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B-100983 February 8, 1955

Number: B-100983

Date: 1955-02-08

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The Director Bureau of the Budget

My dear Mr. Lawton:

I have your letter of January 23, 1951, relative to section 107 of the Independent Offices Appropriation Act, 1951, Public Law 759, approved September 6, 1950, 64 Stat. 721, which provides as follows:

You state in your letter that the omission of this section from the 1952 appropriation language in the Budget for 1952 was based on your understanding that the proviso to the quoted section is permanent law and that the body of the section is now fully covered by section 112 of the Budget and Accounting Procedures Act of 1950, Public Law 784, approved September 12, 1950. 64 Stat. 835, Since requests for explanation of the proposed change from the respective Committees on Appropriations are anticipated, you request to be informed as the whether this Office agrees with your understanding in this respect.

As to whether the proviso constitutes permanent law, it is a well established rule that a provision contained in an annual appropriation act may not be construed to be permanent legislation unless the language used therein or the nature of the provision renders it clears that such was the intention of the Congress. The fact that the same language contained in the said section 107 was repeated in prior successive annual appropriation acts night be taken as an indication that the provision is of a general character bearing no relation to the object of the appropriation, the provision generally has been construed to be permanent legislation. 10 Comp. Gen. 120; 24 id. 436; 26 id. 354. Thus, there appear ample precedents for holding that the quoted proviso, containing the word "hereafter," constitutes permanent legislation.

The body of section 107, supra, is a direct prohibition against the use of any appropriation of fund contained in that act for the installation of maintenance of accounting systems which have not been prescribed or approved by the Comptroller General. This Office would thus be required to hold financially responsible any certifying officer who certified a payment made in contravention thereof. But under section 112(c) of the Budget and Accounting Procedures Act of 1950, this Office could merely make a report to the Congress when an agency's accounting system is not deemed adequate and in conformity with the principles and standards prescribed by the Office under autority of that section or section 205(b) of the Federal Property and Administrative Services Action of 1949, Public Law 152, approved June 30, 1949. For that reason, it is not believed that the body of section 107 of the said act of September 6, 1950, is fully covered

by section 112 of the said act of September 12, 1950. However, the authority contained in the section 112 appears to be adequate so that the enactment of language similar to that contained in the body of the said section 107 in future annual appppropriation acts is believed to be unnecessary.

You are advised accordingly.

Sincerely yours,

Frank L. Yates Acting Comptroller General of the United States