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B-134099, Dec. 13, 1957

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TO THE SECRETARY OF THE ARMY:

ON OCTOBER 14, 1957, THE ASSISTANT SECRETARY OF THE ARMY (FM) ADVISED US THAT YOUR DEPARTMENT HAS OBLIGATED FUNDS FROM THE APPROPRIATION "GOVERNMENT AND RELIEF IN OCCUPIED AREAS, 1957" (SUPPLEMENTAL APPROPRIATION ACT OF 1957, PUBLIC LAW 814, 84TH CONGRESS, 70 STAT. 683) TO REIMBURSE THE DEPARTMENT OF LABOR FOR THE ENTIRE COST OF A SPECIAL STATISTICAL STUDY INVOLVING A COMPARATIVE ANALYSIS OF COST-OF-LIVING DATA FOR THE RYUKYU ISLANDS. SINCE THE STUDY WAS INITIATED IN FISCAL YEAR 1957, BUT WAS NOT TO BE COMPLETED UNTIL SOME TIME IN FISCAL YEAR 1958, THE ASSISTANT SECRETARY REQUESTS OUR OPINION AS TO THE PROPRIETY OF THIS METHOD OF FUNDING THE PROJECT.

THE RECORD TRANSMITTED TO OUR OFFICE INDICATES THAT THE COMPARATIVE ANALYSIS FIRST WAS REQUESTED BY THE COMMANDER-IN-CHIEF, FAR EAST, ON APRIL 15, 1957. HOWEVER, WHILE THE DEPARTMENT OF LABOR WAS AGREEABLE TO UNDERTAKING THE PROJECT, APPROPRIATE SPECIALISTS FROM ITS BUREAU OF LABOR STATISTICS WOULD BE OTHERWISE ENGAGED UNTIL AUGUST OR SEPTEMBER OF 1957. THE PROJECT BECAME URGENT EARLY IN JUNE BECAUSE OF CONSIDERATIONS AFFECTING THE INTERNATIONAL INTERESTS OF THE UNITED STATES. THE DEPARTMENTS OF STATE AND LABOR HAD RECEIVED INFORMATION THAT THE UNITED STATES WAS TO BE SUBJECTED TO HEAVY CRITICISM DURING THE FIFTH WORLD CONGRESS OF THE INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS, TO BE HELD AT TUNIS DURING JULY 7 THROUGH 13, 1957, BECAUSE OF THE ALLEGEDLY LOW WAGE SCALES ON OKINAWA. IN ORDER TO PERMIT THE UNITED STATES DELEGATION TO THE FIFTH WORLD CONGRESS TO ANNOUNCE THAT THE SURVEY WAS ALREADY UNDER WAY AND THUS TO EFFECTIVELY COUNTER THE ANTICIPATED CRITICISM, THE ASSISTANT SECRETARY OF LABOR (INTERNATIONAL LABOR AFFAIRS), AFTER CONSULTATION WITH THE DEPARTMENT OF STATE, DIRECTED THAT TWO SPECIALISTS OF THE BUREAU OF LABOR STATISTICS BE MADE AVAILABLE IMMEDIATELY FOR THE PROJECT AND THAT THEY INITIATE IT WITHOUT DELAY. SINCE THE PSYCHOLOGICAL AND PUBLIC RELATIONS EFFECT OF SUCH AN ANNOUNCEMENT WAS CONTINGENT UPON THE INITIATION OF THE PROJECT WELL IN ADVANCE OF THE TUNIS MEETING, YOUR DEPARTMENT EXPEDITED THE NECESSARY ARRANGEMENTS SO THAT THE TWO SPECIALISTS WERE ABLE TO LEAVE WASHINGTON FOR OKINAWA ON JUNE 28, 1957. LIKEWISE, THE INTERAGENCY AGREEMENT, CONSISTING OF LETTERS BETWEEN THE OFFICE OF CIVIL AFFAIRS AND MILITARY GOVERNMENT OF YOUR DEPARTMENT AND THE BUREAU OF LABOR STATISTICS, AS WELL AS THE REQUISITION UPON THE DEPARTMENT OF LABOR FOR THE PROJECT AND THE APPROVED PART PROGRAM, WERE EXECUTED ON JUNE 28, 1957. THE APPROVED PART PROGRAM PURPORTS TO ALLOCATE $5,500, THE ESTIMATED COST OF THE PROJECT TO THE BUREAU OF LABOR STATISTICS, AND $600, THE ESTIMATED COST OF TRAVEL IN CONNECTION WITH THE PROJECT, FROM THE APPROPRIATION "GOVERNMENT AND RELIEF IN OCCUPIED AREAS, 1957.'

THE DOCUMENTS, FORWARDED WITH THE ASSISTANT SECRETARY'S LETTER OF OCTOBER 14, 1957, INDICATE THAT YOUR DEPARTMENT FURNISHED THE NECESSARY TRANSPORTATION FOR THE TWO SPECIALISTS--- NO TRANSFER OF FUNDS BETWEEN YOUR DEPARTMENT AND THE DEPARTMENT OF LABOR BEING REQUIRED. INFORMATION AS TO THE MODES OF TRAVEL USED, PERIODS OF TIME INVOLVED, ETC., IS FURNISHED. HOWEVER, WE HAVE HELD THAT THE COST OF A CONTINUOUS TRIP, BEGINNING IN ONE FISCAL YEAR AND ENDING IN THE NEXT, WHEN A THROUGH TICKET TO THE DESIRED DESTINATION IS OBTAINED, IS CHARGEABLE TO THE APPROPRIATION CURRENT AT THE TIME THE TRIP IS BEGUN, AND THAT THE ENTIRE COST OF A ROUND TRIP IS CHARGEABLE TO THE APPROPRIATION CURRENT AT THE START OF THE TRIP. SEE 23 COMP. GEN. 197; 26 ID. 131; ID. 961; 27 ID. 764; 30 ID. 25; AND ID. 147. IF THE TRAVEL HERE INVOLVED FALLS WITHIN THE RATIONALE OF OUR PRIOR DECISIONS, THE COST THEREOF WOULD APPEAR TO BE PROPERLY CHARGEABLE TO THE APPROPRIATION FOR THE 1957 FISCAL YEAR.

REGARDING THE $5,500 OF FISCAL YEAR 1957 FUNDS PURPORTEDLY OBLIGATED FOR SUBSEQUENT REIMBURSEMENT TO THE DEPARTMENT OF LABOR IN FISCAL YEAR 1958, WE MUST GIVE CONSIDERATION TO THE PROVISIONS OF SECTION 601 OF THE ACT OF JUNE 30, 1932, 47 STAT. 417, AND SECTION 1210 OF THE ACT OF SEPTEMBER 6, 1950, 64 STAT. 765 (31 U.S.C. 686 AND 686-1, RESPECTIVELY). AS YOU ARE AWARE, SECTION 601 AUTHORIZED THE GOVERNMENT AGENCY TO REQUISITION FROM ANY OTHER GOVERNMENT AGENCY SUCH SERVICES, ETC., AS THE LATTER AGENCY MAY BE IN A POSITION TO FURNISH AND TO MAKE PAYMENT THEREFOR. HOWEVER, WHILE SECTION 601 ORIGINALLY PROVIDED THAT ORDERS PLACED IN ACCORDANCE THEREWITH CONSTITUTED OBLIGATIONS UPON APPROPRIATIONS IN THE SAME MANNER AS CONTRACTS OR ORDERS PLACED WITH PRIVATE CONTRACTORS, AND THAT ADVANCE PAYMENTS THEREUNDER REMAINED AVAILABLE UNTIL THE APPROPRIATION INVOLVED LAPSED BY LAW TO THE SURPLUS FUND OF THE TREASURY, SECTION 1210, AS CONTAINED IN 31 U.S.C. 686-1, PROVIDES IN PERTINENT PART AS FOLLOWS:

"NO FUNDS WITHDRAWN AND CREDITED PURSUANT TO SECTION 686 OF THIS TITLE, SHALL BE AVAILABLE FOR ANY PERIOD BEYOND THAT PROVIDED BY THE ACT APPROPRIATING SUCH FUNDS.'

WE HAVE HELD THAT UPON THE ENACTMENT OF SECTION 1210, ORDERS PLACED IN ACCORDANCE WITH SECTION 601 NO LONGER COULD BE CONSIDERED AS OBLIGATIONS UPON APPROPRIATIONS IN THE SAME MANNER AS ORDERS OR CONTRACTS PLACED WITH PRIVATE CONTRACTORS, AND THAT WHEN WORK IS PERFORMED OR SERVICES RENDERED ON A REIMBURSABLE BASIS BY ONE AGENCY FOR ANOTHER OVER A PERIOD COVERING MORE THAN ONE FISCAL YEAR, THE RESPECTIVE ANNUAL APPROPRIATIONS OF THE SERVICED AGENCY MUST BE CHARGED WITH THE WORK PERFORMED OR SERVICES RENDERED IN THE PARTICULAR FISCAL YEAR. SEE 31 COMP. GEN. 83.

MOREOVER, WHILE SECTION 1311 OF THE SUPPLEMENTAL APPROPRIATION ACT OF 1955, 68 STAT. 830 (31 U.S.C. 200), PROVIDES FOR THE RECORDING AS OBLIGATIONS OF AMOUNTS SUPPORTED BY DOCUMENTARY EVIDENCE OF A BINDING AGREEMENT IN WRITING BETWEEN THE PARTIES THERETO, INCLUDING GOVERNMENT AGENCIES, AND AN ORDER REQUIRED BY LAW TO BE PLACED WITH A GOVERNMENT AGENCY, IT IS CLEAR THAT SUCH PROVISION DOES NOT CONSTITUTE AUTHORITY TO FUND THE PROJECT HERE IN QUESTION IN THE MANNER PROPOSED. OBVIOUSLY, THE PROJECT DOES NOT CONSTITUTE AN ORDER REQUIRED BY LAW TO BE PLACED WITH A GOVERNMENT AGENCY. REGARDING INTRAGOVERNMENT AGREEMENTS, WE HELD IN 34 COMP. GEN. 418, 421, AS FOLLOWS:

"AGREEMENTS IN WRITING BETWEEN GOVERNMENT AGENCIES COMPLYING WITH THE REQUIREMENTS OF SECTION 1311 (A) (1) ARE AUTHORIZED TO BE RECORDED AS OBLIGATIONS BY THAT SECTION. HOWEVER, SECTION 1311 NEITHER AUTHORIZES THE ENTERING INTO OF INTRAGOVERNMENT AGREEMENTS NOR DOES IT AFFECT ANY OTHER

PROVISION OF LAW RELATING TO INTRAGOVERNMENT AGREEMENTS OTHER THAN POSSIBLY TO THE EXTENT IT REQUIRES SUCH AGREEMENTS TO BE FOR SPECIFIC GOODS, ETC., AND IN WRITING. THE GENERAL AUTHORITY RELIED UPON BY MOST AGENCIES FOR INTRAGOVERNMENT AGREEMENTS IS SECTION 601 OF THE ECONOMY ACT OF 1932, 47 STAT. 417, AS AMENDED, 31 U.S.C. 686. WHILE THERE MAY BE RECORDED OBLIGATIONS BASED UPON AGREEMENTS ENTERED INTO UNDER THAT PROVISION OF LAW IF THE AGREEMENTS COMPLY WITH SECTION 1311 (A) (1), 68 STAT. 830, SUCH OBLIGATIONS AGAINST FISCAL YEAR APPROPRIATIONS ARE REQUIRED BY SECTION 1210 OF THE GENERAL APPROPRIATION ACT, 1951, PUBLIC LAW 759, APPROVED SEPTEMBER 6, 1950, 64 STAT. 765, TO BE DEOBLIGATED AT THE END OF EACH FISCAL YEAR TO THE EXTENT THAT THE PERFORMING OR PROCURING AGENCY HAS NOT INCURRED VALID OBLIGATIONS UNDER THE AGREEMENT.'

THEREFORE, SINCE IT APPEARS FROM THE EVIDENCE FURNISHED THAT THE ONLY VALID OBLIGATIONS THE DEPARTMENT OF LABOR COULD HAVE INCURRED UNDER THE AGREEMENT IN FISCAL YEAR 1957 WOULD BE THE SALARIES AND, IF PROVIDED, PER DIEM, OF THE TWO SPECIALISTS FOR THE PERIOD FROM JUNE 28 THROUGH JUNE 30, 1957, NO MORE THAN THE AMOUNT IS CHARGEABLE AGAINST THE 1957 APPROPRIATIONS OF YOUR DEPARTMENT.