



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

112615

COMMUNITY AND ECONOMIC  
DEVELOPMENT DIVISION

B-197410

JUNE 19, 1980

The Honorable Robert N. Giaimo  
House of Representatives



112615

Dear Mr. Giaimo:

Subject: Review of Procedures Used to Provide  
Funds for the Citizen/Government  
Transportation Planning Center in  
Windsor, Connecticut (CED-80-99)

Your November 8, 1979, letter asked us to determine whether the Department of Transportation (DOT) and the Environmental Protection Agency (EPA) complied with applicable rules and procedures concerning DOT's contract with the State of Connecticut for the operation of the Citizen/Government Transportation Planning Center in Windsor, Connecticut. Your letter included copies of written allegations of impropriety made by the Connecticut Construction Industries Association.

We found that DOT and EPA acted within the scope of their responsibilities in providing funds for the contract. We also found that both agencies have authority in this instance to use the interagency agreement and contract. We question, however, the source of funds DOT and EPA used to support DOT's contract with Connecticut. The Center apparently is eligible for assistance under established State or locally administered planning assistance programs supported by DOT and EPA. Instead of using these programs, however, a special DOT program account and an EPA salaries and expenses account, both administered at the two agencies' headquarters, were designated to fund the contract.

We believe that using these accounts in lieu of established program funds could result in bypassing State or local government priority setting, which is part of established Federal assistance programs. Also, using these additional funding sources could potentially work at cross

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purposes with existing Federal assistance guidelines which stress the importance of providing adequate public participation and information activities. In EPA's case, we believe the use of the salaries and expenses account is inappropriate. These funds are to be used for EPA's direct personnel costs and administrative requirements.

In reviewing the current operation of the Center, we found no substantive support for the Connecticut Construction Industries Association's allegations relating to: the Center's organization and membership; duplication of efforts; and the Center staff's advocacy roles, competence, or fiscal controls.

The Center is staffed by volunteers and two paid employees. The employees have personal services agreements with Connecticut to (1) operate a statewide information center on air quality and transportation issues and (2) provide public education/information materials to be used by State and local planning agencies. EPA and DOT each provided \$25,000 for DOT's contract with the State for the operation of the Center. EPA's contribution was in the form of an interagency agreement and fund transfer to DOT. Connecticut, in effect, is administering a subcontract with the Center. The Center's activities are funded from September 1, 1979, through August 31, 1980.

We reviewed applicable DOT and EPA documents and directives; interviewed Federal, State, and local officials; and discussed the matter with individuals at the Center and the Connecticut Construction Industries Association.

DOT'S INTERMODAL PLANNING ASSISTANCE  
PROGRAM AND FUNDING OF THE CONTRACT

DOT's contract with Connecticut was funded, in part, with money provided to DOT's Intermodal Planning Assistance Program, administered by the Office of Intergovernmental Affairs. This program is a "special program" under DOT's "transportation planning, research and development" appropriation. The program, first funded in fiscal year 1979 at \$250,000, provides States, metropolitan areas, and local governments with planning assistance for unique problems for which other planning assistance may not be readily available. DOT's Intermodal Planning Assistance Program guidelines, in use when DOT's contract for the State's operation of the Center was funded, targeted the

funds at "situations in which existing planning assistance programs do not quite address unusual planning assistance needs." A draft of revised program guidelines issued in November 1979 (after DOT signed its contract with Connecticut, but before Connecticut subcontracted with the Center) stated that:

"The intent of the supplementary planning assistance funding is to encourage the development of innovative solutions to specific planning problems. These funds are not designed to finance continuing planning activities \* \* \*, or to supplement existing sources of planning assistance \* \* \*."

One function of regional Intermodal Planning Groups, comprised of representatives from various Federal agencies, is to review applications and apply the above criteria. The chairman of the Intermodal Planning Group which reviewed the Center's funding application told us that while he conditionally recommended funding, he believed that this project could be funded under existing Federal/State assistance programs.

We found that the Center apparently is eligible to receive funds under other transportation planning assistance programs and, in fact, had continuously received such assistance in the past. As part of its Federal highway assistance program, the Federal Highway Administration allocates highway planning and research funds to assist States in conducting highway planning activities. States are encouraged to provide adequate public information and participation in the transportation planning process and are free to fund outside public information services, if necessary.

We found that highway planning and research funds, and other Federal, State, or local funds, were used to support the Center between 1975 and 1979. During this period the Center's activities were concentrated in the Hartford capital region. A Federal Highway Administration official in Connecticut told us that although he initially encouraged Connecticut to fund the Center, in 1978 he recommended that it stop funding the Center with highway planning and research funds because the local transportation policy board, of which the Center was a member, had been abolished. Subsequently, Connecticut's Department of Transportation stopped supporting the Center.

When seeking funds for continued operation, the Center expanded its scope to statewide activities. A Connecticut Department of Transportation Deputy Commissioner told us that while he endorsed the Center's activities, he would not provide assistance with highway planning and research funds because they are needed to support State-operated public participation and information programs.

Because DOT was unable to document specific public participation/information deficiencies, we believe that Connecticut--using its priority-setting process--is in the best position to fund the Center with existing Federal assistance. Bypassing established assistance programs can work at cross purposes with Federal assistance guidelines which encourage State and local planning agencies to provide adequate public participation and information activities. Officials at the Federal Highway Administration, as well as the Urban Mass Transportation Administration (which also assists State and local planning agencies), expressed concern about projects funded under DOT's Intermodal Planning Assistance Program because they believe some projects were eligible for funding under other existing assistance programs.

Furthermore, DOT's funding of Connecticut's contract with the Center appears to violate DOT's Intermodal Planning Assistance Program guidelines. These guidelines state that funds are to be used for unique planning problems and not for projects eligible for other assistance or for continuing planning activities.

#### EPA FUNDING FOR THE CONTRACT

Pursuant to a September 1979 interagency agreement, EPA provided \$25,000 in fiscal year 1980 funds for DOT's contract with Connecticut through a transfer of funds. The interagency agreement identifies EPA's fund source as a salaries and expenses account in EPA's Office of the Assistant Administrator for Air, Noise and Radiation. EPA's fiscal year 1980 "salaries and expenses" appropriation does not specifically authorize using funds for this purpose. Instead, these funds ostensibly are for EPA's own personnel and administrative costs rather than program costs.

We believe that there is some confusion related to the recent restructuring of EPA's appropriations that formerly provided salaries and expenses funds and program

moneys together in a consolidated account for each of EPA's major programs. Now that personnel/administrative and program costs are separated, care must be taken to charge the proper accounts.

Like DOT, EPA apparently bypassed established Federal assistance programs which could have funded the Center. Under section 105 of the Clean Air Act, as amended (42 U.S.C. 7405), Connecticut's Department of Environmental Protection receives EPA assistance for planning, developing, establishing, or improving programs to prevent and control air pollution. Amendments to the act, as well as EPA assistance guidelines, stress the importance of public participation and information on air quality issues and in air quality planning responsibilities. Draft EPA guidelines suggest that up to 30 percent of these funds be spent for public participation and information activities.

An EPA official in the Office of the Assistant Administrator for Air, Noise and Radiation told us that he considered using funds authorized by section 175 for the Center, but the Center's funding request was received after these funds had already been allocated to Connecticut's local planning organizations. He also said that he suggested that the Connecticut Department of Environmental Protection use its section 105 funds to support the Center. Connecticut, although endorsing the Center's activities, insisted that these funds be used to develop its own public participation and information program. Connecticut maintained this position even though it was awarded additional fiscal year 1979 supplemental funds under section 105. Out of this supplemental award, \$40,000 was earmarked for an "in-house" public participation effort. In a June 1979 letter to EPA, a Connecticut Department of Environmental Protection official stated:

"It is our understanding that supplemental funds, from last year's 105 account, may be available to the Air Compliance Unit of \* \* \* Connecticut \* \* \*. We would like to have these funds allocated to the development of an in-house public participation program. At this time, we do not wish to release these supplemental funds to outside contractors."

Because EPA, like DOT, was unable to document specific public participation/information deficiencies, we believe that the Connecticut Department of Environmental Protection--using its priority-setting process--is in the best position to fund the Center with existing Federal assistance. Similarly, we believe that using an additional source of funds may work at cross purposes with existing EPA grant guidelines, which encourage States and local planning agencies to use a portion of their Federal assistance for public participation and information efforts.

#### ALLEGATIONS CONCERNING THE CENTER

The Connecticut Construction Industries Association's major allegations appear to be centered on (1) the Department of Health, Education and Welfare's (HEW's)<sup>1</sup>/ rejecting a prior grant application from the Center, (2) the Center's duplicating the work of State agencies, (3) the Center's taking advocacy positions on environmental/transportation issues, and (4) DOT's awarding of a contract instead of a grant to fund the Center, which prevented public comment on the Center's proposal. These issues are addressed below.

#### HEW grant application

The association correctly points out that HEW denied the Center's grant application. However, differing program objectives between the application rejected by HEW and those incorporated in the approved contract should be recognized. The grant application HEW considered was aimed at adult and minority environmental (air quality) education and was not, according to an HEW official, competitive with other proposals. The approved DOT contract, while containing some similar objectives, clearly points out that the Center will provide public education and information materials to be used by State and regional planning agencies in their public participation efforts.

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<sup>1</sup>/On May 4, 1980, separate Departments of Education and Health and Human Services were created.

### Duplication of effort

The association indicates that the Capital Region Council of Governments, Hartford, Connecticut, recommended denying the Center's HEW grant application on the basis of duplication of effort. Because the notice containing this recommendation is ambiguous, we asked officials at the Capital Region Council of Governments for clarification. The author of the notice said that he intended to point out the possible duplication of multiple funding on the part of HEW, DOT, and EPA. He also said that he intended the notice to be an alert of possible duplication of effort. He did not, however, intend the notice to be a statement that duplication of effort would take place.

To avoid duplication, the approved contract provides for a task force of Federal, State, and local officials which are to meet monthly to coordinate Center activities. We found that although the task force has not met monthly, periodic meetings have taken place to avoid duplication by coordinating the Center activities with other similar programs.

### Advocacy role

The Center has two paid individuals--a staff information person and a secretary. To ensure proper balance, the Center's materials are reviewed for content and presentation by an EPA contract project officer before release. We found no examples where Center personnel, under their current operation, represented the Center in taking positions for or against air quality or transportation projects.

### Grant versus contract

The association suggests that the Center should have been funded by a grant, which would have provided for public comment on the project. The Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501) provides guidance to Federal agencies on when to use contracts, grants, or cooperative agreements. DOT's implementing guidelines (DOT Order 4000.8) state that contracts should be used when the project or service is for DOT's direct benefit or use. The guidelines also indicate that a grant or cooperative agreement should be used in financial assistance relationships. When DOT and the recipient share in

the project's benefits, the directive states that a contract should be used. A DOT official reasoned that DOT may benefit in this case because the Center's interim and final reports will be submitted to DOT and consideration will then be given to instituting similar projects nationwide.

Even if a grant had been used, the association may not have had the opportunity to formally comment on the proposal because not all grant program applications receive public review. Public review is generally required only for the larger grant programs.

Although we believe that the Center should have been considered for funding under established Federal grant/assistance programs administered by Connecticut, we found no legal or procedural prohibitions against DOT's use of a contract.

#### CONCLUSIONS

Both DOT and EPA acted within the scope of their responsibilities in providing contract funds for operation of the Center. We found that both agencies have authority in this instance to use the interagency agreement and contract.

We do, however, question funding the Center through DOT and EPA headquarters-administered funds, which may bypass established Federal planning assistance programs. Without a clearly documented deficiency, we believe that Connecticut can best establish funding priorities and assign tasks for its public participation and information programs. In addition, using other funding sources may work at cross purposes with existing assistance guidelines that encourage States and local planning agencies to use a portion of their Federal assistance for public participation and information efforts. In EPA's case, we believe that using salaries and expenses funds is inappropriate. These funds are to be used for EPA's direct personnel costs and administrative requirements.

#### RECOMMENDATIONS

We recommend that the Secretary of Transportation and the Administrator, EPA, require clear documentation



of a deficiency or compelling need before authorizing separate funding for those public participation and information activities that are eligible for funding under established Federal assistance programs. Documentation supporting a specific deficiency or need in future similar situations should include an independent DOT/EPA analysis of

--what specific need exists (by group of individuals, location, etc.),

--why existing programs charged with providing adequate public participation and information are not meeting the need,

--what steps the applicant intends to take to meet the need, and

--how the applicant's performance in meeting the need will be measured.

We also recommend that the Administrator of EPA ensure that funds used for program operations be obtained from proper appropriation accounts and not from general agency overhead funds such as salaries and expenses.

#### AGENCY COMMENTS

Both DOT and EPA provided oral comments on their review of a draft of this letter. DOT officials believe that a public participation and information need is being met by the Center, particularly for clean air requirements. They also said that they had received letters of endorsement of the Center's activities. In addition, DOT believes that it is responding to a recognized need in most States for better public participation and information on transportation/air quality issues.

Providing adequate public participation and information services is important, and we do not question whether the Center is making a contribution in this area. However, an objective of Federal transportation and environmental assistance is to fund such activities. We believe that additional funds should only be spent when a clearly identified specific need exists. We also believe that documenting this need should go beyond letters of endorsement for the Center's activities. An analysis such as we recommend may show a

need to improve existing assistance programs rather than a need for alternative funding sources.

EPA officials agreed with our conclusions and recommendation regarding the potential adverse effects of bypassing existing assistance programs and the need to guard against such actions in the future. They did not agree, however, that it was inappropriate in this instance to use funds from their salaries and expenses appropriation. They believe that the recent restructuring of their appropriation accounts has not affected their authority to use salaries and expenses funds for such purposes. In addition, they reason that using salaries and expenses funds is appropriate in this instance because EPA management may benefit in regard to future decisionmaking on the need to fund similar activities elsewhere. The officials agreed, however, to reexamine this and other external activities funded by the salaries and expenses account and, if appropriate, charge other appropriations in the future.

We believe that demonstration projects designed to enhance EPA decisionmaking should be funded with program funds, not salaries and expenses funds. The purpose of EPA's recent appropriation restructuring is clearly laid out in House Report 96-249:

"The Committee is recommending a modification of the Environmental Protection Agency's appropriation account structure to include all direct personnel costs and administrative requirements in a new annual salary and expense account. Establishing a separate management account will make the EPA's structure similar to the other large agencies funded in the bill and will represent more accurately the cost to administer the Agency's programs."

The Senate Committee on Appropriations concurred with the House approach on establishing a new salaries and expenses account. We continue to believe that funding activities from the salaries and expenses account that are not directly related to personnel or administrative costs is inappropriate. Implementing our recommendations should eliminate this problem in the future.

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We are sending copies of this report to the Secretary of Transportation and the Administrator of the Environmental Protection Agency. Copies are also being sent to the appropriations and legislative committees in both Houses interested in transportation and air quality issues; the Director, Office of Management and Budget; interested Members of Congress; and other interested parties.

Sincerely yours,

A handwritten signature in cursive script that reads "Henry Eschwege". The signature is written in black ink and is positioned above the typed name and title.

Henry Eschwege  
Director