaluation of in-kind contributions made by third parties, and supplements the guidance set forth in Federal Management Circular 73-8 with respect to cost sharing on federally-sponsored research.

2. The following definitions apply for the purpose of this attachment:

a. *Project costs.*—Project costs are all allowable costs (as set forth in the applicable Federal cost principles) incurred by a recipient and the value of the in-kind contributions made by the recipient or third parties in accomplishing the objectives of the grant or other agreement during the project or program period.

b. *Cost sharing and matching.*—In general, cost sharing and matching represent that portion of project or program costs not borne by the Federal Government.

c. *Cash contributions.*—Cash contributions represent the recipient's cash outlay, including the outlay of money contributed to the recipient by non-Federal third parties.

d. *In-kind contributions.*—In-kind contributions represent the value of noncash contributions provided by the recipient and non-Federal third parties. Only when authorized by Federal legislation, may property purchased with Federal funds be considered as the recipient's in-kind contributions. In-kind contributions may be in the form of charges for real property and non-expendable personal property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

3. General guidelines for computing cost sharing or matching are as follows:

a. Cost sharing or matching may consist of:

(1) Charges incurred by the recipient as project costs. (Not all charges require cash outlays by the recipient during the project period; examples are depreciation and use charges for buildings and equipment.)

(2) Project costs financed with cash contributed or donated to the recipient by other non-Federal public agencies and institutions, and private organizations and individuals, and

(3) Project costs represented by services and real and personal property, or use thereof, donated by other non-Federal public agencies and institutions, and private organizations and individuals.

b. All contributions, both cash and in-kind, shall be accepted as part of the recipient's cost sharing and matching when such contributions meet all of the following criteria:

(1) Are verifiable from the recipient's records;

(2) Are not included as contributions for any other federally-assisted program;

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives;

(4) Are types of charges that would be allowable under the applicable cost principles;

(5) Are not paid by the Federal Government under another assistance agreement (unless the agreement is authorized by Federal law to be used for cost sharing or matching);

(6) Are provided for in the approved budget when required by the Federal agency; and

(7) Conform to other provisions of this attachment.

4. Values for recipient in-kind contributions will be established in accordance with the applicable cost principles.

5. Specific procedures for the recipients in establishing the value of in-kind contribu-

COMPARISON OF A-122 WORKING DRAFT,
JANUARY FEDERAL REGISTER PROPOSAL, AND DEFENSE ACQUISITION REGULATIONS (DAR)

DISALLOWED LOBBYING ACTIVITIES

ISSUE	A-122 WORKING DRAFT	JANUARY FEDERAL REGISTER PROPOSAL	DAR
1. Direct legislative lobbying	Restricts only federal and state (not local) lobbying. Disallows "communicating" with legislature members or employees to influence pending legislation, (including efforts to utilize state and local officials as conduits for the same). Source: Less restrictive than Internal Revenue Code definition of "influencing legislation."	Restricts lobbying at all levels. Disallows communication with legislature members or employees to influence "governmental decisions."	Restricts lobbying at all levels. Disallows "any activity or communication" with legislature members or employees to directly or indirectly influence any legislative action.
2. Grass roots lobbying	Restricts only federal and state (not local) lobbying. Covers attempts to influence pending legislation only. Explicitly describes prohibited activities. Source: Less restrictive than Internal Revenue Code definition of "influencing legislation."	Restricts lobbying at all levels. Disallows any attempts to influence "governmental decisions.	Restricts lobbying at all levels Broadly defines prohibited activities as "to engage in any campaign to encourage others to influence" any legislative action.

ISSUE	A-122 WORKING DRAFT	JANUARY FEDERAL REGISTER PROPOSAL	DAR
3. Executive branch contacts	Contacts with government officials allowable, except to influence signing/veto of state or federal legislation, or efforts to get state and local officials to act as conduits for unallowable lobbying. Source: Less restrictive than Internal Revenue Code.	Disallowed attempts to influence "introduction, passage, amendment, defeat, signing or veto of legislation." Also "licensing, grant, rulemaking, formal or informal adjudications, rate-makings, guidelines, policy statements."	Not covered.
4. Legislative liaison	Disallows when related to unallowable lobbying activities.	Not expressly addressed; most such activities covered under broad terms of definitions of disallowed activities.	Disallowed, but not defined. No exceptions.
5. Litigation	Restriction in January proposal deleted.	Disallowed litigation on behalf of others, unless specified in grant or contract.	Not covered.
6. Political activities	Disallows participation in or contributions to (1) elections, referenda, initiatives, and similar procedures, and (2) political parties, campaigns, and PACs. (Derived from disqualifying political activities under Internal Revenue Code).	Same as current draft.	Not covered.

EXCEPTIONS TO DISALLOWED LOBBYING ACTIVITIES

A-122 WORKING DRAFT	JANUARY FEDERAL REGISTER PROPOSAL	DAR
1. Providing technical advice or assistance to legislative body in response to specific written request.	Same in effect as current draft.	Not made allowable.
2. Activities specifically authorized by law to be undertaken pursuant to grant or contract.	Similar.	Not made allowable.
3. Employee activity related to service as elected or appointed official, or on governmental advisory board.	Not made allowable.	Not made allowable.
4. Lobbying at state level to influence legislation directly affecting organization's ability or cost to perform grant or contract.	Not made allowable.	Not made allowable.
5. Lobbying at state level by states' subgrantees, if the restrictions are waived through appropriate state process.	Not made allowable.	Not made allowable.
Not made allowable.	6. Distributing nonpartisan analysis, study, research.	Not made allowable.

UNALLOWABLE COST TREATMENT

ISSUE	A-122 WORKING DRAFT	JANUARY FEDERAL REGISTER PROPOSAL	DAR
1. General cost treatment	For all cost categories, only the portion used for lobbying is unallowable.	The entire cost of most items (e.g., salaries, office space, equipment) was unallowable if any portion was used for lobbying.	Broadly states that the costs of lobbying are unallowable.

ADMINISTRATIVE REQUIREMENTS

ISSUE	A-122 WORKING DRAFT	JANUARY FEDERAL REGISTER PROPOSAL	DAR
1. Accounting format; disclosure	The organization's annual indirect cost rate proposal must include a statement identifying and accounting for unallowable lobbying costs.	The January proposal did not include any administrative guidelines or requirements.	Existing DAR accounting treatment utilized; general cost breakdowns required, subject to extensive audit review.
2. Certification	A single certification is required of completeness and accuracy of lobbying information in cost statements, and compliance with this revision.		None.
3. Documentation requirement	Documentation is required for allowable costs, with penalty of cost recovery for items not properly documented. (Standard A-122 procedure).		Same requirement. However, in reality, DAR audits are much more frequent and comprehensive.
4. Documentation waiver	Organizations cannot be required to maintain time logs for indirect cost employees who, according to good faith certification, spend less than 25% of time lobbying.		None.
5. Agency responsibilities for guidelines	Agencies must establish procedures to resolve interpretative questions in advance, in consultation with OMB.		Not specifically addressed. Covered by existing DAR guidelines.

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

MEMORANDUM November 17, 1983

To: Mort Blackwell

From: Mike Horowitz MH

Per our conversation, I am attaching the letter received from Jack Brooks, as well as his press release and draft "Dear Colleague" letter. Over 100 Members of Congress have signed it, thus making clear that some of the non-profit groups are actively seeking to sabatoge the entire proposal. A 60 day delay, which we will seek to oppose, will bring the final regulation up for decision during the 1984 campaign and thus make its issuance far more difficult.

If you have a moment & would like to talk about it, do give a call.

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Cannon

URGENT

MEMBER'S PERSONAL ATTENTION

PLEASE

NINETY-EIGHTH CONGRESS

Congress of the United States

House of Representatives

LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-373
WASHINGTON, D.C. 20515

November 14, 1983

Dear Colleague:

I am writing to you to bring you up to date with the latest developments regarding OMB's effort to revise Circular A-122, which concerns cost principles for nonprofit organizations receiving Federal funds. On November 3, 1983, OMB issued a new proposal to change Circular A-122. Parallel regulations were also issued by GSA and NASA regarding cost principles for non-defense contractors, while more restrictive regulations were issued by the Department of Defense for defense contractors.

As you may recall, last January, OMB issued a proposal to change Circular A-122 and the companion regulations of GSA, NASA, and DOD. It proposed that a host of groups and individuals across this country give up their First Amendment rights to participate in the governmental decisionmaking process if they wanted to receive Federal grants and contracts. The outcry against this effort was immediate. Within a few days of the hearing held by the Subcommittee on Legislation and National Security, where the proposal was first examined in detail, 169 members of Congress joined me and Congressman Horton in calling for its immediate withdrawal. Two days after our letter was delivered to OMB, the proposal was withdrawn.

This past week, on November 10, the Subcommittee on Legislation and National Security held a second hearing to examine OMB's latest proposal to revise Circular A-122 and associated regulations. Testimony was taken from OMB, GAO, and a dozen witnesses representing a wide spectrum of organizations and individuals. It quickly became clear that no one, including OMB, really knows what these latest regulations mean. GAO and the public witnesses agreed that work still needed to be done on the proposal. Attached is a press release which contains excerpts from the testimony and gives you a flavor of the comments made by the various witnesses.

While it appears that many of the most objectionable flaws with the first proposal have been corrected, the latest proposal is still in need of revision. OMB has allotted only 45 days to receive comments on how to correct the problems with this latest proposal. A third of these days have already passed and the rest are dominated by major national holidays. In my opinion, 45 days is not enough time to receive the input necessary to make this latest proposal fair, reasonable, and workable. Therefore, Frank Horton, the Committee's ranking minority member, and I are writing a letter to David Stockman, Director of OMB, urging that the comment period on this proposal be extended by a minimum of 60 days so that comments can be submitted until the middle of February. A copy of the text of this letter is attached, and I ask that you join us in support of this matter.

If you would like to add your signature to this letter, please contact the committee office at extension 55051 by 5:00 p.m. on Friday, November 18.

Sincerely,

JACK BROOKS
Chairman

NINETY-EIGHTH CONGRESS

Congress of the United States

House of Representatives

LEGISLATION AND NATIONAL SECURITY SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-373
WASHINGTON, D.C. 20515

November 14, 1983

The Honorable David A. Stockman
Director
Office of Management and Budget
Washington, D. C. 20503

Dear ~~Mr. Stockman~~ Dave:

Last Thursday, November 10, the Subcommittee on Legislation and National Security of the Committee on Government Operations held a hearing on OMB's latest proposed revision to Circular A-122. Testimony was heard from a dozen business and nonprofit groups, all of whom would, or whose members would, be subject to the new provisions of Circular A-122 or those of the companion regulations of GSA, NASA, and DOD. All of them expressed considerable concern and confusion over what certain provisions of the proposal mean.

It appears that this proposal seeks to replace the time-tested definition of "lobbying" contained in the I.R.S. Code with a new, more expansive one and to interfere with the flow of information to Congress and other legislative bodies. Moreover, it seeks to do this in language so convoluted and confusing that not even the persons at OMB most closely related to the writing of this proposal, much less the charities and small businessmen who will have to abide by it, can determine what its various provisions really say.

It is clear that OMB's latest attempt to restrict the ability of Federal grantees and contractors to communciate with elected officials still needs a great deal of work before it can be considered fair and reasonable. If OMB hopes to accomplish this, it will need the benefit of the comments of those groups and individuals around the country that have the greatest expertise in these matters.

Only 45 days have been allotted to receive comments on this proposal, days which are dominated by major national holidays. In our opinion, 45 days is not nearly enough time in which to receive the input necessary to make this proposal workable. We are, therefore, requesting that the comment period be extended by a minimum of 60 days, so that comments can be submitted to OMB until the middle of February.

Sincerely,

JACK BROOKS
Chairman

FRANK HORTON
Ranking Minority Member

NEWS RELEASE

For Immediate Release
Thursday, November 10, 1983

BROOKS PANEL TELLS OMB ITS LATEST REVISION OF CIRCULAR A-122 NEEDS MORE WORK
Asks for Additional 60 Day Comment Period for OMB to Redraw Plan

Congressman Jack Brooks (D-Tex.), Chairman of the Subcommittee on Legislation and National Security, called upon OMB today to extend the comment period by a minimum of 60 days on its latest proposal to restrict the ability of Federal grantees and contractors to communicate with elected officials. Today's hearing marked the second time in eight months that Chairman Brooks' subcommittee has confronted OMB concerning its attempts to promulgate cost principles for Federal grantees and contractors regarding lobbying.

The Subcommittee heard testimony from Joe Wright, Deputy Director of OMB, who defended the latest proposal, Milton Socolar of GAO, who noted that GAO supported the basic initiative but admitted that work still needed to be done on the proposal, and a dozen other witnesses from business and nonprofit organizations who expressed considerable confusion over the meaning of certain provisions of the proposal.

"It is apparent from the testimony that no one knows what this latest proposal really means," Brooks said. "This includes OMB. We can't expect the charities and small businessmen of the world to be able to understand it any better than we do, so it is clear that OMB's latest proposal still needs a great deal of work."

Brian O'Connell, President of Independent Sector, the umbrella group for hundreds of the nation's charities, said, "The new recommendations still present serious infringements on the advocacy rights and responsibilities of voluntary organizations."

Jed Babbin of the Shipbuilders Council of America said, "OMB still does not properly define lobbying and related activities. * * * The definition of legislative liaison activities is too restrictive and the restriction on appearances before congressional committees is unclear."

William Hutton of the National Council of Senior Citizens noted that this proposal is "unnecessary and will cause harmful disruptions within nonprofit organizations, within Federally funded projects and within Congress itself."

Rickey Diamond of the Central Vermont Community Action Council said that the new regulations "will threaten the free flow of information back and forth between governme and nonprofits." She continued by noting, "I am most concerned about the doubt and the question which these regulations will bring to the minds of all those who are presently involved in policy making in Vermont."

Virginia Littlejohn of the Professional Services Council stressed that "Member companies of the Professional Services Council of necessity must engage in communicatio with the government in order to understand policy, comply with procedures, and react to law and regulation."

Mildred Shanley of the National Conference of Catholic Charities noted there is "nc demonstrated need for this type of regulation," citing "the chilling effect of these regulations in a democracy."

Robert Boisture, a specialist in tax law at the Washington, D. C., law firm of Capl and Drysdale, noted, "Congress has clearly defined in the tax laws those activities of charitable organizations which are to be treated as lobbying. * * * OMB has completely failed to justify imposing a more restrictive definition of lobbying on nonprofit organizations receiving Federal grants or contracts."

Betty Wilson, President of the Center for Nonprofit Corporations, remarked, "It is unreasonable to ask these organizations to perform necessary services and to carry out public policy but accept as a condition, loss of their rights to communicate in the usual way of citizens and their voluntary organizations. Such a dictate is contrary to the tradition of democratic government."

Congressman Frank Horton, ranking Republican on the Subcommittee, said, "We seem to be looking at a document which solves an unknown problem, discourages people from speaking with their elected representatives, treats them differently depending on which agency is funding their projects, and is unenforceable."

Brooks noted, "Any effort to restrict communications between the citizens and their government must be drawn very narrowly and with extreme care. I am willing to see if OMB can make these rules workable and fair. If they can't, I will again lead the effort to get them withdrawn."

Other members of the Subcommittee in addition to Brooks and Horton are Congressmen Dante B. Fascell, (D-Fla.), Don Fuqua (D-Fla.), Elliott H. Levitas (D-Ga.), Henry A. Waxman (D-sCalif.), Stephen L. Neal (D-N.C.), Tom Lantos (D-Calif.), John N. Erlenborn (R-Ill.), William F. Clinger, Jr. (R-Pa.), and Dan Burton (R-Ind.).

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