

GOVERNMENT AGENCIES AND PUBLIC COMMUNICATIONS: INFORMATION, EDUCATION, OR LOBBYING?

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ABSTRACT

In modern industrial democracies, government agencies are often called upon to implement controversial policies and projects. In such cases, an agency's public communications program can be subject to ever-closer scrutiny and, concurrently, ever-greater demand for its essential services. Without the public communications program, the public may not be well informed, yet agencies walk a fine line when meeting the public's need for information and involvement. Those involved in such communications efforts need a firm grasp of what is permissible, what is proven, and what is possible in their efforts to inform and involve the public. To those ends, this paper defines communication concepts, cites relevant legislation, and employs case studies to illustrate the differences between public information, public education, and lobbying. In the process, the authors explore the evolution of several agencies' public communications programs, noting how deficiencies have been overcome and strengths have emerged.

INTRODUCTION

When it comes to communicating with the public, government agencies frequently find themselves besieged by allegations of impropriety, dubious judgment, or even illegality. If they do too little, they are often accused by citizens' advocacy groups of keeping information from the public and hiding behind a wall of bureaucracy. If they do too much, they are often blamed for wasting taxpayers' money or, worse, illegally attempting to influence legislation. Where is the line? Is it straight? Or does it zigzag? In this paper we explore accepted definitions of lobbying and public information; the major activities they comprise; their educational and participatory components; and contrasting examples of effectiveness in government-sponsored public information/participation programs.

DEFINITIONS AND DISTINCTIONS

Most definitions of "lobby" emphasize that the verb applies especially to efforts to influence legislation. For example, *Webster's Third New International Dictionary of the English Language, Unabridged*, gives the first, and thus primary, definition of "lobby" as follows: "to conduct activities (as engaging in personal contacts or the dissemination of information) with the objective of influencing public officials and esp. members of a legislative body with regard to legislation and other policy decisions." (1) Note the clearly implied distinction that when the communicator lacks the intent to directly influence a public official regarding legislation or policy, then the interaction or communication does not constitute lobbying. It may in fact involve "dissemination of information," but it is not lobbying.

This distinction is even more specific in federal statutory and case law. For example, at 18 U.S.C. 1913, federal law prohibits agencies from using appropriated funds "directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written

matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress; whether before or after the introduction of any bill; or resolution proposing such legislation or appropriation.”(2) According to a Department of Justice interpretation, Section 1913 prohibits “large-scale, high-expenditure campaigns specifically urging private recipients to contact members of Congress about pending legislative matters”^{xi}

The Federal Advisory Committee Act (FACA) controls how federal agencies may interact with outside groups constituted to give those agencies advice. As implemented by the General Services Administration, and affirmed by the courts, FACA’s requirements (e.g., publicly open meetings, published transcripts and records, etc.) apply to groups whose focus is relatively specific and whose role is to communicate their views to the particular government agency. Under 18 U.S.C. 1913, no agency may use its relationship with any outside group to influence any congressional legislation or appropriation. In fact, the Government Accounting Office, the investigative arm of Congress, has censured agencies for communicating with the public for the purpose of influencing Congress.

The proscription against lobbying by agencies, however, clearly does not prevent an agency from disseminating information on its programs and policies to outside groups and individual members of the public. In fact, the Government Accounting Office (GAO), in reporting on alleged violations of FACA by the Department of Education, clearly affirmed that “an agency has a legitimate interest in communicating with the public regarding its policies and activities.” Moreover, the anti-lobbying provisions “do allow agencies to expend appropriated funds to communicate their views on pending legislation to the public or to meet with groups sharing their interest in legislation to exchange information and viewpoints.” (3)

In fact, government agencies have legal and ethical obligations to share information with the public. Agencies have often been criticized for inadequately tending to the public’s need for adequate, accurate information.

THE ARMY, THE PUBLIC, AND CHEMICAL DISPOSAL

As a case in point, consider the Army’s history of inattention to public communications in its activities at the Tooele Chemical Agent Disposal Facility in Utah. In 1999, the National Research Council, of the National Academy of Sciences, published an update report on the Army’s progress in implementing changes recommended by the Council in 1996. An entire chapter of the 1999 report was devoted to evaluating changes in the Army’s public and community interactions since the 1996 report.

The Council’s 1999 report commended the Army’s disposal program for reorganizing its national Public Outreach and Information Office. The Council particularly praised that office’s new mission — to provide “a public involvement program that supports meaningful public participation and dialogue” — and its new vision statement — “to gain public acceptance of the need for the safe, expeditious disposal of chemical materiel.” At the regional level, in and around Tooele County, the Council noted a tripling of the local outreach office, both in personnel

and office space, and the development of a public-involvement strategy document, which could be regularly updated as circumstances required.(4)

Despite the Army's improvements, however, the Council noted that the 1998 strategy document marked the program's first-ever attempt to define a clear direction for its public outreach efforts. The Council also sharply noted the disposal program's continuing deficiencies in public communication and public outreach. The public-involvement strategy document, for example, was developed with no public input. A few members of the local citizens advisory committee were informally involved, but the Army made no formal effort to involve either that committee or the broader public. Both, presumably, would have had useful input for a document about how they themselves could/should be involved. In another case, the Army held a public information meeting on a draft of its proposed process for managing changes in various technologies. But somehow the Army neglected to involve either its own public outreach office or the public prior to the "public" meeting. As a result, while 30 Army and contractor staffers attended, only a few members of the public were present. The Council concluded that "this lack of public interest reflects both the past lack of communication between the community and the Army and the fact that the public has little interest in changes to the established technology." Indeed, the agenda should have been expanded to include "topics of interest to the public, such as plans for decommissioning the facilities."(4)

While noting the Army's improvements, the National Research Council concluded that none of these "is a substitute for an organizational culture that proactively seeks the involvement of not only the public, but also personnel of the local outreach office, who are best informed about local interests and issues."(4)

Due attention in enough quarters can bring significant change rather quickly, though. In a letter report little more than a year later, the National Research Council commended the Army and its public affairs contractor (Booz-Allen & Hamilton) for having made great strides toward establishing just such a proactive organizational culture.

As part of its continuing evaluation of the Chemical Stockpile Disposal Program, in 1999 the Council submitted questionnaires to both the Program Manager for Chemical Demilitarization and the Public Outreach and Information Office (with discrete sets of questions on public involvement as well as overall public affairs). The Council also questioned all eight state-appointed Citizens Advisory Commissions about the quality of the disposal program's public affairs programs. (Only four commissions responded to the written queries, but in recent years the Council authors had personally visited and interviewed seven of the eight citizens commissions.) Moreover, the Council also reviewed the results and analysis of a large and complex public survey on the public's perception of the disposal program's informational and public involvement opportunities. (5)

Although the Council still saw room for improvement, it also noted major advances. First, the authors repeated their 1996 contention that "a comprehensive public affairs program" requires three essential components: public relations (defined as one-way communications to the public), public outreach (involving two-way and multiplex communications), and public involvement. In the words of the Council, "Public involvement, the third and by far the most difficult component

to establish, is a formal process that provides stakeholders an opportunity to influence decisions without surrendering the agency's legal mandate to make those decisions.”(5)

The Council praised the Army's initial steps to incorporate the Public Outreach and Information Office's activities and influence into program-wide attitudes and operations. Improvements were noted in the following areas:

- The training of site managers in risk communication
- A change management process that allows the program to obtain public input about technology changes for the disposal facilities
- The major role played by the Public Outreach and Information Office in establishing a program-wide intranet for rapid dissemination of information among disposal program entities and their contractors nationwide
- The start of media analyses to track trends in coverage and the potential uses of the mass media to communicate with stakeholders
- Efforts to improve the program's interactions with Congress

Most importantly, the Council noted, thanks to the efforts of the Public Outreach and Information Office, the organizational culture of the disposal program was beginning to embrace public affairs — in all three of its major functions — as essential to success, both for the program and for the public.

THE DEPARTMENT OF ENERGY AT FERNALD

Indeed, as learned from case after case, proactively seeking public involvement is the key to public acceptance of controversial projects. The situation of the Department of Energy's (DOE) Fernald, Ohio, “Feed Materials Processing Center” serves to illustrate the crucial role proactive public involvement, or the lack thereof, can play.

From 1952 to 1989, the Fernald plant processed uranium metals for weapons production. After years of secrecy and denial regarding what the plant produced and, later, about the kinds and degrees of contaminants, the first major effort to clean up the site was also a failure, and community relations became extremely embittered.

The 1996 cleanup attempt went over budget and behind schedule. Worse yet, waste leaked, and sanctions were imposed. This led to “hard feelings among residents because they had virtually no say in how the potentially dangerous materials were being handled.”(6) By 1999, however, a profound cultural change was in evidence at Fernald. Public participation was now proactively sought out by DOE and the contractor, Fluor Daniel Fernald. Several official advisory boards had been formed, all of them including members of the general public as well as citizen activists. The founder and president of Fernald Residents for Environmental Safety and Health (FRESH), Lisa Crawford, who had been fighting to get information and action from the DOE and the earlier contractors, now sat on several of these boards. The various boards' input was sought on issues ranging from the programmatic to the financial. Alternative technologies were even developed and presented to the boards for their consideration and advice, and the boards proactively mapped out possible post-cleanup uses of the land.

After the Fernald advisory boards took hold, the citizens were being listened to, and they knew it. At one of the many public meetings, a DOE official emphasized the newly accepted importance of involving community residents and activists in making important decisions. Such involvement, the official declared, is the “key component of this project . . . and we’re going to go overboard to get your comments.” As Ms. Crawford put it, “DOE has learned a hard lesson about including the public every step of the way.” (6)

THE DEPARTMENT OF ENERGY AT YUCCA MOUNTAIN

“Every step of the way” is a good descriptor of the public involvement and public information efforts at DOE’s Yucca Mountain Project. Early in that project, DOE management responded to public concerns about the safety of a possible underground repository for nuclear waste by establishing a comprehensive information program to give the public ready access to information about Yucca Mountain and the work being done there.

As part of its public outreach program, DOE’s Yucca Mountain Project operates three public science centers, one in Las Vegas and two closer to the mountain, in Beatty and Pahrump, Nevada. The science centers are open for drop-in visitors or organized groups. At the centers, the public may pick up brochures and fact sheets about a range of topics, from the basics of radiation and nuclear waste to the hydrology and geology of Yucca Mountain. The centers also boast interactive, multimedia exhibits and computer terminals on which visitors can take a “virtual tour” of the mountain. The centers host geology merit badge sessions for local Girl Scout Troops, hands-on “science discovery days” for the younger set, and public talks by the Project’s scientists and engineers. The Las Vegas Science Center also houses the Project’s Freedom of Information Act Library, where all documents produced by the Project are available to the public.

The thousands of documents are also available, in their entirety, on the Project’s web site, which receives hundreds of thousands of “hits” and over 10,000 active user sessions every month. The Project also staffs a toll-free information line to answer queries from people all over the world; sends speakers out to community organizations; conducts educational activities for hundreds of local students and teachers; sends update mailings to a regular mailing list of over 5,000 interested citizens and organizations; and responds individually to all questions and comments received via either regular post or e-mail.

Perhaps the most popular and effective public information outlets are the guided tours of Yucca Mountain. These tours, some special to particular groups, some open to the public, provide an up-close, hands-on experience of the geography and the ongoing research being conducted on the surface, and deep within, Yucca Mountain. During these tours, participants freely ask questions of working scientists and engineers at the site. They visit the crest of the mountain, absorb the desolate distance of it all, and learn about the area’s geologic history. They awe at the custom-made tunnel-boring machine that excavated the 25-foot-diameter, five-mile-long tunnel (the Exploratory Studies Facility) where scientists and engineers gather data on the rock some 1,000 feet under the surface of the mountain. The high-point, for most visitors, is the actual train ride deep into the mountain to several of the research alcoves, where ongoing in situ studies are explained by the field engineers and scientists who perform them.

Participant-questionnaires serve as one measure of the effectiveness of the Yucca Mountain Project's public information program. In the majority of instances, respondents say their knowledge and understanding of nuclear waste issues have increased through taking part in Project-sponsored programs. In addition, the percentage of people who say they are in favor of studying Yucca Mountain invariably increases after they participate in one of these programs.

During the second quarter of 2000, for example, 661 persons participated in one of the three public open house tours. Of those, 492 (75%) completed the questionnaire. Before taking the tour, 53% of the respondents favored continuing the studies of Yucca Mountain as a possible repository site. Twenty-nine percent were undecided before the tour; 12% were against the studies; and 6% expressed no opinion. After the tour, the percentage of respondents in favor of continuing the studies rose by 24 points, to 77%. The number undecided dropped by 17 points, to 12%; and those opposed to continuing the studies dropped by 8 points, to 4%.

The success of these public open house tours can perhaps be measured, inversely, by another metric as well. In September of 2000, at the behest of an influential member, and contrary to its own usually strong leanings toward the Yucca Mountain Project, Congress passed an amendment to the Energy and Water Appropriations Act to prohibit use of appropriated funds "to promote or advertise any public tour of the Yucca Mountain facility." The amendment's sponsor was quoted as saying the public tours amounted to "a thinly veiled attempt to lobby for the proposed Yucca Mountain nuclear waste site" (7). According to the accepted definitions, both common and legal, however, the tours fall strictly under the rubric of public information, not lobbying. No attempt is made to encourage tour participants to contact any member of Congress about any legislation, current or pending. The tours are attempts, rather, to inform and involve the public, normally thought of as duties incumbent upon a government agency in a modern democracy.

As these case studies show, early, comprehensive, and vigorously proactive public communication and participation programs are not only legal for government agencies, but highly effective. They may even be the *sine qua non* of successful projects and entire programs. As the National Research Council put it, "The sooner the public becomes meaningfully involved, the more widely accepted program decisions will be." (4)

FOOTNOTES

^aSee the Government Accounting Office's (GAO) 1983 decision that the Department of Commerce had not violated the law in publishing an article expressing support for the Administration's position on proposed changes to the Export Administration Act of 1979. However, the GAO determined that one paragraph of the article did violate the anti-lobbying provisions. This nonconforming paragraph stated that any reader who agreed "should certainly let his Congressman know . . ." Cited in GAO, *Education*, p. 16.

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