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B-127160, Apr. 3, 1961

Number: B-127160

Date: 1961-04-03

B-127160, APR. 3, 1961

TO AUTHORIZED CERTIFYING OFFICER, INTERNATIONAL COOPERATION ADMINISTRATION, DEPARTMENT OF STATE:

REFERENCE IS MADE TO YOUR LETTER OF FEBRUARY 23, 1961, AND LETTER DATED FEBRUARY 13, 1961, ADDRESSED TO THIS OFFICE ON YOUR BEHALF BY THE DEPUTY DIRECTOR FOR MANAGEMENT, INTERNATIONAL COOPERATION ADMINISTRATION, REQUESTING THAT YOU BE RELIEVED FROM LIABILITY UNDER NOTICES OF EXCEPTION NUMBERED 700681, 700682 AND 700683 ISSUED BY THIS OFFICE IN 1956 WITH RESPECT TO PAYMENTS IN FISCAL YEAR 1955 MADE TOWARD AN IRANIAN STUDENT TRAINING PROGRAM PURSUANT TO YOUR CERTIFICATION OF THE VOUCHERS INVOLVED.

THE IRANIAN STUDENT TRAINING PROGRAM WAS CONCEIVED AS AN EMERGENCY MEASURE TO PROVIDE FUNDS TO IRANIAN STUDENTS IN THE UNITED STATES WHOSE SOURCES OF FOREIGN EXCHANGE HAD BEEN CUT OFF BY EDICT OF THE IRANIAN GOVERNMENT AS A RESULT OF AN OIL CRISIS PREVAILING AT THE TIME. THE BASIS FOR OUR EXCEPTIONS WAS PRIMARILY THAT THE PROGRAM WAS AN EMERGENCY MEASURE EMBRACING SOME 800 "STRANDED" STUDENTS ENGAGED IN PROLONGED ACADEMIC STUDY WITHOUT SPECIFIC RELATION ON AN INDIVIDUAL BASIS TO THE TECHNICAL PERSONNEL REQUIREMENTS OF IRAN; AND THAT THE 1955 FUNDS UTILIZED WERE NOT AVAILABLE FOR SUCH A PROGRAM WHICH DID NOT COME WITHIN THE SCOPE OF LEGISLATION AUTHORIZING "THE INTERNATIONAL INTERCHANGE OF TECHNICAL KNOWLEDGE AND SKILLS DESIGNED TO CONTRIBUTE * * * TO THE BALANCED AND INTEGRATED DEVELOPMENT OF THE ECONOMIC RESOURCES AND PRODUCTIVE CAPACITIES OF ECONOMICALLY UNDERDEVELOPED AREAS" AS THAT AUTHORITY WAS INTENDED BY THE CONGRESS AND UNDERSTOOD BY THE ADMINISTERING AGENCIES. A DETAILED EXPLANATION OF THE REASONS FOR OUR CONCLUSION WAS SET FORTH IN LETTERS, B- 127160, DATED JULY 27, 1956, AND JULY 22, 1960, TO THE SECRETARY OF STATE.

SECTION 2 OF THE ACT OF DECEMBER 29, 1941, 55 STAT. 875, 31 U.S.C. 82C, PROVIDES THAT:

"THE OFFICER OR EMPLOYEE CERTIFYING A VOUCHER SHALL (1) BE HELD RESPONSIBLE FOR THE EXISTENCE AND CORRECTNESS OF THE FACTS RECITED IN THE CERTIFICATE OR OTHERWISE STATED ON THE VOUCHER OR ITS SUPPORTING PAPERS AND FOR THE LEGALITY OF THE PROPOSED PAYMENT UNDER THE APPROPRIATION OR FUND INVOLVED; (2) BE REQUIRED TO GIVE BOND TO THE UNITED STATES, WITH GOOD AND SUFFICIENT SURETY APPROVED BY THE SECRETARY OF THE TREASURY, IN SUCH AMOUNT AS MAY BE DETERMINED BY THE HEAD OF THE DEPARTMENT, AGENCY, OR ESTABLISHMENT CONCERNED, PURSUANT TO STANDARDS PRESCRIBED BY THE SECRETARY OF THE TREASURY, AND UNDER SUCH CONDITIONS AS MAY BE PRESCRIBED BY THE SECRETARY OF THE TREASURY; AND (3) BE HELD ACCOUNTABLE FOR AND REQUIRED TO MAKE GOOD TO THE UNITED STATES THE AMOUNT OF ANY ILLEGAL, IMPROPER, OR INCORRECT PAYMENT RESULTING FROM ANY FALSE, INACCURATE, OR MISLEADING

CERTIFICATE MADE BY HIM, AS WELL AS FOR ANY PAYMENT PROHIBITED BY LAW OR WHICH DID NOT REPRESENT A LEGAL OBLIGATION UNDER THE APPROPRIATION OR FUND INVOLVED; PROVIDED, THAT THE COMPTROLLER GENERAL MAY, IN HIS DISCRETION, RELIEVE SUCH CERTIFYING OFFICER OR EMPLOYEE OF LIABILITY FOR ANY PAYMENT OTHERWISE PROPER WHENEVER HE FINDS (1) THAT THE CERTIFICATION WAS BASED ON OFFICIAL RECORDS AND THAT SUCH CERTIFYING OFFICER OR EMPLOYEE DID NOT KNOW, AND BY REASONABLE DILIGENCE AND INQUIRY COULD NOT HAVE ASCERTAINED, THE ACTUAL FACTS, OR (2) THAT THE OBLIGATION WAS INCURRED IN GOOD FAITH, THAT THE PAYMENT WAS NOT CONTRARY TO ANY STATUTORY PROVISION SPECIFICALLY PROHIBITING PAYMENTS OF THE CHARACTER INVOLVED, AND THAT THE UNITED STATES HAS RECEIVED VALUE FOR SUCH PAYMENT; * * *"

RELIEF IS REQUESTED UNDER CLAUSE (2) OF THE PROVISO ABOVE, THAT IS, ON THE BASIS THAT THE OBLIGATION WAS INCURRED IN GOOD FAITH, THAT THE PAYMENT WAS NOT CONTRARY TO ANY STATUTORY PROVISION SPECIFICALLY PROHIBITING PAYMENTS OF THE CHARACTER INVOLVED, AND THAT THE UNITED STATES HAS RECEIVED VALUE FOR SUCH PAYMENT.

THE OBLIGATION OF FUNDS FOR FISCAL YEAR 1955 WAS TO COVER THE LAST YEAR OF A PROGRAM WHICH BEGAN IN FISCAL YEAR 1952. THERE IS NO QUESTION CONCERNING THE PAYMENTS FROM 1952 THROUGH FISCAL YEAR 1954. IT IS POINTED OUT THAT PRIOR TO EXTENSION OF THE PROGRAM TO FISCAL YEAR 1955, THE FOREIGN OPERATIONS ADMINISTRATION MISSION IN IRAN REQUESTED THE VIEWS OF THE HEADQUARTERS AGENCY IN WASHINGTON WITH RESPECT THERETO WITH ATTENTION SPECIFICALLY DIRECTED TO THE PROBLEM OF WHETHER THE TECHNICAL COOPERATION FUNDS TO BE OBLIGATED WERE LEGALLY AVAILABLE FOR THE PROGRAM. THE AGENCY GENERAL COUNSEL WAS OF THE OPINION THAT THESE FUNDS PROPERLY COULD BE USED FOR THE PROGRAM AND THE MISSION WAS AUTHORIZED TO SIGN AN AGREEMENT WITH IRAN. YOUR CERTIFICATION OF THE VOUCHERS INVOLVED WAS THUS BASED UPON AN APPROVED PROGRAM AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES AND IRAN.

UNDER THE CIRCUMSTANCES, THERE IS LITTLE QUESTION BUT THAT THE OBLIGATION WAS INCURRED BY THE MISSION IN GOOD FAITH; AND SINCE THERE ARE NO STATUTORY PROVISIONS SPECIFICALLY PROHIBITING PAYMENTS OF THE CHARACTER INVOLVED AND THE UNITED STATES MAY BE CONSIDERED TO HAVE RECEIVED VALUE FOR THE PAYMENTS MADE, IN THAT THE DESIRED RESULTS HAVE BEEN ACHIEVED, RELIEF WILL BE GRANTED AND THE EXCEPTIONS WILL BE REMOVED.