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B-207783 April 1, 1983

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Mr. William C. Bradshaw P.O. Box 1288 Oakland, California 94604

Dear Mr. Bradshaw:

This is in response to your letter in which you ask (1) the extent to which the General Accounting Office (GAO) audits the expenditures of the Congress, and (2) whether Federal agencies are required to comply with audit recommendations made by GAO.

GAO audits its of the Congress

GAO's legislative branch audit activity--like any activity of any Government agency--is governed and limited by statutory authority. Currently, there are several different provisions of law which authorize us to audit various legislative branch activities, and we currently perform approximately 15 audits of various legislative agencies, offices, and accounts annually.

We are enclosing for your information a copy of a 1978 letter to the Speaker of the House of Representatives (B-145492, September 15, 1978) which discusses our audit authority in general terms. That letter also includes more detailed (although not necessarily exhaustive) listings of pertinent statutory authorities and limitations.

We are also enclosing several legislative branch reports we issued during 1982 to illustrate our activity in this area. The reports enclosed are as follows:

--Audit of the Financial Transactions of the Sergeant at Arms, House of Representatives, for the 12 Months Ended June 30, 1982 (AFMD-83-15, December 28, 1982)

--Audit of the Senate Barber Shop Revolving Fund for Calendar 1981 (AFMD- 83-11, October 18, 1982)

--Audit of the Senate Recording and Photographic Studios Revolving Fund for the Fiscal Year Ended March 31, 1982 (AFMD-82-99, September 1, 1982)

--Verification of the Cash Accountability of the Clerk of the House of Representatives at March 31, 1982 (AFMD-82-80, June 7, 1982)

--Examination of Records of the House of Representatives Finance Office, Fiscal 1981 (AFMD-82-61, June 16, 1982)

--Audit of the Stationery Revolving Fund for Fiscal Year Ended June 30, 1981 (AFMD-82-39, May 11, 1982)

Your letter also mentioned a bill relating to GAO audits of the Congress. The bill to which you referred may have been one that was introduced in 1978 and enacted as section 112 of Public Law 95-391 (September 30, 1978), the Legislative Branch Appropriation Act for fiscal year 1979. We are enclosing a copy of section 112 for your reference. It was this provision that generated our 1978 letter to the Speaker. Section 112 was not permanent legislation; it was merely a provision in an appropriation act that applied to appropriations for that particular fiscal year. In any event, as noted in our letter to the Speaker, we did not view section 112 as significantly altering our audit authority.

Compliance with GAO recommendations

Recommendations GAO makes in its audit reports are of two general types: (1) recommendations to the Congress for the enactment of new legislation or changes in existing legislation, and (2) recommendations to other Federal agencies for corrective action which can be taken under existing law.

Naturally, when we make a legislative recommendation to the Congress, whether or not to follow that recommendation is and must be essentially a policy determination for the Congress to make. Thus, a recommendation to the Congress is just that--a recommendation. It is entirely up to the Congress to analyze our recommendations and to act or not act upon them in its discretion.

A GAO recommendation to another Federal agency, although still not mandatory, is somewhat different. Congress addressed this area in section 236 of the Legislative Reorganization Act of 1970. Formerly found at 31 U.S.C. Sec. 1176, this provision was re-enacted as 31 U.S.C. Sec.720 by the recent recodification of title 31 (Public Law 97-258, September 13, 1982). It provides:

(a) In this section, 'agency' means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

"(b) When the Comptroller General makes a report that includes a recommendation to the head of an agency, the head of the agency shall submit a written statement on action taken on the recommendation by the head of the agency. The statement shall be submitted to -- the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives before the 61st day after the date of the report; and

"(2) the Committees on Appropriations of both Houses of Congress in the first request for appropriations submitted more than 60 days after the date of the report.

Note that the law does not require agencies to comply with GAO recommendations. What it does require is that agencies report "action taken" to the specified congressional committees. If an agency disagrees with one of our recommendations, its statement as required by 31 U.S.C. Sec. 720 will presumably include the reasons for its position. Again, it is then primarily up to the Congress to review both our report and the agency's statement and to take whatever further action it may deem appropriate. Of course, we also keep

informed as to the actions taken on our recommendations, and may conduct a follow-up study if we think the situation warrants one.

In addition, our authority to "take an exception. to an improper expenditure may provide further incentive for agencies to comply, at least with respect to certain types of recommendations. Before explaining that procedure, we should point out that GAO is required by law, subject to certain exceptions, to audit and settle--consisting of such elements as the testing of transactions, the examination of systems, the review of administrative surveillance and the effectiveness of collection and disbursement procedures--the accounts of certifying and disbursing officers. See 31 U.S.C. Secs. 3522, 3523, 3526, 3529 and 3702 (all reenacted by recent recodification). An "audit exception" is a formal action which may be used upon discovery of an irregularity in an account. By taking an exception, GAO challenges the propriety of an accountable officer's action in making a given payment and, in some cases, recommends appropriate corrective action. Unless the agency reply provides a satisfactory basis to remove the exception, the accountable officer will be held personally liable to the United States for the amount of the improper payment(s). Although seldom used in practice, the exception mechanism is important both as an enforcement device and as a deterrent.

We hope this information is helpful.

Sincerely yours,

Robert H. Hunter Assistant General Counsel

Enclosures