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B-14331, Jan 24, 1941

Number: B-14331

Date: 1941-01-24

B-14331, JAN 24, 1941

"REFERENCE IS MADE TO YOUR LETTER OF DECEMBER 11, 1940 (FILE CONT 0501742 -CWM), REGARDING THE CLAIM OF GARCIA RICO Y COMPANIA, DESENGANO, 13, MADRID, SPAIN:

"AS STATED ON THE VOUCHER PRESENTING THIS CLAIM,

THE PURCHASE ORDER WAS DATED IN JULY 1936 AND

DELIVERY WAS MADE IN OCTOBER, 1936. PAYMENT

OF THE BILL WAS DELAYED FOR VARIOUS REASONS UNTIL

OCTOBER, 1940, AND INASMUCH AS THE APPROPRIATION

FOR THE FISCAL YEAR 1937 WAS THEN NO LONGER

AVAILABLE FOR EXPENDITURE, IT WAS IMPOSSIBLE TO

MAKE THE PAYMENT FROM THIS APPROPRIATION. UNTIL

RECENTLY, IT HAD FOR A NUMBER OF YEARS BEEN THE

PRACTICE OF THE LIBRARY TO MAKE PAYMENTS FROM THE

CURRENT APPROPRIATION FOR THE INCREASE OF THE

LIBRARY OF CONGRESS WHEN THE ORIGINAL

APPROPRIATION HAD LAPSED. RECENTLY,

IN CONNECTION WITH THE GENERAL REORGANIZATION

OF THE LIBRARY UNDER MY ADMINISTRATION THERE

HAS BEEN A COMPLETE REVAMPING OF OUR FISCAL

PROCEDURES, AND STEPS HAVE BEEN TAKEN TO END

THIS PRACTICE AND TO MAKE PAYMENTS IN ACCORDANCE

WITH THE USUAL REQUIREMENTS.

"WE HAVE ON HAND AT THE PRESENT TIME VOUCHERS TOTALING APPROXIMATELY $1,000 REPRESENTING OBLIGATIONS WHICH SHOULD CORRECTLY HAVE BEEN PAID FROM APPROPRIATIONS FOR THE INCREASE OF THE LIBRARY WHICH ARE NOW NO LONGER AVAILABLE. SUGGESTION IN THIS INSTANCE (A SUGGESTION IN WHICH MEMBERS OF YOUR STAFF HAVE INFORMALLY CONCURRED) IS TO CONTINUE THE ABOVE-MENTIONED PRACTICE WITH RESPECT TO THESE VOUCHERS, IN ORDER TO CLEAR THE BOARDS, AND TO TREAT THEM AS OBLIGATIONS AGAINST THE CURRENT APPROPRIATIONS. IT GOES WITHOUT SAYING THAT EVEN IF AN EXCEPTION IS MADE IN THIS INSTANCE, THIS PRACTICE WILL NEVER AGAIN BE ADOPTED."

SECTIONS 3679 AND 3690, REVISED STATUTES, PROVIDE:

"SEC. 3679. NO DEPARTMENT OF THE GOVERNMENT SHALL EXPEND, IN ANY ONE FISCAL YEAR, ANY SUM IN EXCESS OF APPROPRIATIONS MADE BY CONGRESS FOR THAT FISCAL YEAR, OR INVOLVE THE GOVERNMENT IN ANY CONTRACT FOR THE FUTURE PAYMENT OF MONEY IN EXCESS OF SUCH APPROPRIATIONS.

"SEC. 3690. ALL BALANCES OF APPROPRIATIONS CONTAINED IN THE ANNUAL APPROPRIATION BILLS AND MADE SPECIFICALLY FOR THE SERVICE OF ANY FISCAL YEAR, AND REMAINING UNEXPENDED AT THE EXPIRATION OF SUCH FISCAL YEAR, SHALL ONLY BE APPLIED TO THE PAYMENT OF EXPENSES PROPERLY INCURRED DURING THAT YEAR, OR TO THE FULFILLMENT OF CONTRACTS PROPERLY MADE WITHIN THAT YEAR; AND BALANCES NOT NEEDED FOR SUCH PURPOSES

SHALL BE CARRIED TO THE SURPLUS FUND. THIS SECTION,

HOWEVER, SHALL NOT APPLY TO APPROPRIATIONS KNOWN

AS PERMANENT OR INDEFINITE APPROPRIATIONS."

THE APPROPRIATION FOR "INCREASE OF LIBRARY OF CONGRESS, LAW LIBRARY, 1940 AND 1941" IS AVAILABLE ONLY FOR THE PAYMENT OF OBLIGATIONS INCURRED DURING THE TWO FISCAL YEARS NAMED AND IS NOT AVAILABLE FOR THE PAYMENT FOR PURCHASES MADE IN ANY PREVIOUS FISCAL YEAR. SEE 10 COMP.DEC. 284; 22 ID. 294.

THERE IS NO POWER IN THIS OFFICE TO AUTHORIZE, AS YOU SUGGEST, THE USE OF AN APPROPRIATION MADE FOR THE FISCAL YEARS 1940 AND 1941 TO PAY OBLIGATIONS INCURRED DURING THE FISCAL YEAR 1937 OR DURING ANY OTHER YEAR PRIOR TO THE FISCAL YEAR 1940.

IT IS UNDERSTOOD THAT THE APPROPRIATIONS AVAILABLE TO PAY FOR PURCHASES MADE DURING THE FISCAL YEAR 1937, THAT IS "INCREASE OF LIBRARY OF CONGRESS, 1936 AND 1937", "INCREASE OF LIBRARY OF CONGRESS, 1937" AND "INCREASE OF LIBRARY OF CONGRESS, 1937 AND 1938," WERE PRACTICALLY EXHAUSTED AND THAT THE UNEXPENDED BALANCES THEREOF WHICH WERE CARRIED TO THE SURPLUS FUND AS REQUIRED BY LAW ARE NOT SUFFICIENT TO COVER THE AMOUNTS OF THE UNPAID CLAIMS REFERRED TO IN YOUR LETTER SO THAT SUCH CLAIMS MAY NOT, UNDER THE EXISTING PRACTICE, NOW BE ALLOWED AND REPORTED TO THE CONGRESS AS CERTIFIED CLAIMS. HENCE, UNDER THE USUAL PROCEDURE IT WOULD BE NECESSARY FOR YOU TO SUBMIT TO THE CONGRESS A REQUEST FOR A DEFICIENCY APPROPRIATION TO COVER THE AMOUNT OF THESE CLAIMS WHICH ARE CHARGEABLE TO SUCH EXHAUSTED APPROPRIATIONS. INSTEAD OF SUBMITTING TO THE CONGRESS A REQUEST FOR A DEFICIENCY APPROPRIATION UNDER EACH OF THE APPROPRIATIONS WHICH MAY BE INVOLVED IN THESE CASES, YOU MAY PREFER TO OBTAIN AUTHORIZATION FOR THE PAYMENT OF CLAIMS REFERRED TO IN YOUR LETTER FROM A CURRENT APPROPRIATION. THAT COULD BE ACCOMPLISHED, BY INSERTING IN SOME DEFICIENCY APPROPRIATION BILL OR SOME OTHER PENDING BILL A PROVISION TO THE EFFECT THAT THE CURRENT APPROPRIATION WHICH YOU PROPOSE TO USE SHALL BE AVAILABLE, ALSO, FOR THE PAYMENT OF OBLIGATIONS LEGALLY INCURRED UNDER APPROPRIATIONS FOR LIKE PURPOSES FOR PRECEDING FISCAL YEARS. SUCH A PROCEDURE WOULD HAVE THE ADVANTAGE OF ENABLING YOU TO EFFECT PAYMENT FROM CURRENT FUNDS OF ALL VALID CLAIMS WHICH AROSE UNDER PRIOR APPROPRIATIONS REGARDLESS OF WHETHER OR NOT SUCH PRIOR APPROPRIATIONS ARE EXHAUSTED, AND WOULD OBVIATE THE NECESSITY OF HAVING TO ASK THE CONGRESS FOR A CERTAIN AMOUNT UNDER DIFFERENT APPROPRIATIONS.

ACTION ON THE ONE CLAIM SPECIFICALLY REFERRED TO IN YOUR LETTER WILL BE HELD IN ABEYANCE UNTIL FURTHER ADVICES FROM YOU AS TO WHETHER YOU DESIRE TO ADOPT THE PROCEDURE SUGGESTED ABOVE OF ASKING THE CONGRESS FOR AUTHORITY TO USE CURRENT APPROPRIATIONS IN THE LIQUIDATION OF CLAIMS OF THE CLASS REFERRED TO IN YOUR LETTER.