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B-34888 June 21, 1943

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Date: 1943-06-21

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The Honorable, The Secretary of Commerce

My dear Mr. Secretary:

I have your letter of May 31, 1943, in which you present for decision a matter stated therein as follows:

"This Department has received a Schedule of Adjustments showing the transfer of $4,085 from the appropriation 1130500.041 Salaries and Expenses, OEM 1943, to 1335903 Working Fund, Commerce, Bureau of Foreign and Domestic Commerce, (Emergency Management), 1943.

"This sum represents the estimated cost of printing certain editions of Commercial Standards in Spanish and Portuguese for the Bureau of Foreign and Domestic Commerce as follows:

"CS 90E-41 Crawler Mounted, Revolving Power Shovels, etc., in Portuguese.....$185 CS72-38 Household Insecticide (Liquid Spray Type), in Spanish.....720 CS72-38 Household Insecticide (Liquid Spray Type), in Portuguese .....720 CS60E-41 Hardwood Dimension Lumber, in Spanish.....225 CS17-42 Diamond Core Drill Fittings, in Spanish.....275 CS100E-42 Diesel and Fuel-Oil Engines, in Spanish.....480 CS100E-42 Diesel and Fuel-Oil Engines, in Portuguese.....500 CS20-42 Staple Vitreous China Plumbing Fixtures, in Spanish.....500 CS20-42 Staple Vitreous China Plumbing Fixtures, in Portuguese.....500 Total $4,085

"Several of these publications have been submitted to the Public Printer and delivery is expected in the near future. However, there are a number of manuscripts now in the hands of the Office of the Coordinator of Inter- American Affairs which have not been returned to this Department; other manuscripts are, it is understood, now in Latin America for certain suggestions as to changes in language which will translate them adequately from English to Spanish or Portuguese as the case may be. It is likely, therefore, that we will not be able to get any more complete manuscripts to the Government Printing Office before the close of this fiscal year.

"There is no question as to the need and urgency of these publications and the program is one which is being carried out as rapidly as possible. Your decision is requested as to whether the submission now of requisitions with title pages

only for these Commercial Standards will obligate properly the fund mentioned hereinbefore. The manuscripts, of course, will not be submitted until the early part of the next fiscal year. If this is not possible we will lose the benefit of a considerable portion of this fund which has been transferred to the Department for this purpose and which expires on June 30, 1943."

The Appropriations for the Office for Emergency Management from which the transfer of funds in question was made are contained in the First Supplemental National Defense Appropriation Act, 1943, 56 Stat. 707,708, and in the Second Supplemental National Defense Appropriation Act, 1943, 56 Stat. 996. Moneys appropriated therein are available for expenditure only in satisfaction of obligations legally incurred during the fiscal year 1943. And, pursuant to section 8 of the act of June 22, 1936, 49 Stat. 1643, 31 U.S.C. 686c, a working fund has no longer period of availability for obligation than the appropriation under which it is set up. 15 Comp. Gen. 1125.

Under date of September 3, 1941, this office issued a Circular Letter addressed "To the Heads of Departments, Independent Establishments, Agencies, and Others Concerned" (21 Comp. Gen. 1159), which appears to have particular application to the instant matter. Said letter read in part as follows:

"It has come to the attention of this office that many requisitions for printing and binding have been prepared and transmitted to the Government Printing Office during the latter part of each fiscal year manifestly for the sole purpose of obligating an expiring current appropriation, as such services could not possibly have been obtained in time, nor were they of a character, to supply the needs of the fiscal year in which the requisitions were issued.

"In a number of cases such requisitions have borne notations to the effect that manuscript and illustrations will follow, and requests have frequently been made by the requisitioning offices, simultaneously with the submission of requisitions or immediately thereafter, for the return of documents which were transmitted with the requisitions in order that they could be further audited or revised. In such instances it is not generally possible for the Government Printing Office to estimate the cost of the job to be performed or to begin work thereon, and the only objective accomplished by presenting requisitions under such circumstances is the improper obligation of a current fiscal year appropriation.

"In this connection attention is directed to the provisions of section 3690, Revised Statutes (U.S.C. 31:712), as follows:

"Except as otherwise provided by law, 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 fun. This section, however, shall not apply to appropriations known as permanent or indefinite appropriations.'

* * *

"To avoid the withholding of credit for expenditures in disbursing officers' accounts due to the improper administrative designation of the fiscal year

appropriation to be charged, it is incumbent upon all officials and employees concerned to take appropriate action in accordance with the foregoing."

"It reasonably may be inferred from the facts stated in your letter that the sole object in transmitting a requisition and the title page of the incomplete-or at least unavailable--manuscripts to the Government Printing Office before June 30, 1943, would be to obligate currently available funds. While it is stated that "There is no question as to the need and urgency of these publications," the fact that those now in the process of preparation will not be available for circulation for some time after July 1, 1943, seems fair evidence that the need to be filled by them is one more properly allocable to the next, rather than the present fiscal year.

Accordingly, I have to advise that the 1943 funds in question cannot be considered as properly obligated by the action described in your submission.

Respectfully,

Lindsey C. Warren Comptroller General of the United States