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B-127518 May 10, 1956

Number: B-127518

Date: 1956-05-10

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Honorable H. V. Higley, Administrator Veterans Administration

Dear Mr. Higley:

Reference is made to letter of April 5, 1956, from the Deputy Administrator, requesting whether, in our opinion, funds included in your annual budget estimates for prosthetic research and included in appropriations annually made for your Administration remain available until expended or whether they must be obligated during the fiscal years covered by such appropriations.

Question in the matter arises by reason of the fact that although the act of June 19, 1948, 62 Stat. 566, authorizes to be appropriated annually to the Veterans Administration and to remain available until expended the sum of $1,000,000 for use in connection with prosthetic research, the annual appropriation acts thereafter made which provided funds for your Administration contain no specific references to the act of June 19, 1948, nor do they otherwise indicate that those funds should remain available until expended.

The appropriation acts here involved all provide that the funds contained therein are appropriated for the particular fiscal year specified therein, and, as indicated above, not only do they fail to make any specific reference to the act of June 19, 1948, such acts, with the exception of the 1951 act, 64 Stat. 718, which contains a "not to exceed" item of $800,000 for research in connection with prosthetic appliances, fail to sepcifically mention prosthetic research. The fact that there was then in existance an act authorizing the appropriation of $1,000,000 annually for prosthetic research to remain available until expended does not of itself result in expanding the obligation period of appropriations thereafter made in the absence of specific provisions in those appropriation acts to indicate such a purpose. See 26 Comp. Gen. 452, 455. While several of the appropriation acts involved do provide for "expensed necessary for carrying out programs of medical research as authorized by law" we are unable to find anything in such acts or their legislative histories indicating that the term "as authorized by law" was intended to refer to other than the programs theretofore authorized by law.

Futhermore the legislative histories of the appropriation arts in question indicate that the funds reauested annually for prosthetic research by your Administration were based on the amount estimated to meet the needs of the fiscal year involved since no deduction was made for nay unobligated funds previously appropriated.

Consequently, and since in the eight years following the act of June 19, 1948, it appears that your Administration has not considered the funds in question as being available until expended and there is nothing to indicate that the Congress viewed them otherwise, you are advised that such funds properly may be obligated only during the fiscal year covered by the particular appropriation act involved.

The Deputy Administrator also asks to be advised whether a written proposal for research from an investigating Laoratory together with a letter of intent from the Government may be considered, for the purpose of obligating funds, as a binding agreement in writing between the parties prior to the execution of a standard form contract or an official supplement to an existing contract and whether such documentation would meet the requirement of "a binding agreement in writing" contained in section 1311, Public Law 663, 83d Congress.

Where an appropriation or fund frpoerly would be obligated by the execution of a definitive contract we perceive no reason why the acceptance of a proposal by a letter of intent sufficiently specific and devinitive to show the purposes and scope of the contract finally to be executed would not also serve to obligate the appropriation or fund. Cf.21 Comp. Gen. 605. Funds thus obligated meet the requirement of "a binding agreement in writing" contained in section 1311 of the Supplemental Appropriation Act, 1955, 68 Stat. 830. For the purposes of section 1311 the amount recorded as being obligated should be the amount of the maximum liability provided in the letter of intent. See 34 Comp. Gen. 418.

Sincerely yours,

Joseph Campbell Comptroller General of the United States