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B-137353, Dec. 3, 1959

Number: B-137353

Date: 1959-12-03

B-137353, DEC. 3, 1959

TO THE HONORABLE FRANKLIN FLEETE, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION:

ON NOVEMBER 20, 1958, THE DIRECTOR OF OUR CIVIL ACCOUNTING AND AUDITING DIVISION ADVISED YOU THAT THE PUBLIC BUILDINGS SERVICE OF YOUR ADMINISTRATION HAD INCURRED OBLIGATIONS IN FISCAL YEARS 1956 AND 1957 IN EXCESS OF THE AMOUNTS LEGALLY AVAILABLE FOR THOSE YEARS FOR REPAIR AND IMPROVEMENT OF BUILDINGS IN THE DISTRICT OF COLUMBIA AREA AND FOR AIR CONDITIONING OF BUILDINGS IN THE DISTRICT OF COLUMBIA AREA. THE DIRECTOR INDICATED THAT SUCH ACTION CONSTITUTED A VIOLATION OF THE ANTIDEFICIENCY ACT, 31 U.S.C. 665, AND THAT THE FACTS SHOULD BE REPORTED TO THE PRESIDENT AND THE CONGRESS AS REQUIRED BY THAT ACT. BY LETTER OF JULY 15, 1959 TO THE DIRECTOR OF OUR CIVIL ACCOUNTING AND AUDITING DIVISION, THE COMPTROLLER OF GENERAL SERVICES ADMINISTRATION STATED THAT YOUR ADMINISTRATION ADHERED TO VIEWS PREVIOUSLY EXPRESSED TO THE EFFECT THAT THE CONGRESS INTENDED THAT THE AMOUNTS PROVIDED IN THE APPROPRIATION ACTS INVOLVED AS BEING AVAILABLE FOR THE ABOVE STATED PURPOSES TO BE THE MINIMUM AMOUNTS THAT COULD BE EXPENDED FOR SUCH PURPOSES RATHER THAN THE MAXIMUM AMOUNTS AND THAT, EVEN THOUGH SUCH AMOUNTS ADMITTEDLY HAD BEEN EXCEEDED, NO VIOLATION OF THE ANTIDEFICIENCY ACT HAD OCCURRED.

THE INDEPENDENT OFFICES APPROPRIATION ACT, 1956, APPROPRIATED $97,595,500 UNDER THE HEADING ,OPERATING EXPENSES, PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION" AT 69 STAT. 202, AND ATTACHED THE FOLLOWING PROVISO THERETO AT 69 STAT. 203:

"PROVIDED, THAT OF THE FOREGOING AMOUNT, $7,000,000 SHALL BE AVAILABLE FOR REPAIR AND IMPROVEMENT OF BUILDINGS IN THE DISTRICT OF COLUMBIA AND AREA ADJACENT THERETO.'

SIMILARLY, THE INDEPENDENT OFFICES APPROPRIATION ACT, 1957, APPROPRIATED $125,000,000 UNDER THE SAME HEADING AND ATTACHED THE FOLLOWING PROVISO THERETO AT 70 STAT. 343:

"PROVIDED, THAT OF THE FOREGOING AMOUNT, $8,100,000 SHALL BE AVAILABLE FOR REPAIR AND IMPROVEMENT AND $4,500,000 FOR AIR CONDITIONING OF BUILDINGS IN THE DISTRICT OF COLUMBIA AND AREA ADJACENT THERETO.'

THE LEGISLATIVE HISTORY OF THOSE ACTS DISCLOSES A REASONABLE BASIS FOR THE VIEWS EXPRESSED IN THE LETTER FROM YOUR COMPTROLLER. HENCE, NO FURTHER ACTION IN THE MATTER WILL BE TAKEN OR REQUIRED BY OUR OFFICE. HOWEVER, THE INTENT OF THE CONGRESS IS BY NO MEANS CLEAR IN THIS CASE. THE LEGISLATIVE HISTORY MAY BE

INTERPRETED AS SUPPORTING OUR VIEW JUST AS READILY AS IT MAY BE INTERPRETED AS SUPPORTING THE VIEW OF YOUR COMPTROLLER. IN FUTURE CASES OF THIS NATURE INVOLVING SIMILAR APPROPRIATION LANGUAGE, WE WILL INTERPRET SUCH PROVISIONS STRICTLY IN ACCORDANCE WITH THE RULES OF STATUTORY INTERPRETATION, AS CONSTITUTING A SUBAPPROPRIATION WHICH ESTABLISHES A MAXIMUM AMOUNT AVAILABLE FOR THE SPECIFIED PURPOSE AND EXCLUDES THE USE OF OTHER FUNDS FOR THAT PURPOSE OR THE USE OF THE FUNDS APPROPRIATED THEREBY FOR ANY OTHER PURPOSE, WHENEVER THE LEGISLATIVE HISTORY DOES NOT CLEARLY AND UNEQUIVOCALLY REVEAL A CONTRARY CONGRESSIONAL INTENT. SEE B-102971, AUGUST 24, 1951; B-70219, JANUARY 19, 1948; AND DECISIONS CITED THEREIN. TO REMOVE ANY DOUBT THAT A LIMITATION ESTABLISHES ONLY A MINIMUM AMOUNT FOR A SPECIFIC PURPOSE, THE WORDS "NOT LESS THAN" SHOULD BE INSERTED IMMEDIATELY PRIOR TO THE AMOUNT OF FUNDS SET OUT IN THE LIMITATION LANGUAGE.